



Subdivision Regulation Amendment (SRA) No. 13-02, Platting Exemptions – Single Family Dwelling

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

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

Completed 5/23/13

Description

SRA No. 13-02 proposes to expand the existing provisions of Chapter 50 to create an exception from the subdivision platting requirements for parts of previously recorded lots and unrecorded parcels that contained an existing one-family dwelling that was involuntarily demolished. Specifically, the recording of a subdivision plat under this Chapter would not be required prior to issuance of a building permit for one (1) single-family detached dwelling unit, on a parcel or on part of a lot, when the permit is to rebuild a dwelling involuntarily demolished by fire, wind, falling debris, water, or other force of nature. Currently, Section 50-20 only allows reconstruction of a one-family dwelling that is involuntarily destroyed if it is located on a part of a previously recorded lot that was recorded by deed before June 1, 1958. SRA 13-02 would remove this distinction.

Summary

Staff recommends approval of SRA 13-02, as modified by staff to make minor plain language clarifications, to create an exception from the subdivision platting requirements for parts of previously recorded lots and unrecorded parcels to permit the rebuilding of a one-family dwelling that was involuntarily demolished.

The Subdivision Regulations generally specify that whenever land in the county is subdivided for any purpose, a plat of such subdivision must be recorded in the land records of the county. They further specify that, with certain exceptions, the Department of Permitting Services must not approve a building permit for the construction of a dwelling or other structure, unless the dwelling or structure is located on a lot or parcel of land which is shown on a recorded plat. A subdivision record plat requires submission of engineered drawings and the dedication of land for master planned rights-of-way. As with certain other exceptions to the platting requirements (see Attachment 2), the County wants land that contained a house that has been demolished by a force of nature to be exempt from these requirements so that reconstruction can be accomplished without added cost and time.

In general, staff supports expanding the existing provisions of Chapter 50 to permit the rebuilding of a one-family dwelling if the dwelling was involuntarily demolished, without the need to record or re-record the underlying land. Staff recommends certain plain language modifications to the SRA as introduced to clarify that the intent is to allow rebuilding of a house on an unplatted parcel or on a part of a previously platted lot. The language as modified by staff is depicted below.

Sec. 50-9. Exceptions to platting requirements.

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

* * *

(f) *Single residential lot.*

* * *

(2) An application for a building permit ~~[[for]]~~ to rebuild a one ~~[[(1) single]]~~-family detached dwelling unit, on ~~[[a]]~~ an unplatted parcel or on part of a previously platted lot, when the permit is to rebuild a dwelling involuntarily demolished by fire, wind, falling debris, water, or other force of nature.

* * *

Staff recommends approval of SRA 13-02 with these modifications.

ATTACHMENTS

1. SRA 13-02 as modified by staff
2. Chapter 50-9, Exceptions to platting requirements.

Subdivision Regulation Amendment No.: 13-02
Concerning: Platting Exemptions – Single
Family Dwelling
Draft No. & Date: 1 – 3/22/13
Introduced: April 2, 2013
Public Hearing:
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**

By: Councilmembers Floreen and Rice

AN AMENDMENT to the Subdivision Regulations for the purpose of:

- exempting property that includes an involuntarily demolished single family dwelling for platting requirements; and
- generally clarifying limitations on the issuance of building permits

By amending

Montgomery County Code
Chapter 50. SUBDIVISION OF LAND.
Section 50-9. “Exceptions to platting requirements.”
Section 50-20. “Limits on issuance of building permits.”

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:

Sec. 1. Section 50-9 is amended as follows:

Sec. 50-9. Exceptions to platting requirements.

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

* * *

(f) *Single residential lot.*

(1) An application for a building permit for one (1) single-family detached dwelling unit, on a parcel, not previously included on a recorded plat, which has not changed in size or shape since June 1, 1958, provided:

[(1)](A) A description and location plat of the lot and proposed structure have been furnished with the permit application, sufficiently detailed, to locate the same on the base maps of Montgomery County.

[(2)](B) Approval of the permit application would not result in obstructing the future opening, extension, or widening of any road deemed essential in the public interest, nor would it otherwise jeopardize any planned public facility.

[(3)](C) The proposed lot and use comply with the zoning ordinance (except for street frontage) and the site plan shows clearly the setbacks, side and rear yards, and any other information needed to check compliance with regulations, including establishment of a building restriction line along any existing or proposed road sufficient to provide for future expansion or opening of such road to its ultimate width.

[(4)](D) Approval of the permit would not affect adversely the general plan for the physical development of the regional district or any portion thereof.

28 (2) An application for a building permit ~~[[for]]~~ to rebuild a one ~~[(1)~~
29 single]]-family detached dwelling unit, on ~~[[a]]~~ an unplatted parcel or
30 on part of a previously platted lot, when the permit is to rebuild a
31 dwelling involuntarily demolished by fire, wind, falling debris, water,
32 or other force of nature.

33 * * *

34 **Sec. 2. Section 50-20 is amended as follows:**

35 **Sec. 50-20. Limits on issuance of building permits.**

36 * * *

37 (b) A building permit must not be approved for the construction of a dwelling or
38 other structure, except a dwelling or structure strictly for agricultural use,
39 which is located on more than one lot, which crosses a lot line, which is
40 located on the unplatted remainder of a resubdivided lot, or which is located
41 on an outlot, except a building permit:

42 * * *

43 (4) for an underground parking facility that crosses the vertical plane of
44 any lot line, as projected below grade, or extends into a public right-
45 of-way if that extension is approved by the appropriate public agency;
46 or

47 (5) [for the reconstruction of a one-family dwelling that is located on part
48 of a previously platted lot, recorded by deed before June 1, 1958, if
49 the dwelling is destroyed or seriously damaged by fire, flood or other
50 natural disaster or;]

51 ~~[(6)]~~ for an addition to an existing one-family dwelling, a porch, deck,
52 fence, or accessory structures associated with an existing one-family
53 dwelling located on part of a previously platted lot, recorded by deed
54 before June 1, 1958.

55 * * *

56 **Sec. 3. Effective date.** This ordinance takes effect 10 days after the date of
57 Council adoption.

58

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date

Sec. 50-9. Exceptions to platting requirements.

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

(a) *Agriculture and uses located on agricultural land.*

(1) A bona fide division or partition of land that is and will remain in exclusively agricultural use, as agriculture is defined in this chapter.

(2) Land that is and will remain part of a farm, as defined in this chapter, but that is used concurrently for a related use that requires issuance of a building permit. This includes a special exception use approved under divisions 59-G-1 and 59-G-2, unless the Board of Appeals requires subdivision as a condition of the special exception.

(3) The issuance of a building permit for any equestrian facility building or structure on land classified in an agricultural zone.

(b) *Court action.* Partition of lands by will or through action of a court of competent jurisdiction unless or until development of the lands is proposed.

(c) *Public taking.* Where a property has been changed in size or shape subsequent to the date of its inclusion within the district or subsequent to October 19, 1934, whichever is the later date, by reason of the taking of a part of such property for public use by reference to a properly drawn and recorded plat, such as a right of way plat; provided, that the outlines and dimensions of such remainder may be clearly determined by reference to the previously recorded plats.

(d) *Adjoining properties.* The sale or exchange of parcels of land (not to exceed a total of 2,000 square feet or one percent of the combined area, whichever is greater) between owners of adjoining properties for the purpose of small adjustments in boundaries; provided, that additional lots are not thereby created and that the original lots are not reduced below the minimum sizes required by this Chapter or by Chapter 59 of this Code. This exemption is not applicable to minor lot line adjustments that occur after May 19, 1997.

(e) *Utility rights-of-way.* A bona fide division of a tract of land in order that one or more of the resulting parcels may be used as part of an electric transmission line right of way or other public utility right of way; provided, that if a parcel resulting from such division is ever to be used as a building site for other than an electric transmission line or other public right of way, then before a building permit may be issued for such other use, a plat must be filed and recorded.

(f) *Single residential lot.* An application for a building permit for one (1) single-family detached dwelling unit on a parcel not previously included on a recorded plat, which has not changed in size or shape since June 1, 1958, provided:

(1) A description and location plat of the lot and proposed structure have been furnished with the permit application, sufficiently detailed, to locate the same on the base maps of Montgomery County.

- (2) Approval of the permit application would not result in obstructing the future opening, extension, or widening of any road deemed essential in the public interest, nor would it otherwise jeopardize any planned public facility.
 - (3) The proposed lot and use comply with the zoning ordinance (except for street frontage) and the site plan shows clearly the setbacks, side and rear yards, and any other information needed to check compliance with regulations, including establishment of a building restriction line along any existing or proposed road sufficient to provide for future expansion or opening of such road to its ultimate width.
 - (4) Approval of the permit would not affect adversely the general plan for the physical development of the regional district or any portion thereof.
- (g) Telecommunications towers/antennas, including associated accessory structures, unless other development of the land requires a subdivision plan.
- (h) *Certain Residential Property in the City of Takoma Park.* An application for a building permit for one single-family detached dwelling unit on property located in the portion of the City of Takoma Park annexed into Montgomery County on July 1, 1997 that was recorded by a deed prior to January 1, 1982 and which remains otherwise buildable under the Prince George's County Zoning and Subdivision Regulations on June 30, 1997, provided that a description and locational survey drawing of the lot and proposed structure have been furnished with the permit application, sufficiently detailed to locate the lot and structure on the 1 inch equals 200 foot scale base map of Montgomery County.
- (i) *Certain commercial properties adjoining state highways.* An application for a building permit for an addition to a building on commercially zoned property:
- (1) adjoining a state highway;
 - (2) located within a state approved Community Legacy Plan Area on October 30, 2012;
 - (3) with less than 10,000 square feet of gross floor area on October 30, 2012 where subsequent building permits cumulatively allow increases in total gross floor area by less than 2,000 square feet; and
 - (4) that includes a description and locational survey drawing of the lot and proposed structure on a 1 inch equals 50-foot scale base map of Montgomery County in any building permit application that demonstrates that the additional floor area will not extend into any adopted master plan road right-of-way.