

COMMUNITY PROJECT/ZONING

Ordinance Fact Sheet

Case No. CD-CPC-2019-00060

Brief Title

Amending Chapter 88, Zoning & Development Code

190506

Ordinance Number

Details

Location:

City-wide

Reason for Legislation

Request:

Amending Chapter 88, Zoning & Development Code by deleting 88-610-03-C. LOT CONSOLIDATION; deleting 88-820-01-B. EXCEPTIONS; and adding 88-110-06-C. EXCEPTIONS to permit construction of a single family-dwelling on an area of land legally created.

Purpose:

To clarify that a single-family dwelling may be erected on any area of land in separate ownership, subject to certain provisions.

Prior Council Hearing:

Ordinance 190506 was heard by the Planning, Zoning & Economic Development Committee (prior to NP&D) on June 26, 2019. It has since been held on the agenda.

See complete staff report, attached

Positions/Recommendations

Sponsor	Jeffrey Williams, AICP Director, City Planning & Development
Programs, Departments, or Groups Affected	City Wide
Applicants / Proponents	Applicant City Department City Planning & Development Other
Opponents	Groups or Individuals none known Basis of opposition
Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
Board or Commission Recommendation	City Plan Commission 06/18/2019 recommended approval with modifications 3-2 Voting aye: Burnette, Macy, Archie; Voting nay: Crawl and Baker-Hughes Absent: Dameron, Henderson, and May
Council Committee Actions	<input type="checkbox"/> Do pass <input type="checkbox"/> Do pass (as amended) <input type="checkbox"/> Committee Sub. <input type="checkbox"/> Without Recommendation <input type="checkbox"/> Hold <input type="checkbox"/> Do not pass

(Continued on reverse side)

[illegible]

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

Cost & Revenue Projections -- Including Indirect Costs	
Financial Impact	
Fund Source (s) and Appropriation Account Codes	

Date: 05/31/19, revised 10/21/19

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Refer to Powerpoint presentation for additional information

STAFF REPORT **Neighborhood Planning and Development** **October 23, 2019**

Re: Ordinance 190506

Applicant: Jeffrey Williams, AICP, Director of City Planning & Development

Request: Amending Chapter 88, Zoning & Development Code by deleting 88-610-03-C. LOT CONSOLIDATION; deleting 88-820-01-B. EXCEPTIONS; and adding 88-110-06-D. EXCEPTIONS to permit construction of a single family-dwelling on an area of land legally created

Meetings and Hearings Held:

Community Meetings:

Staff presented Ordinance 190506 to the public at several meetings held as follows:

Kansas City Neighborhood Advisory Council (KCNAC) June 10, 2019

Northland Neighborhoods Inc. (NNI) August 21, 2019

Gregg-Klice Community Center August 27, 2019

Kansas City Neighborhood Advisory Council (KCNAC) September 9, 2019

Kauffman Conference Center September 12, 2019

City Plan Commission:

City Plan Commission recommended approval (3 to 2) June 18, 2019

Planning, Zoning & Economic Development Committee:

Planning, Zoning & Economic Development Committee June 26, 2019
Ordinance has since been held on the agenda.

Purpose:

To clarify that a single-family dwelling may be erected on any area of land in separate ownership, subject to certain provisions

Issue:

The City Council has expressed the intent to enable infill development within the city, particularly on vacant lots within the urban core where transportation and utility services are available.

Certain text within Chapter 88 that was adopted with the new code in 2011 has been determined to be problematic in allowing single-family dwellings to be erected, particularly in the case of infill development on vacant lots. Specifically, the issue arises when two or more abutting lots (or portions of abutting lots), one or more of which are nonconforming, are under single ownership. The code states that in this case, those lots are deemed to be a single lot.

Background:

A nonconforming lot is defined as “a lawfully created lot, shown on a plat or survey map recorded in the appropriate recorder of deeds office, that does not comply with the most restrictive minimum lot area or lot width standards of the zoning district in which the lot is now located”

Although legally created at the time, nonconforming lots were platted with less lot width or lot area than currently required by Chapter 88. For example, many lots within the urban core are platted with 25 or 30 ft. lot width. Current minimum lot width requirements range from 150 to 25 ft., with 50 ft. required for the typical single-family districts R-7.5 and R-6.

Many lots within the city were platted either prior to adoption of the first zoning ordinance in 1923 or enactment of subdivision regulations in 1954. Additionally, many lots were platted under various county regulations, prior to annexation into the city.

Lots have also become nonconforming over the years due to neighborhood downzonings that rezoned areas from multi-family to single-family residential and caused required lot area and lot width to increase accordingly.

Current Code:

- 88-820-01 states that a single family home may be built on any nonconforming lot that was legally created, so long as that nonconforming lot has not been deemed combined (consolidation), as prescribed by 88-610-03. C.

So, staff has consistently issued building permits for single-family homes on these lots, in accordance with “EXCEPTIONS” language, which states:

1. A single-family dwelling, wherever permitted as an allowable use, may be erected on any area of land in separate ownership that was in existence at the time of the passage of the original Ordinance No. 45608, passed **June 4, 1923**, or any subsequent amendment thereto that causes the area of land in separate ownership to contain less area than required to house one family in the district in which it is located, provided all setback, height, and parking requirements of this zoning and development code are met. For purposes of this section, separate ownership means any lot previously established by a recorded subdivision plat or any lot established by a recorded conveyance made prior to **March 1, 1954**, or made in conformance with subdivision regulations of this code, or as otherwise lawfully established.
 2. A single-family dwelling, wherever permitted as an allowable use, may be erected on any area of land established by an approved lot split or subdivision plat.
- Section 88-610-03-B. USE OF NONCONFORMING LOTS states that in residential zoning districts, a nonconforming lot “may be developed with a detached house.”

However, the subsequent section, 88-610-03-C. LOT CONSOLIDATION Item 1. addresses abutting, nonconforming lots under single ownership and states that the land involved is considered a single lot in determining lot size requirements. Item 2. allows the city planning and development director to reestablish the underlying lot previously combined with the abutting lot, to allow construction of a detached house. Reestablishment is subject to two conditions:

- The first is that the granting of the request results in compatible infill development, in keeping with the pattern of development on the subject block.

- The second condition, which is problematic in enabling infill development, requires that “the lot split will not result in the creation of any lot that is less than 30 feet in width.”

Staff Recommendation:

Staff proposes deletion of 88-610-03-C. in its entirety, for the following reasons:

88-610-03-C.1. stating that “no portion of the lot” (when abutting lots under single ownership are deemed a single lot) “may be sold or used in a manner that diminishes compliance with lot size requirements” is impossible to enforce. When told by Permits Division staff that a nonconforming lot less than 25 ft., which happens to be adjacent to another nonconforming lot under the same ownership, is unbuildable, the owner may simply go to the county and place ownership under another entity.

- 88-610-03-C.2 would to allow recreation of a lot of minimum 30 ft., however a multitude of lots within the city limits are less than 30 ft. and would be rendered unbuildable. This would include many land bank lots.
- It should be noted that as a result of deletion of this section, adjacent nonconforming lots under the same ownership could be built on. This might occur in subdivisions where a larger home has been constructed on a parcel comprised by three underlying lots. This may result in three smaller homes being constructed on a block comprised of larger homes. While this may not be “compatible”, it does enable provision of lots and homes of varying sizes and fill market demand for such.
- During public meetings, some attendees expressed concern about “McMansions” being built in neighborhoods where smaller homes prevail. This ordinance is not intended to, and does not, prevent construction of large homes on several underlying lots. That is permitted under the current code and may occur going forward. If that is the concern of Council, a different ordinance regulating “McMansions” or lot consolidations, or establishing an overlay district(s), would be necessary.

Text Revision:

Affected text shown in **red font with yellow highlight**. Text to be deleted is ~~struck through~~, and text to be added is underlined.

1) Moving “EXCEPTIONS” text within the Code

- *Text currently codified as 88-820-01-B. EXCEPTIONS (under 88-820-01 LOT AREA)*
 - would be deleted from this section
 - then placed under new subsection 88-110-06-C. EXCEPTIONS (under 88-110 RESIDENTIAL DISTRICTS; 88-110-06 LOT AND BUILDING STANDARDS).
- New subsection 88-110-06-C. is a more fitting location within the code for this provision
- Clarification to add lot “width” in addition to lot area

a) *Deleting “EXCEPTIONS” from current location:*

88-820-01 - LOT AREA

88-820-01-A. MEASUREMENT

The total land area contained within the property lines of a lot.

88-820-01-B. EXCEPTIONS

~~1. A single family dwelling, wherever permitted as an allowable use, may be erected on any area of land in separate ownership that was in existence at the time of the passage of the original Ordinance No. 45608, passed June 4, 1923, or any subsequent amendment thereto that causes the area of land in separate ownership to contain less area than required to house one family in the district in which it is located, provided all setback, height, and parking requirements of this zoning and development code are met. For purposes of this section, separate ownership means any lot previously established by a recorded subdivision plat or any lot established by a recorded conveyance made prior to March 1, 1954, or made in conformance with subdivision regulations of this code, or as otherwise lawfully established.~~

~~2. A single-family dwelling, wherever permitted as an allowable use, may be erected on any area of land established by an approved lot split or subdivision plat.~~

b) Adding "EXCEPTIONS" to new location 88-110-06-C. and adding "width or less lot"

88-110 - RESIDENTIAL DISTRICTS

88-110-06 - LOT AND BUILDING STANDARDS

88-110-06-C. EXCEPTIONS

1. A single-family dwelling, wherever permitted as an allowable use, may be erected on any area of land in separate ownership that was in existence at the time of the passage of the original Ordinance No. 45608, passed June 4, 1923, or any subsequent amendment thereto that causes the area of land in separate ownership to contain less lot width or less lot area than required to house one family in the district in which it is located, provided all setback, height, and parking requirements of this zoning and development code are met. For purposes of this section, separate ownership means any lot previously established by a recorded subdivision plat or any lot established by a recorded conveyance made prior to March 1, 1954, or made in conformance with subdivision regulations of this code, or as otherwise lawfully established.

2. A single-family dwelling, wherever permitted as an allowable use, may be erected on any area of land established by an approved lot split or subdivision plat.

2) Deleting 88-610-03-C. LOT CONSOLIDATION

- Subsection 88-610-03-C. LOT CONSOLIDATION is to be deleted in its entirety.*

88-610 - NONCONFORMITIES

88-610-03 - NONCONFORMING LOTS

88-610-03-A. DESCRIPTION

A nonconforming lot is a lawfully created lot, shown on a plat or survey map recorded in the appropriate recorder of deeds office that does not comply with the most restrictive minimum lot area or lot width standards of the zoning district in which the lot is now located.

88-610-03-B. USE OF NONCONFORMING LOTS

1. In residential zoning districts, a nonconforming lot may be developed with a detached house.
2. In nonresidential zoning districts, a nonconforming lot may be developed with a use allowed within the subject zoning classification. If the zoning allows a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable lot area and lot width standards, while others would not, then only the uses or intensities that comply with applicable standards are permitted.

88-610-03-C. LOT CONSOLIDATION

- ~~1. If two or more abutting lots (or portions of abutting lots), one or more of which are nonconforming, are in single ownership, the land involved will be deemed a single lot for purposes of determining compliance with lot size requirements, and no portion of the lot may be sold or used in a manner that diminishes compliance with lot size requirements.~~
- ~~2. In cases where 2 or more abutting lots of record are under single ownership and are deemed a single lot as set forth in paragraph 1 above, the city planning and development director may allow re-establishment of a lot previously combined with an abutting lot in order to accommodate a detached house, provided both of the following conditions are met:
 - ~~(a) granting of the request results in compatible infill development that is in keeping with the pattern of development on the subject block; and~~
 - ~~(b) the lot split will not result in the creation of any lot that is less than 30 feet in width.~~~~

88-610-03-~~DC~~. DIMENSIONAL STANDARDS

Fact Sheet (Continued)
Ordinance 190506
Neighborhood Planning and Development Committee
October 23, 2019

Development on nonconforming lots must comply with the bulk and density standards of the subject zoning classification unless otherwise expressly stated.