



AGENDA ITEM#: 5

MEMORANDUM

TO: Metropolitan Planning Commission

FROM: Mark Donaldson, Executive Director

DATE: December 3, 2010

SUBJECT: Amendments to the City of Knoxville Zoning Ordinance regarding division of a lot at Article V, Section 6(D)(5).
12-A-10-OA

REQUEST

MPC has been requested by the City of Knoxville administration to consider and make a recommendation on amendments to the City of Knoxville zoning ordinance regarding division of a lot at Article V, Section 6(D)(5).

BACKGROUND

In November, 2009, at the request of the City of Knoxville, MPC recommended that Ordinance No. O-76-08 be rescinded and City Council subsequently rescinded the ordinance. Now, the City requests that Article V, Section 6(D)(5) be amended to include an exception that appeared in the rescinded ordinance. Specifically, the rescinded ordinance provided that a variance could be requested to allow a lot to be recorded where "the recorded lot results in a larger recorded lot than existed prior to such subdivision, but does not yet achieve conformity with the zoning district regulations."

ANALYSIS

This amendment will allow property owners to create lots that are larger, but do not achieve the minimum regulations of the zoning district. It creates an opportunity for property owners to move in the direction of conformity without the need to achieve it. This is often the case on parcels that include portions of substandard lots within the same parcel. This provision will make small lots of record more useful, and in some cases is the only way to allow any development on the lot.

This provision was included in Ordinance No. O-76-08. Without the proposed amendment there is no path for owners of lots or portions of lots that do not meet the minimum requirements of the zoning ordinance to use or improve these lots in an effective manner.

PROPOSED AMENDMENT

Add to Article V, Section 6(D)(5) the following:

f. When the lot proposed to be recorded results in a larger recorded lot than existed prior to such subdivision, but does not yet achieve conformity with the zoning district regulations.

STAFF RECOMMENDATION

Staff recommends that the planning commission recommend approval of the proposed amendment to the City of Knoxville Zoning Ordinance.

ATTACHMENT

- Memo from City Law Department

#5



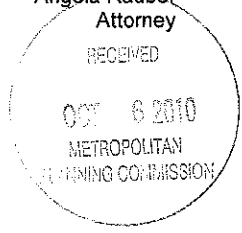
CITY OF KNOXVILLE

BILL HASLAM MAYOR

Law Department

Debra C. Poplin
Law Director

Angela Rauber
Attorney



MEMORANDUM

Date: October 4, 2010

To: Mark Donaldson, Executive Director, MPC

cc: William Lyons, Senior Director, Policy & Communications
Debra Poplin, Law Director
Gary Norman, Inspections Director
Tom Reynolds, Building, Zoning & Plans Review Chief
Anita Cash, Zoning Coordinator
Dan Kelley, Development Services Manager, MPC

From: Angela Rauber, City of Knoxville Law Department

AR

**Subject: City of Knoxville Zoning Code, Article V, Section 6(D)(5)
"Division of a lot"**

In November, 2009, at the request of the City of Knoxville, MPC recommended that Ordinance No. O-76-08 be rescinded. Ordinance No. O-79-08 concerns City of Knoxville Zoning Code, Article V, Section 6(D)(5) "Division of a lot". Now that Ordinance No. O-79-08 has been rescinded, the City would like to request that City of Knoxville Zoning Code, Article V, Section 6(D)(5) be amended to include an exception that appeared in the rescinded ordinance. Specifically, the rescinded ordinance provided that a variance could be granted to allow a lot to be recorded where "[t]he recorded lot results in a larger recorded lot than existed prior to such subdivision, but does not yet achieve conformity with the zoning district regulations."

The City of Knoxville Policy & Communications Department, Law Department, and Inspections Department request that MPC recommend the following amendment to Article V, Section 6(D)(5) of the zoning code:

5. Division of a lot. No recorded lot shall be divided into two or more lots unless such division results in the creation of lots each of which conforms to all of the applicable regulations of the district in which the property is located and no reduction in the size of a recorded lot below the minimum requirements of this ordinance shall be permitted, with the following exceptions:

a. When a dedication of right of way is required and approved under the provisions of the Knoxville-Knox County Minimum Subdivision Regulations, and this dedication makes a lot, building or structure nonconforming with requirements for minimum yards, building setbacks, building coverage, lot area, lot width or lot depth, a final plat may be approved which results in no other new non-conformity and no other increase in the extent of non-conformity.

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b. When a legal, non-conforming structure exists on the property being subdivided and this structure is non-conforming with requirements for minimum yards, building setback or height, a final plat may be approved which results in no new non-conformity and no increase in the extent of any existing non-conformity.

c. When a subdivision of property is proposed and each proposed new lot will contain a principal building categorized as contributing in an H-1 or NC-1 overlay zone district. If each proposed new lot meets this criteria, and the existing principal buildings are non-conforming with requirements for minimum yards, building setbacks, and/or lot coverage, the property owner may seek a variance as prescribed by law.

d. Subsections "a", "b" and "c" above shall also apply to one lot subdivisions, as defined in the Knoxville-Knox County Minimum Subdivision Regulations, which combine two or more lots into one lot or where an adjustment is made to one lot line between two existing recorded lots.

e. In any residential district, a house may be constructed on a lot created by deed provided the lot is:

i. Located in the area within the city boundary resulting from an annexation in 1917; is described by a deed recorded prior to February 3, 1947; and has remained intact with the same boundary configuration since the recorded date; or

ii. Located in the area within the city boundary resulting from a series of annexations in 1962 (Ordinances 3049, 3050, 3052, 3053 and 3054); is described by a deed recorded prior to February 3, 1947; and has remained intact with the same boundary configuration since the recorded date.

If a lot created by deed meets the criteria cited above, and is non-conforming with requirements for minimum yards, building setbacks, and/or lot coverage, the property owners may seek a variance as prescribed by law. Upon application for a building permit, the owner will be required to submit a survey completed by a registered land surveyor that has been recorded with the register of deeds.

f. When the lot proposed to be recorded results in a larger recorded lot than existed prior to such subdivision, but does not yet achieve conformity with the zoning district regulations.