

CITY COUNCIL REPORT

DATE: May 16, 2016

TO: Mayor, Vice-Mayor and City Council

FROM: Daniel Folke, Planning Director

CC: Josh Copley, Barbara Goodrich, Shane Dille and Leadership Team

SUBJECT: Land Split Application for 401 Silver Spruce

This City Council Report will provide background information regarding the City approval of a land split application concerning the property located at 401 Silver Spruce.

**SUMMARY**

The property owner at 401 Silver Spruce submitted an application for a land split, seeking to split his single lot into two separate lots. City staff approved the application and the land split was recorded by the property owner.

**OVERVIEW OF LAND SPLIT PROCESS AND ITS APPLICATION TO THIS PROPERTY**

I. Authority for City Regulation of Lot Splits

Pursuant to the grant of authority by the State, the City has enacted regulations governing land splits, which are outlined in Division 11-20.100 of the Flagstaff City Code (the "Code"). The regulations state that the City will approve the land split application if: (1) the land split meets all zoning requirements within the specific zoning district in which it is located, including minimum lot area, lot depth, lot width and minimum access requirements, and (2) the land split does not result in a lot containing more dwelling units than are permitted by zoning regulations.<sup>1</sup> Planning staff also adheres to the Code to confirm that resulting lots will be developable. The Code does not contain any regulations pertaining to the shape of the lots created by a land split.

II. Notice and Public Participation

There is no requirement in State statute or the Code that notice be provided to the public before a land split application is approved or denied. In approving a land split application, City staff is limited to ensuring that the land split complies with the regulations outlined in the Code. So long as the application complies with City regulations, it is granted. Because there is no administrative discretion, public comment would be immaterial.

For similar reasons, the City's Public Participation Policy does not apply to land split applications.

III. Approval of Application for 401 Silver Spruce

The lot at issue is an interior lot located in the Single-Family Residential (R1) Zone. Interior lots (non-corner lots) in the R1 Zone must have a minimum area of 6,000 square

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<sup>1</sup> City Code Section 11-20.100.040(B).

feet, a minimum depth of 100 feet, and a minimum width of 60 feet.<sup>2</sup> The width of the lot is measured at the front setback line,<sup>3</sup> and there is no requirement that the entire lot have a minimum width of 60 feet or that a certain percentage of the lot be a minimum of 60 feet wide. So long as the lot is 60 feet or greater at the setback line, it meets the standards in the Code. It should be noted that prior to 2011, the minimum area requirement for lots in the R1 zone was 7,000 square feet. The minimum area was reduced to 6,000 square feet as part of the 2011 zoning code amendments. According to staff, that reduction was adopted to allow for higher-density housing in the R1 Zone (i.e., smaller homes on smaller lots) and infill development in Flagstaff with the intent of providing opportunities for additional dwelling units to help with the demand for housing.

In addition to the lot dimension requirements described above, buildings on R1 lots must have a minimum front setback of 15 feet and a 25-foot setback for parking, a minimum side setback of eight feet, and a minimum rear setback of 25 feet.<sup>4</sup>

According to the survey that was provided with the land split application, the new lot has an area of 6,020 square feet, is 109.75 feet deep, and is 69.96 feet wide at the front setback line. Thus, the application meets the lot dimension requirements. As mentioned above, the Code does not contain any regulations pertaining to the shape of the lots created by a land split. Although the lots created by the split are irregularly shaped, that does not provide grounds for denying the application.

The survey also shows that the front and rear setback requirements are met. With respect to the side setback requirement, however, the survey shows that the property line that separates the two lots is only five feet from the existing home on the land. This side setback was approved in error; the Zoning Code requires an eight-foot setback, which can be reduced to a six-foot setback through the minor modification process only if certain criteria are met. The applicant has been made aware of this error. However, because the application has already been approved and the new lots recorded, the City's ability to require any modifications may be limited.

Although the boundaries of the two lots created by the land split are different from the boundaries that are identified on the recorded plat for this subdivision, that does not trigger the need for a plat amendment.

#### IV. Appeals

The land split regulations in the Code state that the "subdivider may appeal a final action of the Director to the Planning Commission."<sup>5</sup> There is no provision in the Code that allows for anyone other than the subdivider to appeal.

If you have any further questions, please do not hesitate to contact me.

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<sup>2</sup> City Code Section 10-40.30.030.

<sup>3</sup> City Code Section 10-40.30.030, Table C (Building Form), Footnote 10.

<sup>4</sup> For single and two-story residences in the R1 zone, the structure may be built to 15 feet from the rear property line, provided that the portion of the structure located closer than 25 feet does not exceed 50% of the lot width.

<sup>5</sup> City Code Section 11-20.100.040(C)(2)(b).