

Meeting Date:
November 18, 2024

Request
Text Amendment to the
Land Development Code
relating to Non-
conforming residential
uses

Applicant
City of Hudson

Case Manager
Nick Sugar

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10.14.24 meeting



Project Introduction:

City staff has prepared the following in response to the City Council request to consider LDC amendments to provide additional accommodation to existing residential properties located within District 6 and 8.

24-105

Land Development Code Amendment to provide greater ability of existing non-conforming residential properties to rebuild or expand an existing dwelling on an existing parcel.

The proposed amendment was introduced to the Planning Commission at the October 14, 2024 meeting. The Planning Commission provided initial feedback and requested staff study the amendment further.

Summary of the October 14, 2024 meeting and staff analysis

Staff notes the following discussion topics from the October 14, 2024 Meeting:

- The Planning Commission questioned the 150% gross floor area threshold and if any threshold should be in place at all. Concern was also expressed for existing residential parcels that would have difficulty converting to commercial/industrial due to their smaller size and/or configuration which may not accommodate industrial development.

Staff Comment: Staff sees value in including a percent expansion threshold to limit the overall expansion of nonconforming structures; however, additional text could be incorporated to provide some further accommodation to parcels that would have difficulty converting to a commercial/industrial use.

Staff notes the minimum parcel size for an office or industrial use in Zoning Districts 6 or 8 is two

acres. Multiple nonconforming residential properties do exist within Districts 6 and 8 with a parcel size under two acres. Text could be included to remove the gross floor area percent threshold for parcels that do not meet the minimum required parcel size in the underlying zoning district.

- Planning Commission commented that the proposed amendment would increase the ability to redevelop existing residential properties which could lead to increased requested to demolish and rebuild existing structures. The Planning Commission expressed specific concern for potential demo and reconstruction of the historic single-family home located at 5498 Hudson Drive.
Staff Comment: Staff notes this home has been designated as a historic landmark, and; therefore, has additional protections within the Land Development Code.
- The Planning Commission questioned which Property Development/Design Standards (i.e. setback) should be followed when rebuilding a non-conforming single-family residence as the underlying district setback and dimensional standards would be anticipated to regulate commercial/industrial development.
Staff Comment: The following is a review of setbacks of non-residential zoning districts in comparison to District 2, the City's large-lot residential district. Staff notes setbacks for Districts 6 and 8 are determined on a case-by-case basis by the City Manager or Planning Commission, though the code offers recommended setbacks to be used as a starting point in making the determination. The recommended setbacks for D6 and D8 are largely in line with D2.

Based on the complexities between each zoning district and the flexibility already provided to Districts 6 and 8, staff recommends no further changes be made and the nonconforming structures utilize the underlying zoning district setbacks.

	District 6	District 7	District 8	District 9	District 2 (Residential)
Minimum front yard setback	Case-by-case basis (50 ft recommended)	30 ft	Case-by-case basis (50 ft recommended)	20 ft	50 ft
Minimum side yard setback	Case-by-case basis (25 ft recommended)	15 ft	Case-by-case basis (25 ft recommended)	10 ft	25 ft
Minimum rear yard setback	Case-by-case basis (25 ft recommended)	30 ft	Case-by-case basis (25 ft recommended)	100 ft	50 ft

- The Planning Commission requested staff review the following code text (underlined below) for inconsistencies: All reconstruction of the structure must be completed within two years following the event of damage or destruction, shall not increase the degree of nonconformance or noncompliance existing prior to such damage or destruction, and shall otherwise be in conformance with this Code.
Staff Comment: The Planning Commission correctly noted a conflict with this text, as the proposed amendment would increase the degree of nonconformance or noncompliance existing prior to the damage or destruction. The referenced phrase is not relevant and could be stricken.

Summary:

Initial proposed Amendment:

That Section 1206.05(e)(4)(B) of the Land Development Code of Hudson be amended and provide as follows, with additions in **bold** and deletions being ~~stricken~~.

(e) Nonconforming Uses. Nonconforming uses shall be subject to the following standards:

(4) Damage or destruction.

A. Except as otherwise expressly permitted in division (e)(4)B. of this section, if any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than fifty percent of its fair market value prior to the destruction, such use shall not be restored except in conformance with this Code. The determination of such reduced value shall be made by the Board of Zoning and Building Appeal, which may, if necessary, consult with a City-appointed appraiser.

B. A structure devoted solely to a nonconforming single-family dwelling or two-family residential use that is damaged or destroyed by ~~any means by fire, earthquake or other act of God~~, may be reconstructed so as not to exceed ~~110~~ **150** percent of the gross floor area of the previous structure as used before such event of damage or destruction. All reconstruction of the structure must be completed within two years following the event of damage or destruction, shall not increase the degree of nonconformance or noncompliance existing prior to such damage or destruction, and shall otherwise be in conformance with this Code.

The Planning Commission may consider the following based on comments discussed in this staff report.

(e) Nonconforming Uses. Nonconforming uses shall be subject to the following standards:

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A. Except as otherwise expressly permitted in division (e)(4)B. of this section, if any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than fifty percent of its fair market value prior to the destruction, such use shall not be restored except in conformance with this Code. The determination of such reduced value shall be made by the Board of Zoning and Building Appeal, which may, if necessary, consult with a City-appointed appraiser.

B. A structure devoted solely to a nonconforming single-family dwelling or two-family residential use that is damaged or destroyed by ~~any means by fire, earthquake or other act of God~~, may be reconstructed so as not to exceed ~~110~~ **150** percent of the gross floor area of the previous structure as used before such event of damage or destruction. **If the existing parcel associated with the structure does not meet the minimum parcel size of the underlying zoning district, then reconstruction may exceed 150 percent of the gross floor area of the previous structure.** All reconstruction of the structure must be completed within two years following the event of damage or destruction, shall not increase the degree of nonconformance or noncompliance existing prior to such damage or destruction, and shall otherwise be in conformance with this Code.

Considerations

District Standards (Section 1204.01) Zoning Map and Text Amendments

All applications for text or zoning map amendments shall be reviewed by the PC and City Council for compliance with the nine standards set forth within Section 1204.01 of the Land Development Code (LDC).

- a) Whether or not the proposed amendment is in accordance with the basic intent and purpose of the Land Development Code;
Staff Comment: Section 1201.03 of the Land Development Code states the purpose and intent of the code. These include *conserve and stabilize property values through the most appropriate uses of land in relation to one another*; and nonresidential development that *minimizes objectionable noise, glare, odor, traffic and other impacts of such development, especially when adjacent to residential uses or to the historic village core*;
- b) Whether or not the proposed amendment furthers the long-range planning goals of the City (as outlined in the City's Comprehensive Plan's goals and objectives);
Staff Comment: The Comprehensive Plan identifies the importance of the city's existing residential neighborhoods and states an overall objective to *strengthen existing residential neighborhoods*
- c) Whether or not conditions within the City have changed since the Land Development Code was last adopted/amended, or there was a mistake in the Land Development Code, that justifies the amendment;
Staff Comment: Staff notes pre-existing nonconforming structures would have been in place since the Land Development Code was established in 1999, suggesting an amendment to the code is warranted.
- d) Whether or not the amendment corrects an inequitable situation created by the Land Development Code, rather than merely grants special privileges;
Staff Comment: The amendment would provide additional accommodations to pre-existing single-family dwellings that would otherwise face challenges in rebuilding. These properties include substandard lot sizes under the current code and would have difficulty transitioning to commercial/industrial.
- e) Whether or not the amendment avoids unlawful exclusionary zoning;
Staff Comment: The amendment avoids unlawful exclusionary zoning.
- f) With respect to zoning map amendments, whether the proposed zoning map amendment is consistent with the zoning classifications of the surrounding land;
Staff Comment: Not applicable
- g) With respect to zoning map amendments, whether all of the new requirements attendant to the proposed zoning classification can be complied with on the subject parcel(s);
Staff Comment: Not applicable
- h) Does the amendment affect the City's ability to provide adequate services, facilities, or programs that might be required if the application were approved; and
Staff Comment: The amendment would not affect the City's ability to provide adequate services, facilities, or programs.
- i) Whether or not the amendment is necessary to address changed or changing social values, new planning concepts, or other social or economic conditions in the areas affected.

Staff Comment: As previously noted, pre-existing nonconforming structures would have been in place since the Land Development Code was established in 1999, suggesting these properties are not economically viable for commercial/industrial, and a change in the code is warranted.

Required PC Action

The PC shall conduct a public hearing, make specific recommendations to the City Council, and transmit the application to the City Council, together with the text and map amendments pertaining thereto, within 120 days from the date of initiation of the application for text or official zoning map amendments. The initiation of the application was commenced with City Council's referral on September 3, 2024.

The City Council shall hold a public hearing and take final action within twenty days of said public hearing. An amendment before the City Council for consideration shall take effect only if passed or approved by not less than five members of the City Council.

Recommendation

Staff recommends the Commission review the proposed text amendments. The Commission should proceed with consideration of a formal recommendation to City Council.