

CODE INTERPRETATION/POLICY

Year	Title
2017	Ownership Unit Permits Policy
<p>Problem: The creation of ownership units presents unprecedented questions about the application of certain building, zoning and fire code requirements typically applied to buildable lots in conjunction with traditional subdivision, site development and the construction of buildings and structures thereon. The division of a built-upon lot into ownership unit lots requires the consideration and proper protection of code decisions made during the Department of Permitting Services' initial plans review of the existing buildings. DPS' decisions about land use, easements, zoning setback, building services and life/safety conditions must be revisited to assure proper protection of occupants and properties with severed ownerships that were originally permitted as under single lot/ownership. Bill 37-16 as adopted may result in ownership units being created by drawing imaginary lines through existing structures or buildings in such a way as to "separate" portions of a building from its critical life safety systems or adversely affect existing building access and easements or to leave resulting obligations for site development and maintenance of important environmental protections unclear.</p> <p>Background: Montgomery County Bill 37-16 allows for the subdivision of existing recorded lots outside of the subdivision process with the Maryland National Capital Park and Planning Commission. The bill went into effect February 13, 2017 and requires DPS to issue permits for these new lots. Ownership unit lots may be created on lots that are undeveloped and for which no permits have been issued (no ownership unit permit is required although DPS will review the lot configuration) or developed lots with structures and buildings constructed or permitted (an ownership unit permit is required to be issued). DPS is responsible for ensuring that property owners and applicants have duly considered that all building code and life/safety requirements and prior approvals are protected on developed lots and that structures and/or buildings are not adversely affected by this ad hoc process.</p> <p>Prior to and following adoption of Bill 37-16 applicants considering ownership units have expressed an intent to request DPS to approve ownership unit lines that may divide structures or buildings. The division of a garage that serves two office towers has been used as an example.</p>	
<p>Policy</p> <p>DPS does not recommend an ownership unit permit bisect any existing structure, building, or property. In no event will DPS approve an ownership unit permit for an ownership line that bisects any structure or building horizontally. For all ownership unit permits the applicant will be required to participate in an ownership unit hearing to demonstrate that the owner and his design professional(s) and attorney have reviewed all relevant documents related to the division of the lot and that all resulting obligations for site development and maintenance of important environmental protections have been addressed so that all resulting ownership units have full benefit and protections related to the development decisions and that responsibilities for implementation and ongoing obligations are duly addressed. If an ownership lot line bisects a structure or building vertically the applicant must provide a review and appropriate documentation showing joint and individual benefit, protection and responsibility for all structure or building systems. The applicant must also provide documentation showing how building, zoning and/or life/safety systems will be maintained in the divided structure or building. DPS will not approve an ownership unit permit for a private road. DPS recommends that owners consult their insurance companies on the effect dividing a structure or building will have on their building's insurance coverage.</p>	
Date August 29, 2017	Assistant County Attorney Charles Frederick
Date August 29, 2017	Chief Operating Officer Hadi Mansouri
Date August 29, 2017	Director Diane R. Schwartz Jones