

MEMORANDUM

September 24, 2015

TO: Planning, Housing, and Economic Development Committee
FROM: Jeff Zyontz, Senior Legislative Analyst
SUBJECT: Subdivision Regulation Amendment 15-02, Record Plat - Exemptions

Subdivision Regulation Amendment (SRA) 15-02, Record Plats – Exemptions, sponsored by the District Council at the request of the County Executive, was introduced on March 24, 2015.

SRA 15-02 would exempt deeded parcels from recording a plat under certain circumstances. The subdivision process treats platted property (those that went through the subdivision process and are described on a recorded plat) differently from property only described by deed (a metes and bounds description without reference to a plat of subdivision).

Currently, when a recorded property is partially “taken” for a public use, the owner of the remaining land is not required to file a new subdivision plat before getting a building permit. The proposed SRA would extend that exemption to parcels of land that were never platted and were created by a deed description. Under SRA 15-02, when property is transferred to the public for right-of-way, a plat would not be required. The SRA would replace the word “taking” (an adverse process of public acquisition) with the more inclusive term “transfer”. A transfer to the public could be made either with landowner consent or by taking.

The Council held a public hearing on the SRA on May 5, 2015. Both the Planning Board and the County Executive testified in support of SRA 15-02. The Planning Board cited the fact that, currently, a parcel that has not changed size or shape (by deed) except by a public taking is currently exempt from platting for the construction of a single-family home.

Issues

As a general matter, the public has an interest in property going through the subdivision process. It assures that the landowner makes necessary dedications to public use. It allows for the administration of zoning standards and a systematic approach to connected facilities (roadways, stormwater management, public utilities, and private utilities). The County respects parcels created by deed before zoning was

applied to all land in the County (1958). This provision holds a property owner harmless when land was transferred for a public use without the benefit of a previous plat.

Staff recommends approval of SRA 15-02.

<u>This packet contains</u>	<u>Circle</u>
SRA 15-02	1 – 2
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Subdivision Regulation Amendment No.: 15-02
Concerning: Record Plats – Exemptions
Draft No. & Date: 1 – 3/18/15
Introduced: March 24, 2015
Public Hearing: 5/5/15
Adopted:
Effective:
Ordinance No:

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

Lead Sponsor: The District Council at the Request of the County Executive

AN AMENDMENT to the Subdivision Regulations to:

- (1) except deeded properties from platting requirements under certain circumstances

By amending the following section of County Code Chapter 50:
Section 50-9. "Exceptions to platting requirements"

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 50-9 is amended as follows:**

2 **Sec. 50-9. Exceptions to platting requirements.**

3 Recording of a subdivision plat under this Chapter is not required for:

4 * * *

5 (c) Public [taking] transfer.

6 Where a property has been changed in size or shape subsequent to the date of its

7 inclusion within the district or subsequent to October 19, 1934, whichever is the

8 later date, by reason of the [taking] transfer of a part of such property for public

9 use by reference to a properly drawn and recorded [plat] instrument, [such as a

10 right of way plat; provided, that] if the outlines and dimensions of such remainder

11 may be clearly determined by reference to the previously recorded plats. This

12 provision also applies to any unplatted parcel that qualified for an exception to

13 platting before the transfer.

14 * * *

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

16 Council adoption.

17

18 *Approved:*

19

20

21 _____
Isiah Leggett, County Executive

_____ Date

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

23

Linda M. Lauer, Clerk of the Council

_____ Date

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

May 5, 2015

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. 15-02

BOARD RECOMMENDATION

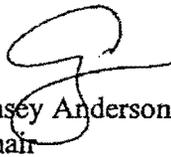
The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Subdivision Regulation Amendment No. 15-02 at our regular meeting on April 30, 2015. By a vote of 4:0 (Commissioner Dreyfuss was absent), the Planning Board recommends approval of SRA 15-02, as introduced, which would expand the existing provisions of Chapter 50 to exempt deeded parcels from the subdivision platting requirements when part of the property is transferred to the public for right-of-way.

The SRA proposes to modify the current exception in Section 50-9(c) that allows the issuance of a building permit on parts of previously recorded lots that were changed as a result of a transfer of land for public use, to allow an exception to be used for certain unplatted parcels, as well. The change is needed to protect the right to build on unplatted parcels that are also excepted from platting under Section 50-9(f)(1). Under this section a building permit may be issued for construction of a single family detached dwelling on an unplatted parcel which has not changed in size or shape since June 1, 1958; however, there are instances where these grandfathered parcels have lost their exception because they have been changed by a land transfer for public use. Therefore, the proposed change allows these parcels to keep their rights to build in the same manner that are preserved for record lots that have been modified for the same purpose.

The Honorable George Leventhal
May 5, 2015
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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, April 30, 2015.



Casey Anderson
Chair

CA:GR

Subdivision Regulation Amendment (SRA) No. 15-02, Record Plats - Exemptions



Gregory Russ, Planner Coordinator, gregory.russ@montgomeryplanning.org, 301-495-2174



Pamela Dunn, Acting Chief, FP&P, pamela.dunn@montgomeryplanning.org, 301-650-5649

Completed 4/23/15

Description

SRA No. 15-02 proposes to expand the existing provisions of Chapter 50 to exempt deeded parcels from the subdivision platting requirements when part of the property is transferred to the public for right-of-way.

Summary

Staff recommends approval of SRA 15-02, as introduced, to modify the current exception in Section 50-9(c) that permits issuance of a building permit on parts of previously recorded lots that were changed as a result of a transfer of land for public use, to permit it to be used for unplatted parcels that qualified for an exception to platting before the transfer.

Chapter 50 governs how land in the County may be subdivided and ensures that proper subdivision on a record plat is accomplished by restricting issuance of building permits for unplatted properties and parts of previously recorded lots created by a land transfer deed. Section 50-9 of the Chapter (Attachment 2) contains the circumstances under which an exception to the platting requirement may be made. The SRA proposes to modify the current exception in Section 50-9(c) that allows the issuance of a building permit on parts of previously recorded lots that were changed as a result of a transfer of land for public use, to allow an exception to be used for certain unplatted parcels, as well. The change is needed to protect the right to build on unplatted parcels that are also excepted from platting under Section 50-9(f)(1). Under this section a building permit may be issued for construction of a single family detached dwelling on an unplatted parcel which has not changed in size or shape since June 1, 1958; however, there are instances where these grandfathered parcels have lost their exception because they have been changed by a land transfer for public use. Therefore, the proposed change allows these parcels to keep their rights to build in the same manner that they are preserved for record lots that have been modified for the same purpose.

The proposed SRA is consistent with language that has been proposed to achieve the same purpose in the Public Hearing Draft of the comprehensive re-write of Chapter 50. The Planning Board's public hearing on this draft is scheduled for April 30, 2015.

ATTACHMENTS

1. SRA 15-02 as introduced
2. Chapter 50-9, Exceptions to platting requirements.