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Memo

Department of Planning & Housing



TO: Mayor and City Council
FROM: Steve Osguthorpe, Planning & Housing Director
DATE: January 2, 2009
SUBJECT: Suggested Text Amendments – Subdivision & Zoning Codes

City staff is requesting that the City Council consider amendments to the City's Subdivision and Zoning Codes pertaining to the following four items:

1. Provisions that recognize lots created by plats of survey which have not been previously reviewed or approved by the City;
2. Confirmation of the City's intent to review plats of survey within the Ames Urban Fringe;
3. Definition of bedroom as it pertains to calculation of required parking spaces; and
4. Clarification on the number of parking spaces within a garage

These issues are more fully described as follows:

1. **Plats of Survey.**

A plat of survey is basically the graphic illustration (map) of a survey prepared by a licensed surveyor. Properties acquired through conveyances are often described on plats of survey; and common practice among local land surveyors is to submit plats of survey directly to the County Recorder for recording prior to approval or waiver by the applicable governing body. An unknown number of parcels have been created in the City of Ames and its fringe by the recording of plats of survey, which have not had the benefit of City review and approval as otherwise required by State and local subdivision regulations. As a result, parcels have been created throughout the City that in many cases do not meet development standards such as minimum setbacks from existing structures, minimum lot size, minimum street frontage, or that do not have legal access from a public right-of-way or provide the required public infrastructure that City subdivision standards otherwise requires.

The fact that these parcels defined by recorded plats of survey have been assigned tax parcel numbers has led many people, including property owners, to believe that the parcels were created with City approval, and that they are valid lots of record for permitting purposes. However, Ames Municipal Code Section 23.103 prohibits the City from issuing any zoning and/or building

permit on any area of land that has not been platted in accordance with the City's subdivision regulations as defined in Chapter 23 of the Municipal Code.

This situation burdens countless property owners throughout the City who were likely innocent purchasers of parcels created through the conveyance process. They likely believe that they own buildable lots, but essentially own defined segments of the original lot, with the original lot still intact as the only recognized lot for permitting purposes. Under current codes, a property owner's only means of resolving the problem is to coordinate with the owners of all parcels that comprise the original lot and apply for an official subdivision of the lot. Because an application has to be signed by the owner(s) of any affected lot, all owners of parcels within the lot will need to be party to the subdivision application. In this situation, there may often be one or more owners who do not wish to cooperate in the official division of the original lot because (a) their ownership portion (parcel) may have already been developed and (b) they may not wish for other owners to develop their individual parcels of the lot.

To resolve this situation, it is recommended that the City Council refer to staff this issue so that the appropriate amendments can be prepared for the Subdivision Code that will officially recognize as lots those parcels created through conveyance via plats of survey up to a defined point in time, and that will also better define the procedures for reviewing and approving plats of survey to avoid further perpetuation of this problem. These amendments will greatly benefit owners of parcels for which building and zoning permits cannot currently be issued.

The Council should understand that some surveyors, who prefer to avoid City review of Plats of Survey before filing them with the County Recorder's Office, might object to this new procedure. However, amendments would not impose any greater burden than City subdivision authority already imposes. It would simply better define the specific steps of the plat of survey procedure and clarify the City's intent to (a) review and approve all subdivisions within the City and its urban fringe, and (b) allow plats of survey as an alternative means of subdividing land for situations when the more demanding requirements of the final plat process may be unnecessary.

2. **Review & Approval of Plats of Survey in Urban Fringe.**

The City's subdivision regulations govern any plat for subdivision of any area of land both inside the City and within its urban fringe, including any plat of survey. Section 354.9 of the Code of Iowa establishes the City's authority to review subdivisions and plats of survey within two miles of a city's boundaries, stating that the review shall be established by ordinance and that it must specifically reference Code of Iowa Section 354.9. The required reference to the Code of Iowa reflects a more recent change in the State law.

To bring the City's code in line with this change, it is recommended that the City Council refer to Staff this issue so that the appropriate amendments can be prepared for the Subdivision Code that would include reference to Code of Iowa Section 354.9. It should be noted that the review of both subdivision plats and plats of survey in the County require that final City approval be by resolution. However, because these plats of survey are typically straightforward, they could be placed on the Council's Consent Agenda to expedite the process.

3. **Definition of Bedroom for Calculating Parking.**

Currently, there is no definition of what constitutes a “bedroom” in the Zoning Code. In reviewing recently submitted building plans, staff have identified instances where rooms were designated as a “den” or “office”, even though the rooms have the layout, arrangement, and features of separation and privacy that a typical bedroom offers. These rooms could be easily used for (or likely will be used for) sleeping purposes by the initial, or future resident(s), of the living units. The significance of this situation is that the less bedrooms shown on the plans, the less off-street parking is required to be provided in accordance with our Code.

To address the immediate confusion over this issue, an official administrative interpretation of what constitutes a “bedroom” was developed to ensure that the issue was being addressed consistently among staff and with the development community. However, the interpretation should only serve as an interim measure before amending the Code to either codify the definition or otherwise provide clarification on the application of City parking standards as they relate to the number of bedrooms in a living unit. **Therefore, it is recommended that the City Council refer to Staff this issue so that the appropriate amendments can be prepared for the Zoning Code that will define and/or address parking standards based upon the number of bedrooms.**

4. **Clarification on the Number of Parking Bays within a Garage.**

Currently, the zoning code limits the number of parking bays in a garage for a single family dwelling to no more than three. The assumed intent of this limit is to ensure that garage doors do not dominate the house’s appearance and/or to minimize the number of garage doors visible from the street. Although this could be interpreted to mean that no single-family dwelling may have more than three parking bays within a garage on that site, it has historically been assumed to mean that no single garage can have more than three bays. As a result, a number of houses have been built with more than one garage in order to exceed three parking bays per dwelling. This has been accomplished more technically than practically, because the second garage is often separated from the first garage just barely enough to be defined as a separate structure under the building code. However, such technical separation is usually not evident as viewed from the street, i.e., two double-car garages look no different than one four-car garage.

Conversely, there are situations where garages with more than three parking bays may have the outward appearance of smaller garages. This occurs when garage parking bays are laid out in tandem rather than side-by-side. If the intent of the current code is to indeed minimize the visual dominance of the garage, it inadvertently excludes tandem parking spaces that do not require additional garage doors and would therefore not be evident from the street. **To clarify this issue, it is recommended that the City Council refer to staff this issue so that the appropriate amendments can be prepared for the Zoning Code that would limit the size of garages based upon the number of doors visible from the street rather than the number of parking bays contained in the garage.** This would allow more spaces if designed in tandem while minimizing the visual impact on the neighborhood.