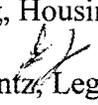


MEMORANDUM

June 10, 2010

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz,  Legislative Attorney

SUBJECT: Subdivision Regulation Amendment (SRA) 10-02;
Minor Subdivisions - Applicability

SRA 10-02, Minor Subdivisions - Applicability, sponsored by the Planning, Housing, and Economic Development Committee, was introduced on May 18, 2010. A public hearing will be scheduled for June 22 at 1:30 p.m. If the public hearing raises significant issues, this SRA will be scheduled for another Committee worksession.

Background

On May 4, 2010 the Council adopted ZTA 10-03 which allowed certain legally constructed single family dwelling to record a plat even if they did not satisfy the conditions of there current zone.

Planning Staff determined that all of the parcels affected by ZTA 10-03 would not be entitled to use the minor subdivision process under §50-35A. Parcels in the RDT zone would be entitled to use the provisions of §50-35A(a)(8)¹, but legally constructed dwellings on parcels exist in other zones as well. ZTA 10-03 is similar, but not identical, to the provision to record parcels created before 1958.² The Committee recommended this SRA to add a provision to §50-35A that would allow lots created under §59-B-8.1 to use the minor subdivision procedure. SRA 10-02 would allow certain legally constructed one-family detached dwelling units to record under the current rules for minor subdivisions as previously recommended by the Committee with 2 conditions recommended by Planning Staff:

- 1) Any required street dedications along the frontage of the proposed lots must be shown on the record plat; and

¹ "Plats for Certain Residential Lots located in the Rural Density Transfer Zone. Up to five lots are permitted under the minor subdivision procedure in the RDT zone provided that a pre-preliminary plan is submitted and approved by either the Planning Board or Planning Board staff, in accordance with the procedures for submission and approval of a pre-preliminary plan of subdivision...."

² "Plats for Certain Residentially Zoned Parcels Created by Deed Prior to June 1, 1958. While recognizing the single residential parcel exemption of Sec. 50-9(e), an owner may voluntarily submit a plat to record such a parcel under the minor subdivision procedure provided that the parcel is developable for only one single-family, detached dwelling unit." §50-35A(6).

- 2) There is adequate sewerage and water service to the property, which may be either public service or approved private septic system/private well.

Street dedication is part of the regular subdivision process. It would be required in the regular subdivision process.

The absence of adequate water and service on-site would require the applicant to go through the regular subdivision process.

The other changes to Chapter 50 in SRA 10-02 would correct a subsection reference and would make “plain English” edits.

Staff recommends adoption of SRA 10-02 as introduced.

This packet contains:
SRA 10-02

Circle #
1-4

Ordinance No.:
Subdivision Regulation Amend. No.: 10-02
Concerning: Minor Subdivisions-Applicability
Revised: 5/10/10; Draft No. 1
Introduced: May 18, 2010
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: Planning, Housing, and Economic Development Committee

AN AMENDMENT to the Subdivision Regulations to:

- allow parcel owners with certain legally built single family detached dwelling to use the minor subdivision procedures; and
- generally amend the provisions concerning minor subdivisions.

By amending

Montgomery County Code
Chapter 50, Subdivision of Land
Section 50-35A, Minor Subdivision-Approval Procedure

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</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 50-35A 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, in accordance with the provisions of Sec. 50-34 and Sec.
5 50-35, is not required for:

6 * * *

7 (6) Plats for Certain Residentially Zoned Parcels Created by Deed [Prior
8 to] Before June 1, 1958. [While recognizing the] Although a single
9 residential parcel [exemption of Sec.] may qualify for an exception to
10 platting under Section 50-9([e] f), [an owner may voluntarily submit a
11 plat to record such a parcel under the minor subdivision procedure
12 provided that] if the parcel is developable for only one single-
13 family[,detached] detached dwelling unit, then an owner may submit
14 a plat to record such a parcel under the minor subdivision procedure.

15 * * *

16 (8) Plats for Certain Residential Lots located in the Rural Density
17 Transfer Zone. Up to [five] 5 lots are permitted under the minor
18 subdivision procedure in the RDT zone [provided that] if a pre-
19 preliminary plan is submitted and approved by either the Planning
20 Board or Planning Board staff, [in accordance with] under the
21 procedures for submission and approval of a pre-preliminary plan of
22 subdivision. In addition:

23 [a.](A) Written approval for a proposed septic area must be
24 received from the Montgomery County Department of
25 Permitting Services, Well and Septic Section [prior to
26 recordation of] before recording the plat;

- 27 [b.](B) Any required street dedications along the frontage of the
28 proposed lots[,] must be shown on the record plat;
- 29 [c.](C) An easement must be recorded for the balance of the
30 property noting that density and TDRs have been [utilized] used
31 for the new lots. Reference to this easement must be [reflected]
32 noted on the record plat for the lots; [and]
- 33 [d.](D) Lots created in the RDT [Zone] zone through the minor
34 subdivision procedure must not exceed an average lot size of
35 [five (5)] 5 acres in size unless approved by the Planning Board
36 in the review of a pre-preliminary plan of subdivision[.]; and
- 37 [e.](E) Forest conservation requirements must be satisfied [prior
38 to] before recording the plat.
- 39 (9) Parcels that satisfy Section 59-B-8.1 of Chapter 59 may be platted
40 under the minor subdivision procedure if:
- 41 (A) Any required street dedications along the frontage of the
42 proposed lots is shown on the record plat.
- 43 (B) There is adequate sewerage and water service to the property,
44 which may be either public service or approved private septic
45 system/private well.
- 46 (b) *Procedure for Platting a Minor Subdivision.* The owner of property that
47 satisfies the requirements for a minor subdivision[, as specified in Sec.]
48 under Section 50-35A(a), above, may submit an application for record plat
49 for approval [in accordance with the provisions of Sec.] under Section 50-36
50 and [Sec.] Section 50-37 [of this Chapter]. In the case of minor subdivisions
51 described in [Sec.] Sections 50-35A, (1), (3) and (4), if no additional
52 development is proposed, then no additional public improvements may be

53 required by the reviewing agencies beyond those required for the original
54 subdivision[, and provided that no additional development is proposed].

55 (c) Minor subdivision approvals are not subject to the resubdivision criteria of
56 Section 50-29(b)(2) [of this Code].

57 (d) Any lot created through the minor subdivision process and any lot replatted
58 as part of a minor lot line adjustment must satisfy all applicable zoning
59 requirements [as contained] in Chapter 59 [of this Code].

60 (e) A minor lot line adjustment cannot be used to establish a precedent for a
61 resubdivision that may be filed for other properties located in the same
62 block, subdivision, or neighborhood.

63

64 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of
65 Council adoption.

66 *Approved:*

67

68

69 _____
Isiah Leggett, County Executive

_____ Date

70

71 *This is a correct copy of Council action.*

72

73

74 _____
Linda M. Lauer, Clerk of the Council

_____ Date