

This is an appeal on Application Number DCP-ZDR2020-05624 for 6633 Northumberland St 101, which was approved and the permit was completed on January 4, 2022 (per CivicCentral website).

The application relates to a piece of land that consists of two Recorded Lots that are under common ownership. One of the lots currently has a single family residence, and the other lot is vacant.

There has been some confusion around the processing of this zoning permit. It appears the developer purchased the property at 6629-6633 Northumberland on October 21, 2019 (Allegheny County Real Estate Portal). The application for zoning was first submitted on June 11, 2020 (CivicCentral). An Administrator Exception Review was accepted on December 4, 2020 (CivicCentral). There was some confusion around the notice related to this Administrator Exception - due to the pandemic the normal notice placards were not being issued at that time. The neighbors were unaware of this project until the fall of 2021. To further add to the confusion on the process, there have been issues with the notices posted on the lot, including a notice that was not clearly visible when initially posted, notices with "21 Days" in lieu of actual dates, and notices lacking the "administrator exception" language.

Based on calls and communication with the city, it appears the proposed development has been approved as a "by right" for a single family residence and multi-unit building on a single Zoning Lot. While there has been confusion over the exact intended use of the property, none of the proposals meet the "by right" definition set forth in the code.

The property is located in an area zoned RM-M, and the code sets forth uses permitted "by right" in the Use Table in Section 911.02 (See Section 911.01.B). Uses that are not associated with a letter in the district column shall be considered prohibited uses and shall not be allowed in the respective district unless otherwise expressly permitted by other regulations of this code (See Section 911.01.F)

The use table refers to "the use of a zoning lot". Section 926 contains definitions, and "Lot, Zoning" is defined as "a parcel of land that is designated by its owner at the time of applying for a building permit as one (1) lot, all of which is to be used, developed or built upon as a unit under single ownership. Such lot may consist of (a) a single "Recorded Lot;" or (b) a portion of a "Recorded Lot;" or (c) a combination of complete "Recorded Lots," complete "Recorded Lots" and portions of "Recorded Lots" or portions of "Recorded Lots."

In areas designated RM-M, there is a minimum lot size of 3,200 s.f. and a minimum lot size per unit of 1,800 s.f. (Section 903.02.C.2). The parcel of land in question consists of two "Recorded Lots", each of which is about 4,800 s.f.

The developer can proceed two different ways. First, he could treat this parcel of land as two separate Zoning Lots (one of which would have a single family residence, and the other of which would have a four unit development). Under this approach, the Zoning Lot for the multi-unit building would have 4,800 s.f., which can only support 2 units under the code.

Second, the developer can treat the two Recorded Lots as one single Zoning Lot of 9,600 s.f., which is what he appears to be doing. In the November call with the city, the neighbors were under the impression that the Zoning Lot would be used to have both a single family residence and a 4-unit development. This proposal, however, would not align with the definition of "Zoning Lot." The definition of Zoning Lot requires that all of the zoning lot be used / developed / built on as a single ownership. Due to this requirement, a single Zoning Lot cannot be used for both a multi-unit development and a single family home that is not part of the multi-unit development. This is further problematic because once the new building is built, either the units or the home (or both) will be sold. Such a sale will require dividing the Zoning Lot into two Zoning Lots which (as discussed above) will not be able to meet the minimum lot size requirements.

During the SHUC DAM call, the developer confirmed that the intended use of the lot is a 5-unit "condo" development. Four of the units will be in a newly constructed building (on what is currently the vacant lot), and the 5th unit will be what is now the single family home. This interpretation runs afoul of the use table. While the use table does allow a "by right" use of multi-use residential, such use is defined as "the use of a zoning lot for four or more dwelling units that are contained within a single building". The plans clearly show that the 5th unit is in an entirely separate structure, thus this is not "within a single building" and thus, not permitted by the code.

In short, neither development is permissible under the code. There is not sufficient land to support the house and four unit development as separate Zoning Lots, the code does not allow use of a single Zoning Lot for two separate uses (e.g., a single family house and a multi-unit development), and there is no "by right" use approved in the code for this zoning district for a multi-unit development that is not within a single building. Therefore, the proposed use of this property is not "by right" and the zoning should not have been approved.