

Planning, Zoning & Economic Development Committee

July 10, 2019



Ordinance No. 190506

Case No. CD-CPC-2018-00060

Zoning & Development Code Text Amendment

Nonconforming Lots



July 10, 2019

Amending Chapter 88, Zoning & Development Code:

- Move “Exceptions” language
 - delete 88-820-01-B. Exceptions
 - add 88-110-06-C. Exceptions
- Delete 88-610-03-C. Lot Consolidation



Clarify:

- that a single-family dwelling may be erected on any area of land in separate ownership, subject to certain provisions
- ... permitting construction of a single family-dwelling on an area of land legally created



Resolve conflicting language:

- Provision added to Legal Nonconforming section in 2011 states that abutting lots under single ownership will be considered as single lot and prohibits sale of any lot (even if legally created) or portion of parcel
 - except when reestablishment allowed
 - and lot must be at least 30 ft. in width
 - prevents use of legally created parcels less than 25 ft. in width and does not enable infill development in the city
- However, code has consistently stated that a single-family dwelling may be erected on an area of land legally created, even though it may contain less lot area than currently required
- Many lots became nonconforming with “neighborhood downzonings”
 - Intent of these “downzonings” was to prevent multi-family development in single family neighborhoods
 - But minimum required lot area increased (for example from 1,500 sq. ft. to to 6,000 sq. ft.)





- Current 88-610-03-C states that for abutting lots under single ownership -- even though 3 platted lots conformed to requirements at the time created -- they are currently non-conforming in regard to lot width and lot area
- This section considers these adjacent lots owned by same entity to be 1 parcel rather than 3 separate lots – and essentially consolidates the 3 lots into 1 lot
- And further states that for nonconforming, abutting lots under single ownership:
 - no portion of the lot (parcel) may be sold or used in a manner that diminishes compliance with lot size requirements
 - Allows reestablishment of lot, but lot must be minimum 30 ft. width



Allow construction of a single-family dwelling on a legally established lot, so as to:

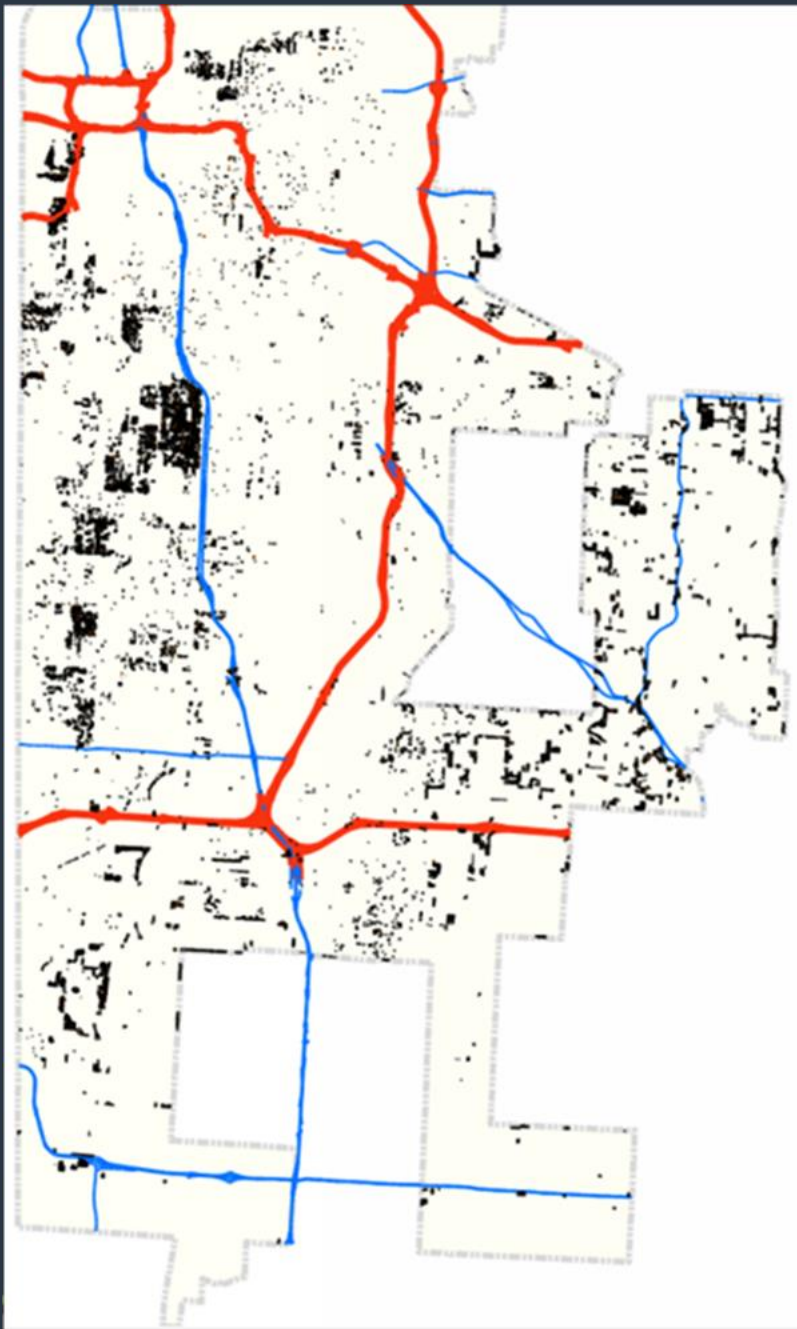
- Ensure infill development may occur, utilizing vacant lots, many of which once contained single family dwellings
- Utilize existing, built infrastructure in the urban core
- Maintain neighborhood character
 - Front doors
 - Street activity
 - Safer neighborhoods
- Maintain prevalent building type
 - If single family homes cannot be built on existing lots, it is possible that developers will rezone/replat and propose multi-family development



Recent Background:

- Permit issued for construction of single family home at 1623 Jefferson, on 25 ft. wide lot
- Adjoining property owner at 1625 Jefferson filed an appeal, stating that the building permit should not have been issued
- Board of Zoning adjustment on April 9, 2019 voted in favor of the appeal, citing conflicting provision in the code that would prevent construction on the 25 ft. wide lot
- Since April 9, no permits for single-family dwellings on nonconforming lots (area and width) have been issued. Many are on hold.





- Black dots/masses indicate nonconforming lots located south of the river
- There are approximately 22,000 nonconforming lots city-wide
- These lots are nonconforming in regard to lot area
- Many nonconformities occurred as a result of “neighborhood downzonings”
- The Permits Division of CP&D reports many permits “on hold” for single-family infill development

- Moving text regarding “Exceptions” from 88-820-01-A. Measurement to 88-110-06 Lot and Building Standards
- Clarifying to add lot “width”

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.

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.



- Deleting conflicting provision

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-D. DIMENSIONAL STANDARDS

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





• Context of neighborhood under consideration:

- Most lots on block platted with 25 ft. width
- Adjacent home to south constructed on 25 ft. wide lot







Jefferson St

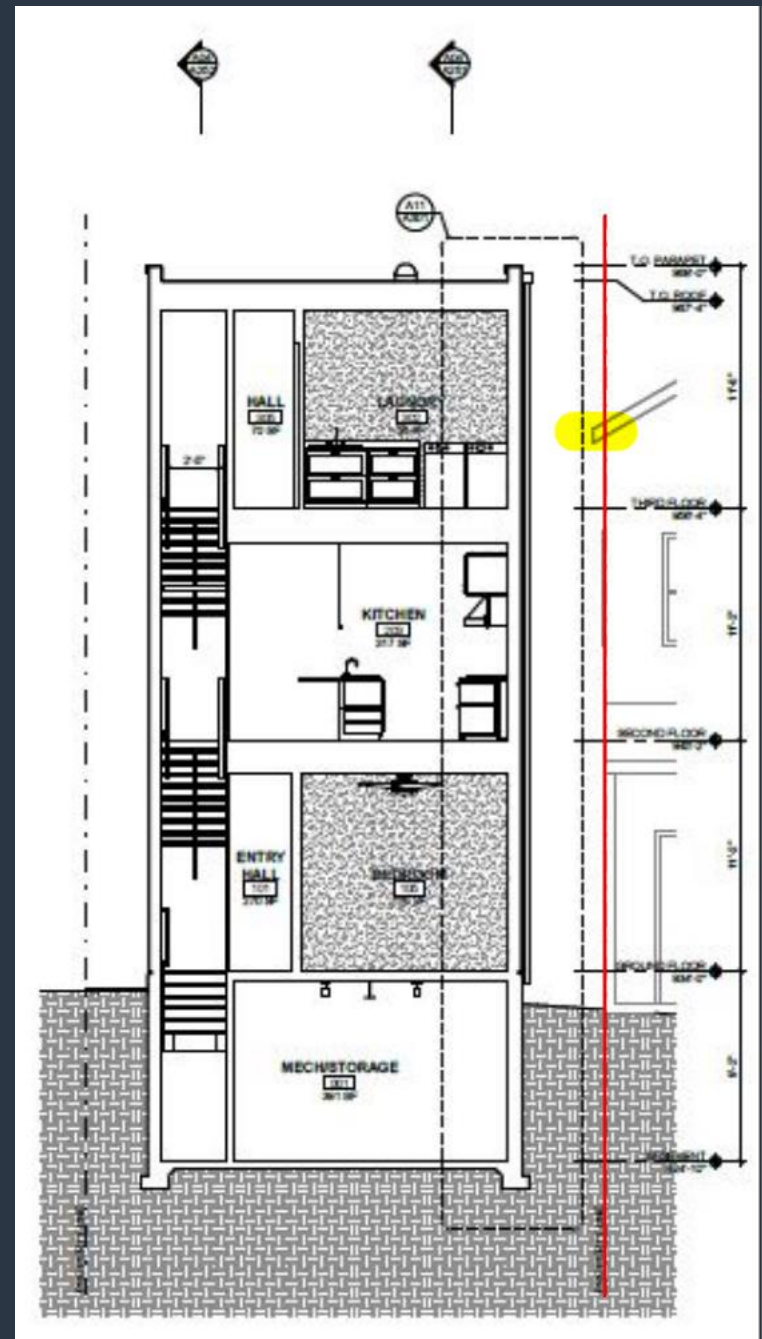
Jefferson St

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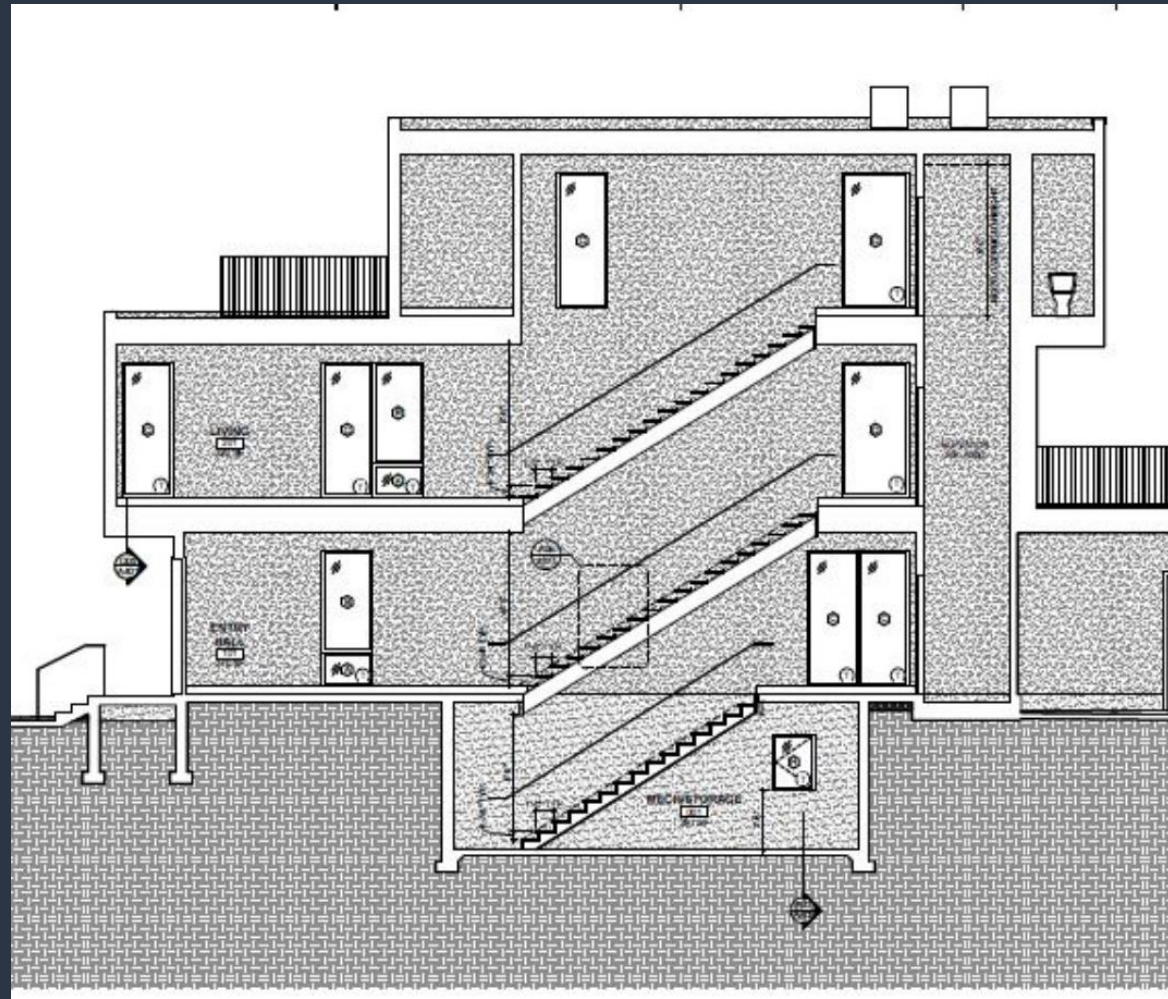
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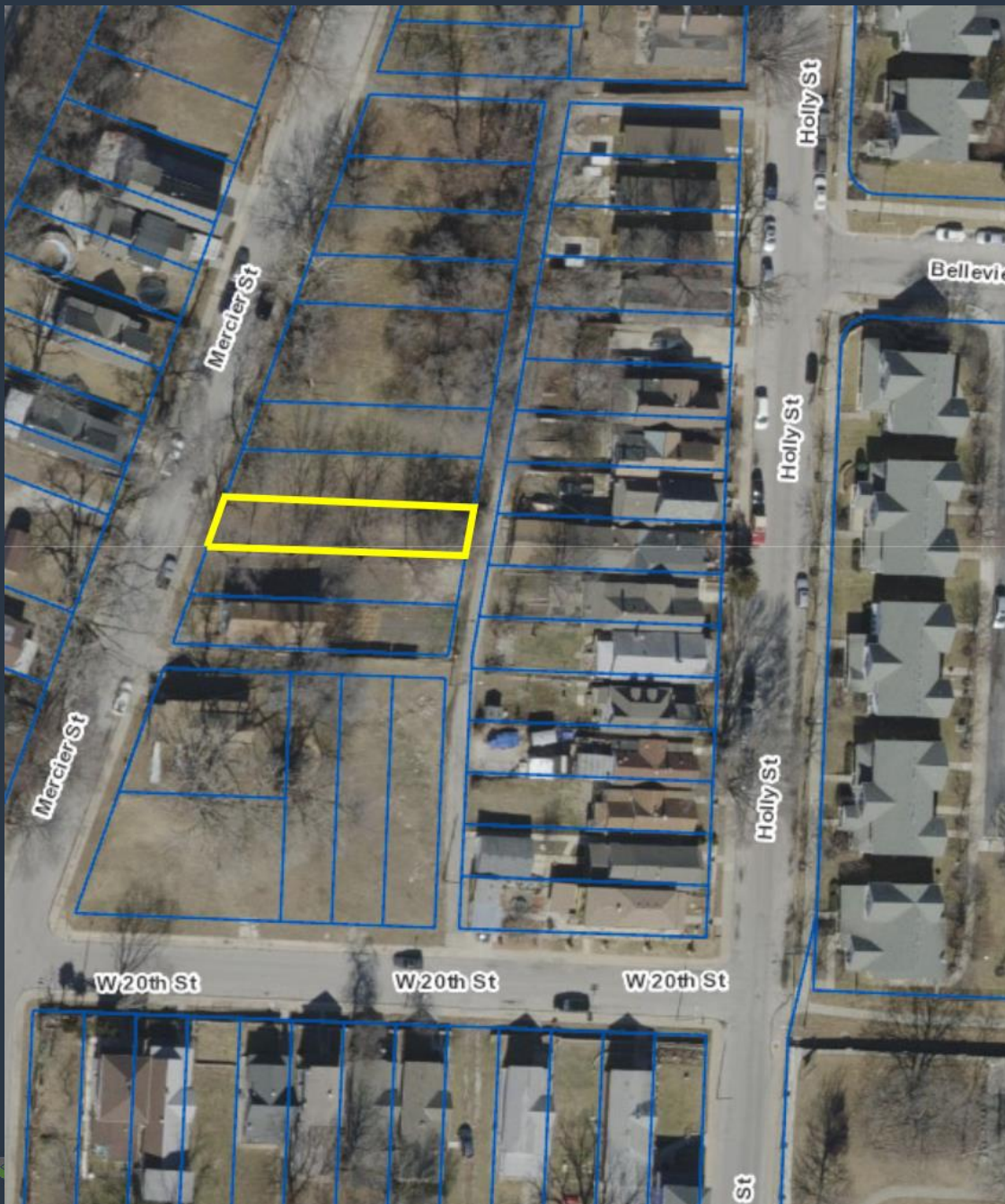


- Red line denotes property line
- Adjacent structure to the south, at 1625 Jefferson, constructed on 25 ft. wide lot
- This home was constructed on the property line, and its eaves overhang the property line shared with the 1623 Jefferson property
- Proposed foundation of home to be constructed at 1623 Jefferson (on 25 ft. wide lot) located 4 ft., 1 in. from the south property line



- View from south (Jefferson Street to the left)
- Section of home to be constructed at 1623 Jefferson, showing partial basement





One of many property owners who purchased lots from Land Trust but is unable to obtain permits since the Board of Zoning Adjustment decision

Purchased 6 adjacent lots on Mercier Street

As zoning is R-6, owner would be able to construct only 3 single family homes, rather than 6 if nonconforming lots not acknowledged















1223

ADT
SECURITY











2129

In this example, reestablishment of 3 lots to allow construction of 3 detached houses would not be considered compatible

