

AN ORDINANCE AMENDING ARTICLES 2-3(B) AND 3-5(B) OF THE LAND SUBDIVISION REGULATIONS TO MODIFY THE LIMITATIONS FOR THESE MINOR SUBDIVISION PLATS BY REDUCING THE ACREAGE REQUIREMENT FOR THAT PLAT (IN MOST INSTANCES); AND TO ALLOW A FINAL DEVELOPMENT PLAN TO SUBSTITUTE FOR A FINAL RECORD PLAT, IN TERMS OF ALLOWING DEVELOPMENT TO PROCEED ON SUCH A PROPERTY. (PLANNING COMMISSION).

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment to Articles 2-3(B) and 3-5(B) of the Land Subdivision Regulations to modify the limitations for these minor subdivision plats by reducing the acreage requirement for that plat (in most instances); and to allow a final development plan to substitute for a final record plat, in terms of allowing development to proceed on such a property. Planning Commission did recommend APPROVAL of the text by a vote of 10-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Articles 2-3(B) and 3-5(B) of the Land Subdivision Regulations of the Lexington-Fayette Urban County Government are hereby amended as follows:

2-3 MINOR SUBDIVISION CLASS - The class of minor subdivisions shall be those subdivisions of land which are generally of minor planning significance to the community's development. Minor subdivisions include only those subdivisions defined as follows:

2-3(b) NON-BUILDING MINOR SUBDIVISION - Shall be primarily for the purpose of assisting developers in acquiring land for future urban subdividing without having, at this time, to meet the requirements for a major subdivision. Except for alteration to existing buildings, or except for construction allowed by a recorded Display House Minor Subdivision Plan or an approved Final Development Plan, no new building development shall be permitted for residential, commercial, or industrial activity. Whenever such new development is desired, the developer must submit a major subdivision or development plan or a Display House Minor Subdivision Plan. Each division resulting from a non-building minor subdivision plan shall be at least the minimum lot size of zoning classification for the property, or one (1) acres in size, whichever is greater.

3-5 ADDITIONAL INFORMATION AND REQUIREMENTS FOR MINOR PLANS - The following additional information and requirements shall be applicable to the type of minor subdivision so indicated:

3-5(b) NON-BUILDING PLANS - The following note shall be required to be placed upon the plan:
"The divisions created by this subdivision shall be used for non-building purposes. Except for alteration to existing buildings, no new construction shall be permitted for any residential or non-residential activity (except for that allowed for a portion of this property by the recording of a Display House Minor Subdivision Plan) unless and until a major subdivision or development

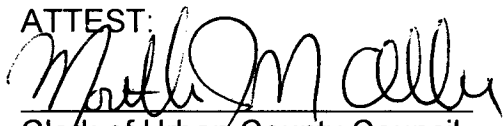
plan is approved by the Planning Commission and certified by the Commission's Secretary."

Section 2 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: July 5, 2016



MAYOR

ATTEST:


Clerk of Urban County Council
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Rec'd by Bm

Date: 5-2-16


RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: SRA 2016-2: AMENDMENT TO ARTICLE(S) 2-3(B) AND 3-5(B) - petition for a text amendment to the Land Subdivision Regulations to modify the limitations for these Minor Subdivision Plats by reducing the acreage requirement for that plat (in most instances); and to allow a Final Development Plan to substitute for a Final Record Plat, in terms of allowing development to proceed on such a property.

Having considered the above matter on **April 14, 2016**, at a Public Hearing, and having voted **10-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL**, for the following reasons:

1. The proposed text amendment is a timely relaxation to the Land Subdivision Regulations regarding the process to "take down" an undeveloped parcel of land in advance of more routine development approvals by the Planning Commission.
2. These types of minor subdivision plats have been little used in recent years, due to their lot size limitations and the need for a follow-up Final Record Plat. These two changes to the requirements for Non-Building Plats should make it easier for developers to acquire and dispose of smaller tracts in advance of their development, without violating any provisions of the Zoning Ordinance relating to the minimum lot sizes in each zone.

ATTEST: This 2nd day of May, 2016.


Secretary, James Duncan

Mike Owens
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by William Sallee, Division of Planning.

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (10) Berkley, Brewer, Cravens, Mundy, Owens, Penn, Plumlee, Richardson, Smith, Wilson

NAYS: (0)

ABSENT: (1) Drake

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **SRA 2016-2** carried.

Enclosures: Minutes of PC meeting initiating this request
Staff Report
Applicable excerpts of minutes of Commission's public hearing

Note: This will be a working group that will be asked to complete tasks during the update process. The goal is to complete the update before substantial work begins on the Comprehensive Plan update, which will be in about a year. Once complete, the updated RLMP will be presented to the Planning Commission for adoption.

Staff Comments – Mr. Duncan said that the staff had sent the Commission a notice regarding the Commission's appointment of one or two members from the Planning Commission to serve on an advisory committee to update the Rural Land Management Plan. He then said that two other bodies have weighed in with their membership, and the staff would like the Planning Commission to be part of that Committee. He added that staff has been identified and would be working on this plan for the next year or so, and we would be looking for members of the Committee who would be willing to do homework and bring tasks back to follow-up meetings. This Committee would be a worthwhile endeavor; and once the Rural Land Management Plan is completed, it would be presented to the full Commission for adoption.

Planning Commission Comments – The Chair said that Mr. Penn had indicated an interest in this Committee, which Mr. Penn confirmed. The Chair asked if any other member would like to be appointed, to which there was no response. The Chair indicated that since there was no response, he would volunteer to be the second person.

Mr. Penn asked who is initiating this Committee. Mr. Duncan explained that this was identified by the 2013 Comprehensive Plan, and the Rural Land Management Board is a part of this; but this is as much a Planning Committee project, as well. Mr. Penn indicated that he serves on both Boards, and he doesn't want to get crossways here. He asked if it is safe to say that the Planning Commission is initiating this request. Mr. Duncan replied affirmatively and said that is fine.

- B. WORK SESSION – Mr. Duncan reminded the Commission members of the upcoming work session that is scheduled for March 17, 2016 in the Phoenix Building, 1:30 p.m., 3rd floor conference room. He said that they are expecting a presentation from Commerce Lexington, which was postponed from the last meeting, as we continue to discuss the potential changes to the ED zone. The staff will also have additional items for the Commission at that time.

VII. STAFF ITEMS – The Chair will announce that any item a Staff member would like to present will be heard at this time.

- A. SUBDIVISION REGULATIONS TEXT AMENDMENT INITIATION – The staff would request that the Planning Commission initiate a text amendment to the Land Subdivision Regulations in order to modify the limitations for Non-Building Minor Subdivision Plats. The proposed change will enable more properties to qualify for this type of plat, by reducing the acreage requirement and allowing Development Plans to substitute for Subdivision Plans in allowing permits for such properties. If initiated by the Commission, the staff would hope to schedule the requisite public hearing on the change in April.

Staff Presentation – Mr. Sallee distributed a draft copy of the proposed amendment to Articles 2 and 3 of the Land Subdivision Regulations, and said that the last work session, the staff had discussed the possibility of expanding what is allowable as a Non-Building Minor Subdivision plat. The reason the staff is presenting this to the Commission is due to the relatively large increase in waiver requests for properties that wish to go forward without completing the required infrastructure. He then said that for many years, there has been a section in the Subdivision Regulations for a minor plat allowance for large properties, for that purpose. The common term for that type of plan is a "take-down plat." He said that the developer could take a piece of a larger property or all of a property to allow for transfer of ownership, knowing that that property would later be developed, at which time the normal infrastructure procedures would occur -much like the previous plan the Commission had reviewed earlier today and approved such a waiver.

Mr. Sallee said that the staff is suggesting two possible changes with the text amendment. One is to reduce the acreage requirement for that plat. In most cases, currently there is a 10-acre minimum, and the staff would suggest taking the acreage size to as low as 1 acre, except in the case of where the zone requires a much larger minimum lot size than 1 acre. That change would impact three or four zones, and it would make no sense, from the staff's perspective, to allow a parcel smaller than the minimum lot size allowed in those particular zones. He said that rather than a 10-acre requirement, the staff would suggest a 1-acre requirement or the minimum lot size allowed in those zones, whichever is greater.

Mr. Sallee then said that the second change is to allow a development plan to substitute for a record plat, in terms of allowing development to proceed on such property. He said that these days that is a more common occurrence for the Commission than receiving a follow up Final Record Plat. Again, this was designed in the era of large farms being developed into subdivisions; and now we are seeing much more of a focus on infill and redevelopment and those properties being developed. He said that the development plan procedure is common, if not more common, than the subdivision procedure is now for that. He then said that there is a corollary change required in Article 3 of the Land Subdivision Regulations - just to alter the common note that goes on this type of plan. He explained that that note will hopefully state that no building permits can be issued off of this type of minor plat, unless and until the Planning Commission later approves a subdivision plan or a development plan for that property; and that is the vehicle by which permits can be issued.

Mr. Sallee said that if the Commission was inclined to initiate this SRA today, there would be a full staff report for the next Committee meetings at the beginning of April, and then the staff would proceed to schedule the required public hearing in the future, with the Committee's approval.

Mr. Sallee said that he could answer any questions regarding this text amendment.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Ms. Plumlee and carried 8-0 (Brewer, Mundy and Smith absent) to initiate the text amendment to Article(s) 2 & 3 of the Land Subdivision Regulations in order to modify the limitations for Non-Building Minor Subdivision Plats.

VI. COMMISSION ITEMS (cont.)

C. REQUEST FOR CLOSED SESSION – The Chair said that at this time, the staff of the Law Department had requested that the Commission enter into closed session to discuss a matter of pending litigation.

Action - A motion was made by Mr. Wilson, seconded by Ms. Richardson, and carried 8-0 (Brewer, Mundy and Smith absent) to enter into closed session at 2:31 p.m.

Note: The meeting reconvened in open session at 2:53 p.m.

Action - A motion was made by Mr. Penn, seconded by Ms. Richardson, to instruct the Law Department not to move forward with the matter of litigation with Skyway Towers, LLC.

The Chair confirmed that the motion on the floor is to not further the appeal.

The motion carried 8-0 (Brewer, Mundy and Smith absent).

VIII. AUDIENCE ITEMS – There were none.

IX. NEXT MEETING DATES

Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	March 17, 2016
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	March 24, 2016
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building).....	March 30, 2016
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building).....	April 7, 2016
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building).....	April 7, 2016
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	April 14, 2016

X. ADJOURNMENT - There being no further business, the Chair adjourned the meeting at 2:55 PM.

Mike Owens, Chair

Will Berkley, Secretary

* - Denotes date by which Commission must either approve or disapprove request.

STAFF REPORT ON PETITION FOR LAND SUBDIVISION REGULATIONS TEXT AMENDMENT

**SRA 2016-2: AMENDMENT TO ARTICLES 2-3(B) & 3-5(B):
NON-BUILDING MINOR SUBDIVISIONS**

REQUESTED BY: Urban County Planning Commission

PROPOSED TEXT: (Text ~~dashed through~~ indicates a deletion, and text underlined indicates an addition to the existing Land Subdivision Regulations.)

2-3 MINOR SUBDIVISION CLASS - The class of minor subdivisions shall be those subdivisions of land which are generally of minor planning significance to the community's development. Minor subdivisions include only those subdivisions defined as follows:

2-3(b) NON-BUILDING MINOR SUBDIVISION - Shall be primarily for the purpose of assisting developers in acquiring land for future urban subdividing without having, at this time, to meet the requirements for a major subdivision. Except for alteration to existing buildings, or except for construction allowed by a recorded Display House Minor Subdivision Plan or an approved Final Development Plan, no new building development shall be permitted for residential, commercial, or industrial activity. Whenever such new development is desired, the developer must submit a major subdivision or development plan or a Display House Minor Subdivision Plan. Each division resulting from a non-building minor subdivision plan shall be at least the minimum lot size of zoning classification for the property, or one (1) ten-(10) acres in size, whichever is greater.

3-5 ADDITIONAL INFORMATION AND REQUIREMENTS FOR MINOR PLANS - The following additional information and requirements shall be applicable to the type of minor subdivision so indicated:

3-5(b) NON-BUILDING PLANS - The following note shall be required to be placed upon the plan:
"The divisions created by this subdivision shall be used for non-building purposes. Except for alteration to existing buildings, no new construction shall be permitted for any residential or non-residential activity (except for that allowed for a portion of this property by the recording of a Display House Minor Subdivision Plan) unless and until a major subdivision or development plan is approved by the Planning Commission and recorded certified by the Commission's Secretary."

STAFF REVIEW:

At the request of the Division of Planning staff, the Planning Commission has initiated this amendment to the requirements for Non-building Minor Subdivision Plats. This amendment was requested by the staff, due to the increase in requests from the private sector to record plats for land ahead of the completion of public infrastructure, such as roads and sewers, over the past eight or nine years. If adopted, these changes would allow minor "non-building plats" to effectively fill this role.

The procedure established decades ago for land development anticipated non-building plats to allow developers to "take down" pieces of larger farm tracts, to allow for seasonal development of larger subdivisions. Those tracts must be at least ten (10) acres in size, regardless of the zoning designation of the parcel in question, and the Minor Class of Subdivisions do not require Planning Commission review or approval. However, since the Great Recession, the staff has seen few of these types of plats, as smaller and smaller parcels are now involved in these private "take down" transactions between developers and land owners.

There has been an upswing in Final Record Plats involving transactions such as this, with many involving parcels of less than ten acres in size. A significant number of these Record Plats have requested for waivers of the Subdivision Regulations to allow their recording, thereby allowing the associated property transfers to occur. The staff has not always recommended these types of waivers, despite their more recent increase in frequency.

This amendment will allow the minimum lot size for Non-Building Plats to be reduced to the greater of the minimum of one acre, or that required by the zone in which the property is located. For instance, an A-R zoned property would need to be a minimum of 40 acres in size, where a tract in a Light Industrial (I-1) zone would need to be at least one acre. A plat for this purpose could be submitted to the staff, and reviewed in a matter of days (usually) instead of being subject to the typical six-week review process required for all Final Record Plats, whether or not they require any waivers to the Subdivision Regulations.

An associated change with this text amendment is to allow Final Development Plans to substitute for Final Record Plats, in the required note that must appear on a Non-Building Plat. Again, this note anticipated the need for this plat for residential subdivisions. More often in this century, a property is just as likely to have a Final Development Plan, as a Final Record Plat. These are the prerequisites for building permits for apartment complexes, commercial developments and shopping centers, light industrial facilities, adaptive reuse projects, and the like. Record Plats are usually only a prerequisite to a property transfer, or to a single family residential subdivision.

This amendment is designed to update these minor types of plats, which have fallen out of favor, and to reduce the number of waivers to our Subdivision Regulations for routine "take down" plats. It is the staff's hope that these updated provisions will allow a timely update to the interim steps for developers that will save them time and money with the steps necessary to acquire and/or transfer small parcels of urban land in advance of more routine development approvals by the Planning Commission.

The Staff Recommends Approval for the following reasons:

1. The proposed text amendment is a timely relaxation to the Land Subdivision Regulations regarding the process to "take down" an undeveloped parcel of land in advance of more routine development approvals by the Planning Commission.
2. These types of minor subdivision plats have been little used in recent years, due to their lot size limitations and the need for a follow-up Final Record Plat. These two changes to the requirements for Non-Building Plats should make it easier for developers to acquire and dispose of smaller tracts in advance of their development, without violating any provisions of the Zoning Ordinance relating to the minimum lot sizes in each zone.

WLS/TAM/JWE/BJR
4/5/2016

- b. **SRA 2016-2: AMENDMENT TO ARTICLE(S) 2-3(B) AND 3-5(B)** - petition for a text amendment to the Land Subdivision Regulations to modify the limitations for these Minor Subdivision Plats by 1) reducing the acreage requirement for that plat (in most instances); and 2) to allow a Final Development Plan to substitute for a Final Record Plat, in terms of allowing development to proceed on such a property.

REQUESTED BY: Urban County Planning Commission

PROPOSED TEXT: (Text underlined indicates an addition to the existing Land Subdivision Regulations.)

2-3(b) NON-BUILDING MINOR SUBDIVISION - Shall be primarily for the purpose of assisting developers in acquiring land for future urban subdividing without having, at this time, to meet the requirements for a major subdivision. Except for alteration to existing buildings, or except for construction allowed by a recorded Display House Minor Subdivision Plan or an approved Final Development Plan, no new building development shall be permitted for residential, commercial, or industrial activity. Whenever such new development is desired, the developer must submit a major subdivision or development plan or a Display House Minor Subdivision Plan. Each division resulting from a non-building minor subdivision plan shall be at least the minimum lot size of zoning classification for the property, or one (1) ten-(10) acres in size, whichever is greater.

3-5(b) NON-BUILDING PLANS - The following note shall be required to be placed upon the plan:

"The divisions created by this subdivision shall be used for non-building purposes. Except for alteration to existing buildings, no new construction shall be permitted for any residential or non-residential activity (except for that allowed for a portion of this property by the recording of a Display House Minor Subdivision Plan) unless and until a major subdivision or development plan is approved by the Planning Commission and recorded certified by the Commission's Secretary."

The Subdivision Committee made a recommendation of Approval.

The Staff Recommends: Approval, for the following reasons:

1. The proposed text amendment is a timely relaxation to the Land Subdivision Regulations regarding the process to "take down" an undeveloped parcel of land in advance of more routine development approvals by the Planning Commission.
2. These types of minor subdivision plats have been little used in recent years, due to their lot size limitations and the need for a follow-up Final Record Plat. These two changes to the requirements for Non-Building Plats should make it easier for developers to acquire and dispose of smaller tracts in advance of their development, without violating any provisions of the Zoning Ordinance relating to the minimum lot sizes in each zone.

Staff Presentation – Mr. Sallee directed the Commission's attention to the proposed text amendment to Article(s) 2-3(b) and 3-5(b) of the Land Subdivision Regulations regarding the allowable conditions for Non-building Minor Subdivision Plans. He said that there are two changes being proposed by this amendment to change the minimum lot size that are allowable for these types of minor plans. He then said that currently there is a 10-acre minimum for this type of plans and what the staff has seen over the past five to ten years is that these types of plats rarely been proposed for as much as 10 acres. Because the larger tracts have been divided several times, the normal type and size of a "take down" plat has gone down, more in the range of 3 to 7 acres, over the past few years (Final Record Plats).

Mr. Sallee said that the staff is proposing a change to account for the greater lot size requirement by some of the agricultural zones. He explained that having a 10-acre tract is still below the minimum lot size requirement in some ag zones, and has created an unusual circumstance that did not exist 25 years ago. He said that one of the major changes the staff is proposing is to reduce the 10-acre requirement, in most circumstances to allow a non-building lot to be created with at least an acre in size unless the zoning of the property has a larger minimum lot size requirement. In this case, the larger of the two would be the minimum for a non-building plat, rather than a flat 10 acres across the board. He said that this would eliminate the possibility of someone believing that they could have a lot smaller than the minimum agricultural size lot, a required by the Zoning Ordinance, while still accommodating the recent trend that the staff is seeing for non-building plats.

Mr. Sallee then said that the staff is also proposing to allow a non-building plat, to not replace only with a Final Record Plat, but with either a Final Record Plat or a Final Development Plan. He then said that both the reason and the need for this change are primarily due to Infill and Redevelopment areas. He explained that it is very common now to not have another Final Record Plat for a property within the Infill Area, but it is common to see a Final Development Plan. He said that both of these types of plans have to be approved by the Planning Commission and both must comply with any associated conditions that were imposed with the Commission's approval. He then said that, from the staff's perspective, it is reasonable to allow either of these types of plans to be able to eliminate a non-building restriction on a lot.

Mr. Sallee said that the primary purpose for making these two changes at the same time is to attempt to eliminate or at least reduce the number of waiver requests that the Commission has been receiving for infrastructure construction. Based upon the staff's experience over the past few years, by making these changes, the number of waiver requests could be greatly reduced in the future. He then said the Subdivision Committee and staff are recommending approval of this amendment, for the following reasons:

1. The proposed text amendment is a timely relaxation to the Land Subdivision Regulations regarding the process to "take down" an undeveloped parcel of land in advance of more routine development approvals by the Planning Commission.

2. These types of minor subdivision plats have been little used in recent years, due to their lot size limitations and the need for a follow-up Final Record Plat. These two changes to the requirements for Non-Building Plats should make it easier for developers to acquire and dispose of smaller tracts in advance of their development, without violating any provisions of the Zoning Ordinance relating to the minimum lot sizes in each zone.

Citizen Comment – There were no citizens present to comment on this proposal.

Action - A motion was made by Mr. Cravens, seconded by Ms. Plumlee, and carried 10-0 (Drake absent) to approve SRA 2016-2: AMENDMENT TO ARTICLE(S) 2-3(B) AND 3-5(B), as presented by the staff.