

MEMORANDUM

January 31, 2013

TO: Planning, Housing, and Economic Development Committee
FROM: Jeff Zyontz,  Legislative Attorney
SUBJECT: Subdivision Regulation Amendment 12-04, Minor Subdivisions – Ownership Lots

Subdivision Regulation Amendment (SRA) 12-04, Minor Subdivisions – Ownership Lots, sponsored by Councilmember Floreen, was introduced on December 11, 2012.

Within any subdivision, parties want to:

- 1) create or delete internal lots to reflect a deed, mortgage, or lease line within a commercial, industrial, or multi-family residential lot; or
- 2) create ownership lots within a previously recorded lot creating lines within lots or areas within a subdivision

for the purpose of separately financing different portions of the subdivision. The sponsor wants to clarify that both methods of creating lots are permitted. Such ownership lots would still be subject to the conditions of approval for the original subdivision but would not create additional setback requirements.

The Council held a public hearing on January 22, 2013. The Planning Board and Planning Staff recommended approval with a modification to distinguish between ownership lots (created by plat) and ownership parcels (created by deed). All of the testimony supported the SRA. There was no objection to the Planning Board's modification.

Staff agrees with the substance of the Planning Board's recommendations.

ISSUES

None.¹

<u>This Packet Contains</u>	<u>© number</u>
SRA 12-04 as amended	1 – 4
Planning Board recommendation	5 – 6
Planning Staff recommendation	7 – 8

¹ “The most valuable of all talents is that of never using two words when one will do.” Thomas Jefferson

Ordinance No.:
Subdivision Regulation Amend. No.: 12-04
Concerning: Minor Subdivisions –
Ownership Lots
Revised: 1/25/13; Draft No. 2
Introduced: December 11, 2012
Public Hearing: January 22, 2013
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: Councilmembers Floreen and Berliner

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 [[lots]] parcels within a previously
25 recorded lot

26 may, at the owner's discretion, be recorded under the minor
27 subdivision procedure if:

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

52 * * *

53

54 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of

55 Council adoption.

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIR

MONTGOMERY COUNTY PLANNING BOARD

The Maryland-National Capital Park and Planning Commission

January 17, 2013

TO: The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Subdivision Regulation Amendment No. 12-04

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Subdivision Regulation Amendment No. 12-04 at its regular meeting on January 17, 2013. By a vote of 5:0, the Board recommends approval of the subdivision regulation amendment as modified to distinguish between the terminology used for delineating an internal ownership area of a subdivision lot from the language used to describe the original subdivided "lot". The Planning Board recommends using the phrase "ownership parcel" instead of "ownership lot" to make this distinction; thereby minimizing any confusion when depicting internal ownership areas within a subdivided lot. This change is provided as an attachment separate from the technical staff report.

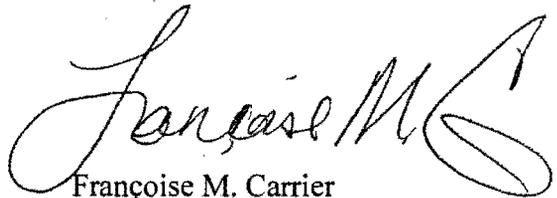
SRA No. 12-04 proposes to clarify the existing provisions of Chapter 50 for minor subdivisions pertaining to ownership lots. Currently, the creation of deed, mortgage or lease lines within a commercial, industrial or multi-family residential lot does not require the approval of a new subdivision plan. 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

The Honorable Nancy Navarro
January 17, 2013
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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. With the clarification of the terminology, the Board believes that the subject legislation reflects the existing practice and interpretation of this provision of the subdivision regulations.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Silver Spring, Maryland, on Thursday, January 17, 2013.



Françoise M. Carrier
Chair

FC:GR:am



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



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Mary Dolan, Chief, FP&P, mary.dolan@montgomeryplanning.org, 301-495-4552

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