Subject of Interpretation:

Requirements for a Land Split

Zoning Ordinance Section Number:

9-6-6

Title of Section:

Land Splits

Cause for Interpretation:

This is a response to the discussions between the applicant and the Zoning Administrator (ZA) in reference to the applicant’s land split at the location in question and associated requirements, specifically the Right of Way dedication required to conform to the adopted street details and standards as outlined in Section 9-6-6 C.3 of the City of Mesa Code. The City of Mesa’s Engineer corresponded with the applicant in reference to dedicating 27 feet of right-of-way (ROW) along their property line. The applicant and the ZA have had several discussions reference to this requirement and the ability to modify same. The City’s Engineer explains the requirement for ROW dedication and the standards by which the City uses to determine appropriate ROW. In the applicant’s situation, there is currently 33 feet of ROW currently dedicated along their property from past land improvements requirements.

Interpretation:

Due to the applicant’s request to accomplish a land split for the purpose of creating two separate lots and developing an additional single dwelling unit on the newly formed lot (north parcel), the City follows prescribed code requirements, in this case we follow Section 9-6-6. There is a modification section to this portion of the code that allows for alternatives to the requirements based on criteria that: is consistent with the intent of regulations; that result in improvements that are equivalent to the regulations; do not constitute a grant of special privilege; and is not contrary to the public interest. It is the City’s intent to require ROW in situations as the applicant’s for current and/or future needs, as best as the City can determine, including long term needs that may be extremely difficult to predict.

In the applicant’s case, where there is no immediate plan to expand/improve the street adjacent to the property and no current plan to improve utility infrastructure, it may seem an unwarranted requirement to request that you dedicate additional ROW. The ZA feels that history has shown that there is no guarantee in attempting to predict future street and infrastructure improvements, especially in a City as Mesa that has changed so dramatically over the years.

The applicant’s situation has been discussed with the City Engineer and has modified the City’s request to minimize the ROW requirement from 27 additional feet to 17 feet of ROW and an additional 10 feet of
Public Utility Facility Easement (P.U.F.E.) in order to maximize the set back of the applicant’s house from the new ROW line on the adjacent street. The ZA believes that this modification has mitigated the applicant’s concern about how close their property line would be from the new ROW on the adjacent street and would still allow the City to accomplish any infrastructure needs that may arise in the future.

The applicant’s situation has challenged staff to look hard at requirements for land splits and the sometimes, unique situations that the staff finds themselves in, trying to work in the best interests of the public and, at the same time, understand and do their best to accommodate the developer’s concerns of Code requirements that they are obliged to follow.

An outcome of this land split with its requirements will allow the applicant to build/develop on the newly formed north parcel and enhance the overall value of their property, having two structures (presumably single family homes) instead of the one dwelling. Without accomplishing this land split (or possibly a rezoning) the applicant would not have the ability to add the additional dwelling unit on their property and therefore would lose the opportunity to appreciably add to the value of their land. Additionally, if the City never has the need to improve the street or relocate utilities along the frontage of the applicant’s property, there will be no physical difference to their frontage from what it looks like today.

Lastly, the ZA has reviewed the applicant’s approval by the Planning Director of this land split and it should be noted that a ROW requirement was noted for the adjacent street.

The applicant should be aware that they have the ability to appeal this decision. Section 9-6-8 of the Mesa City Code permits them to appeal decisions made by the ZA that involve discretionary acts. In this case, an appeal may be filed regarding the alternative amount of right-of-way and Public Utility and Facility Easement that needs to be dedicated to achieve “functional equivalency” of the standard listed in the City code (and a requirement placed on the ZA’s decision by Sec 9-6-7 of the Mesa City Code).