(SRA 18-01) Minor Subdivisions – Ownership Units

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Description

The subdivision code only allows the creation of an ownership unit on a record plat covered by an approved site plan. SRA 18-01 would also allow the creation of these units when the property described in a plat was subject to conditional use or special exception approval. An ownership unit is not a change to any condition of approval for the subdivision that created the lot in the original subdivision or the site plan. Similarly, the approval of an ownership unit plat would not be a change to the conditional use or special exception approval under SRA 18-01.

Completed: 2/15/18

Summary

Staff recommends approval of SRA 18-01 to allow the creation of ownership units when the property described in a plat was subject to conditional use or special exception approval. Currently, the Subdivision Regulations only allow the creation of an ownership unit on a record plat covered by an approved site plan.

Background/Analysis

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.

The creation or deletion of internal lots to reflect a deed, mortgage or lease line and the creation of ownership units within a previously recorded lot (creating lines within lots or areas within a subdivision) are permitted under the minor subdivision provision. SRA 18-01 would also allow the creation of these
units when the property described in a plat was subject to conditional use or special exception approval. An ownership unit is only for the convenience of the owner, is not to be used to determine building setbacks or to establish conformance with any other law or regulation and is not a change to any condition of approval for the subdivision that created the lot in the original subdivision or the site plan. Similarly, the approval of an ownership unit plat would not be a change to the conditional use or subdivision approval under SRA 18-01. In either scenario, conditions of approval for the original subdivision must be adhered to. Staff recommends approval of SRA 18-01 as introduced.

Attachments

1. SRA 18-01 as introduced
COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND

AN AMENDMENT to:

- allow the creation of ownership units under certain additional circumstances; and
- generally amend the provisions concerning the creation of ownership units

By amending

Montgomery County Code
Chapter 50.  “Subdivision of Land”
Section 50.7.  “Minor Subdivision”
Section 50.7.1.  “Applicability”

| **Boldface** | Heading or defined term. |
| **Underlining** | Added to existing law by introduced Subdivision Regulation Amendment. |
| [Single boldface brackets] | Deleted from existing law by introduced Subdivision Regulation Amendment. |
| **Double underlining** | Added to the Subdivision Regulation Amendment by amendment. |
| [[Double boldface brackets]] | Deleted from existing law or the Subdivision Regulation Amendment by amendment. |
| * * * | Existing law unaffected by Subdivision Regulation Amendment. |
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. Chapter 50 is amended as follows:

Division 50.7. Minor Subdivision

Section 7.1. Applicability

E. Ownership Plat. An ownership plat may be recorded to delineate separate ownership units within a lot approved for a [commercial, industrial, or multi-unit residential] Commercial, Industrial, Multi-Unit Residential or Group Living use as follows:

1. Ownership units to reflect deed, mortgage, or lease lines may be created by an ownership plat if:

   a. the lot on which the ownership units are created is included on a plat approved by the Board and has:

      i. site plan approval under Section 59-7.3.4;

      ii. conditional use approval under Section 59-7.3.1; or

      iii. special exception approval under the Zoning Ordinance in effect before November 1, 2014;

   b. the location and design of all structures on the ownership units satisfy Chapters 8, 19, and 22;

   c. the ownership units do not violate any other provision of law or adversely affect any conditions of approval for the subdivision plan that created the underlying lot or [for the site plan] any approval required by Subsection 7.1.E.1.a;
d. any necessary cross easements, covenants, or other deed
restrictions necessary to implement all conditions of approval
are executed before recording the ownership plat; and

e. the ownership units are suitable for the type of development,
the use contemplated, and the available utilities and services.

2. Ownership units must be depicted on the ownership plat with metes
and bounds descriptions inside the boundary of the underlying lot as
shown on the record plat.

3. Private roads may not be delineated as a separate ownership unit on an
ownership plat.

4. No person can record an ownership plat, or sell any property with
reference to an ownership plat, until the plat has been approved by the
Board and recorded in the land records.

5. The Board may apply conditions to the approval of an ownership plat.

6. An ownership unit created under this section is not:

a. a change to any condition of approval for the subdivision that
created the lot in the original subdivision or [the site plan] any
approval required by Subsection 7.1.E.1.a; or

b. used to establish building setbacks or to establish conformance
with subdivision or zoning requirements.

* * *
Sec. 3. Effective Date. This amendment takes effect when it becomes law.

Approved:

Isiah Leggett, County Executive      Date

This is a correct copy of Council action.

Megan Davey Limarzi, Esq.      Date
Clerk of the Council