

August 26, 2013

To: His Worship the Mayor  
and Members of City Council

Re: Application for Severance Approval (13-SV-03) - 2205 Francis Street

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RECOMMENDATION

That the application to sever Lot 1 into proposed Lots 25 and 26, Block 63, Plan No. DV270, being 2205 Francis Street, be REFUSED.

CONCLUSION

The Planning Department received an application for the above-referenced address under the severance approval procedure. An initial review of the proposed severance resulted in a side yard setback that was deficient and did not meet the minimum 1.2 metres pursuant to *Regina Zoning Bylaw No. 9250*. The *Subdivision Bylaw* states that City Council must formally deny the application. The applicant will have the opportunity to appeal the decision of refusal to the Development Appeals Board who has the ability to relax the development standards and proceed with the severance approval.

Neither the Administration, nor City Council has the authority to relax the development standards and recommends this application follow the established protocol of proceeding to the Development Appeals Board for consideration.

BACKGROUND

An application has been received for severance approval to accommodate the development of two residential lots in the R3 – Residential Older Neighbourhood Zone. The subject property is within the Broders Annex Subdivision.

*Subdivision Bylaw No. 7748* states where the Development Officer is unable to certify a severance application because of non-compliance, he shall report to Council who shall refuse approval. Accordingly, this application will not proceed to City Council through the Regina Planning Commission as do other development planning applications. Section 128 (1)(c) of *The Planning and Development Act, 2007* states that an application for subdivision shall not be approved unless the proposal conforms to the provisions of the Zoning Bylaw that affects the land proposed to be subdivided.

DISCUSSION

The applicant proposes to re-subdivide Lot 1 in Block 63 to create Lots 25 and 26 as shown on the attached Plan of Proposed Severance. The existing subject property consists of one lot with a detached dwelling that will remain on proposed Lot 25. Both proposed lots would have a frontage of 7.62 metres, which meets the minimum required 7.5 metres of frontage pursuant to *Regina Zoning Bylaw No. 9250*. The existing detached garage to the rear of the lot is intended to be demolished.

The resulting side yard setback is deficient by approximately 0.46 metres (46 cm). The proposed narrow lot dimensions however, will cause problems with Building Code requirements for the protection of openings in the reduced (i.e., less than 1.2 m) side yards and will require special attention and fire suppression systems, if applicable. Further, the Code also stipulates that no construction or encroachment is permitted within 0.45 metres of any side yard property line.

The subject property is currently zoned R3 – Residential Older Neighbourhood. Surrounding land uses include single detached residential in all directions.

#### Approval Procedure

Pursuant to *Subdivision Bylaw 2003-3*, subdivision and severance approvals are delegated to the Administration. Section 6.8 of the Bylaw however, states that “Where the Development Officer is unable to certify a severance application because of non-compliance with the regulations herein, he shall report to Council who shall refuse approval and the Development Officer shall duly notify the applicant of City Council’s decision.” City Council therefore, does not have the ability to relax the development standards to grant approvals in such circumstances; City Council must refuse the subdivision or severance application.

The applicant’s opportunity for appeal is afforded pursuant to Section 9 of the *Subdivision Bylaw*, which allows the applicant to file an appeal with the Development Appeals Board and subsequently to the Saskatchewan Appeals Board, if unsuccessful.

#### RECOMMENDATION IMPLICATIONS

##### Financial Implications

The subject properties already receive a full range of municipal services. Should the applicant successfully appeal the development regulations for the R3 Zone, the applicant would be responsible for the cost of any additional changes to existing infrastructure that may be required to directly or indirectly support the development in accordance with City standards and applicable legal requirements.

##### Environmental Implications

None with respect to this report.

##### Policy and/or Strategic Implications

The formal denial of the request is required by City Council. The applicant will then have the ability to appeal the decision to the Development Appeals Board, who will consider the impacts of relaxing the standard.

##### Other Implications

None with respect to this report.

Accessibility Implications

None with respect to this report.

COMMUNICATIONS

The application underwent a limited circulation in support of a technical review, as per the subdivision approval procedure.

The applicant will be notified of City Council's review. Upon filing of an appeal by the applicant, the required notification procedures will apply. Furthermore, all property owners within 75 metres of the subject properties would also be notified of the application and have an opportunity to provide feedback.

DELEGATED AUTHORITY

Where a subdivision application does not conform to the regulations and requirements pursuant to *Subdivision Bylaw No. 7748* and *Regina Zoning Bylaw No. 9250*, City Council is required to issue formal refusal of the application in accordance with the requirements of *Subdivision Bylaw No. 7748*.

Respectfully submitted,



Fred Searle, Manager  
Current Planning

Respectfully submitted,



Jason Carlston, Deputy City Manager  
Community Planning and Development

Report prepared by: Mark Andrews