



Planning Department

Bessie L. Martin
Director

STAFF REPORT

Substandard Lots

Docket No. TXT-8-21
Summary No. 25835
Substandard Lots

PARISH COUNCIL
A: Ricky J. Templet
B: Scott Walker
1: Marion F. Edwards
2: Deano Bonano
3: Byron L. Lee
4: Dominick F. Impastato, III
5: Jennifer Van Vrancken

Cynthia Lee Sheng
Parish President

504-736-6320 | Yenni Building, 1221 Elmwood Park Blvd, Ste 601, Jefferson, LA 70123 | jppanning@jeffparish.net

Study Intent: Evaluate, clarify and amend the criteria for a substandard lot and the standards and procedures for issuing a building permit for a substandard lot, including the definition of and criteria for determining neighborhood norm.

Council District: Parish-wide

PAB Hearing: 12/2/2022

Last Meeting Date for Council Action: 4/6/2022

Authorization: Res. No. 133043 (2/6/2019) and Res. No. 135183 (1/29/2020)

Request: Amend Chapter 8 Buildings and Building Regulations, Chapter 33 Unified Development Code and Chapter 40 Zoning related to substandard lots

OVERVIEW

Current Jefferson Parish regulations define procedures for the issuance of a building permit on a substandard lot within the unincorporated areas of the Parish. Currently, a substandard lot is defined as a lot, tract or parcel of land that has an area or frontage less than the minimum required for the zoning district in which it is located, but also a lot of record in original ownership separate from adjoining property at the time of passage of Ordinance No. 3813 on August 28, 1958, as amended. Currently, certain substandard lots require a vote of no objection from the Parish Council prior to issuance of a building permit. The current regulations are vague, outdated, and provide no clear procedure for hearing, while creating ambiguity and confusion regarding departmental responsibility in determining whether a lot is substandard and/or if a building permit to construct a new single-family residence should be issued.

Staff has identified issues with the current definitions of substandard lots; identified potential amendments that can streamline the process for issuing a building permit on a substandard lot; and provided clarification on departmental responsibility within the process.

STAFF RECOMMENDATION

- Replace the term “Substandard Lots” with “Nonconforming Lots” and Legal nonconforming lots and define as appropriate in Chapters 33 and 40;
- Establish clear standards and procedures for nonconforming or substandard lots and consolidate related provisions into one section of the Code:
 - Delete Chapter 8, Article 2, Division 2, Permit for Substandard Lots;
 - Populate Chapter 33 Unified Development Code, Article 4. Nonconforming

- Situations/Vested Rights with standards and procedures for building permits for nonconforming lots;
- Distinguish between nonconforming lots that require BZA review and approval prior to the issuance of a building permit and those that do not and simplify the process; and
- Clarify that the neighborhood norm provisions in Chapter 33 are applicable to those lots that necessitate further review and approval from the BZA.
- Address parish-wide related matters:
 - Standardize area regulations; and
 - Move townhouse regulations to applicable sections of the Code.

PLANNING ADVISORY BOARD RECOMMENDATION

On December 2, 2021 the PAB deferred to December 16, 2021 (see PAB minutes).

On December 16, 2021 the PAB recommended approval (see PAB minutes).

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BACKGROUND

On February 6, 2019, the Parish Council adopted Resolution No. 133043, which authorized the Planning Department and Planning Advisory Board (PAB) to evaluate, clarify, and amend the criteria for a substandard lot and the standards and procedures for issuing a building permit for a substandard lot, including the definition of and criteria for determining neighborhood norm and providing for related matters. As part of the resolution, an interim standard was established, which required substandard lots to obtain a variance through the Board of Zoning Adjustments (BZA) and be evaluated based on the neighborhood norm standards listed in *Section 33-6.6.4 Neighborhood Norm*.

On January 29, 2020, the Parish Council extended the interim standard six months via Resolution No. 135183, which have since expired.

As part of the study, the Planning Department reviewed existing terms and definitions, procedures associated with substandard lots, and related neighborhood norm provisions, in the Code of Ordinances (Code).

Impetus for the Study

In 2018, the owner of a lot in the Belt Bridge Subdivision (Westbank of Jefferson Parish) applied for a building permit to construct a new single-family residence. The lot in question was 25 feet in width, 100 feet in depth, for a total area of 2,500 square feet. It is zoned R-2 Two-Family Residential District, which requires that a single-family dwelling have a minimum lot width of 40 feet, depth of 75 feet and lot area of 4,000 square feet.

The Department of Inspection and Code Enforcement (ICE) coordinated with the Planning Department to determine if the lot was eligible to receive a building permit without going before the Parish Council per the then Chapter 8 regulations. Under Docket No. SSL-2-18, the Planning Department staff determined that the lot in question:

- Was below subdivision regulations by about 37% in both square and lineal footage;
- Did not meet the neighborhood norm in neither area nor frontage;
- Was not in separate ownership from adjoining lots at the time of passage of Ordinance 3813 (lots were later sold separately);
- Thus, required to apply to the Parish Council for a resolution of no objection to the construction of a building on this lot.

While Chapter 8 provided guidance on what would need to be provided to the Council, the actual procedure for going before Council was unclear. This case brought to light

some of the ambiguities and inconsistencies with the substandard lot procedure provided in Chapter 8 and triggered the further study of the substandard lot regulations in the Code.

During the course of this study, ICE has since updated the Substandard Lot regulation via Ord. 26092, which has eliminated some of those issues the study intended to address.

Current JP Regulations

Terms/ definitions

Chapter 8, Section 8-2-110.1 of the Code defines “*substandard lot*”, for the purposes of issuing a building permit, as:

A lot, tract or parcel of land that has an area or frontage less than the minimum required for the zoning district in which it is located, but also a lot of record in original ownership separate from adjoining property at the time of passage of Ordinance No. [3813](#) on August 28, 1958, as amended. Any lot approved by the parish council after August 28, 1958 is not to be considered as a substandard lot.

Chapter 40, Section 40-740 of the Code discusses the term *substandard lot* in reference to re-subdivisions:

Where two (2) or more adjoining and vacant lots with continuous frontage are in a single ownership at the time of passage of Ordinance No. [5687](#), and such lots have a frontage or lot area less than is required by the district in which they are located, such lots shall be re-platted or re-subdivided so as to create one (1) or more lots which conform to the minimum lot area requirements of the district.

Procedures

Prior to this study being called, all requests for building permits on a residentially zoned substandard lot would originate in the Department of Inspection and Code Enforcement (ICE) when an applicant applied for a building permit. A review of the application by ICE would reveal if a lot met the minimum required area regulations or not. If the lot was discovered to not meet the minimum area regulations of the applicable zoning district, the application would be sent to the Planning Department for further review. It was the responsibility of the Planning Department to research and review the ownership history of the subject property to determine if the lot met the substandard regulations found in Ch. 8, Ch. 33, and Ch. 40 (Figure 1).

The Planning Department was tasked with determining the following: ensuring the lot was in separate original ownership at the time of the passage of Ordinance No. 3813 from adjacent/abutting lots, the owner did not own any abutting lots/parcels at the time of the application, and the petitioned lot met the neighborhood norm standards as provided for in Chapter 33 of the Code. If the subject property was deemed a substandard lot that meets the neighborhood norm standards, a building permit would be issued by ICE. If the subject property did not meet these requirements, the applicant would go before the Parish Council to obtain a resolution of no objection to the construction of a building before

ICE could issue a building permit.



Figure 1: Pre-Interim Regulation Procedure

Measurement/Neighborhood Norm

Neighborhood norm standards: The current standards use different distance measurement criteria, ranging from 200 to 1,000 feet of the subject property, which are interspersed throughout the procedure to evaluate residentially zoned substandard lots for a building permit in Chapters 8 and 33.

Sec. 8-2-110.2(b) states:

“The applicant shall be required to furnish to the Department of Inspection and Code Enforcement the names of the property owners on both sides of the street or road within **two hundred (200) feet** of the lot, such measurement to be made along the street or road front of the lot. Should the lot be situated on a corner or at the intersection on two (2) or more streets, then, in this event the names should be obtained from the property owners on both sides of the street or road within two hundred (200) feet thereof.”

Sec. 8-2-110.3(1)(a) states:

*“The owner of a substandard lot shall be required to advise the Council if other substandard lots exist within **one thousand (1,000) feet** of the proposed site.”*

Sec. 8-2-110-6 has been recently revised to state:

“Notwithstanding anything contained in this division, substandard lots may be used without a public hearing before the Parish Council when the lot meets the neighborhood norm in terms of area or frontage, whichever is substandard, but is below the subdivision regulations and requirements.”

*“For the purposes of this Section, the neighborhood norm shall be defined as at least fifty percent (50%) of developed substandard lots within the block or **three hundred feet (300’)** on the same street.*

When the Planning Department evaluated a substandard lot to see if it can be granted a building permit without a hearing, the Chapter 33 definition of neighborhood norm was utilized. Section 33-6.6.4 states that the neighborhood norm shall be determined based on the following factors:

1. *The immediate area is the area that consists of **two (2) street blocks** on either or both sides of a street and not less than **six hundred (600) feet** from subject property.*
2. *The neighborhood is an area possessing identifiable characteristics that are common to the properties or lots within a subdivision or portion thereof, that may be demarcated by a street, highway, canal or water course.*
3. *General purpose or intent of the original lot layout within the subdivision in general, and in particular, within the immediate area of subject property.*
4. *The predominant front footage (lot width) within the immediate area of subject property.*
5. *The predominant front footage (lot width) within the immediate area of subject property.*
6. *The average lot area and/or lot frontage within the immediate area of subject property.*
7. *The predominant lot depth within the immediate area of subject property.*
8. *The orientation of lots within the immediate area of the property.*
9. *Neighborhood stability relative to the frequency of re-subdivision of lots within the immediate area of subject property.*

Interim Regulations

The interim regulations adopted under Res. No. 133043 attempted to streamline the process of issuing a building permit for residential lots that do not meet minimum lot requirements. The interim regulations grant the Board of Zoning Adjustments (BZA) the authority to issue building permits on lots that don't meet minimum lot requirements per the applicable zoning district. The interim regulation was written as such because the BZA has the authority to grant lot-area-per-family variances in any zoning district per Section 40-792.

Under the interim regulations, any application for a building permit on a lot that meets the current definition of a substandard lot as defined in Chapter 8 goes before the BZA. The application is reviewed in accordance with the procedures established for requests for variances for insufficient lot area requirements. The BZA evaluates the application for a building permit on a substandard lot in accordance with the neighborhood norm standards outlined in Chapter 33. This evaluation is based on information provided by the applicant that demonstrates the neighborhood norm. The information provided can include, but is not limited to, a map and summary statistics showing the lot width, depth, area and orientation of all lots and/or development sites within the immediate area.



The interim regulations established by Resolution No. 133043 were created to remove confusion surrounding departmental responsibility in the substandard lot procedure, but do not address all of the aforementioned issues. The interim regulations state *“that an application for a building permit on a substandard lot which meets the current definition established in Ch. 8 shall be heard by the Board of Zoning Adjustments (BZA)…”*, but the regulations are silent on who is responsible for determining if a lot meets the current definition of a substandard lot. This is a longstanding issue that the interim regulations do not address.

Additionally, the interim procedure still proved to be cumbersome for the property owner and the BZA staff. During the established interim standard period, the BZA heard four (4) appeals to obtain building permits for the construction of new single-family residences on substandard lots per MPN records. The BZA approved all four appeals. Some of the petition request provided documentation which were uploaded to MPN; whereas others do not. The interim procedure required property owners to provide information to the BZA *“to demonstrate neighborhood norm, which may include, but not be limited to a map and summary statistics showing the lot width, depth, area and orientation of all lots or development sites in the neighborhood.”*, which potentially required property owners to spend a significant amount of time and possibly money to obtain information on surrounding lots. Once that information is provided, it was the responsibility of the limited staff of the BZA to evaluate this information to determine if the lot meets neighborhood norm standards based on the nine (9) factors laid out in Chapter 33.

While the intent of these interim regulations was to consolidate departmental responsibility in an effort to simplify the substandard lot procedure, they have not yielded a more streamlined, quicker process. The BZA does not have dedicated staff or the capacity to process substandard lot applications from start to finish in a timely manner.

ANALYSIS

Staff reviewed past substandard lot cases, applicable court cases, regulations of other communities, and planning literature. This analysis addresses the following matters associated with substandard lots:

- Legal precedence;
- Community comparisons;
- Existing development pattern in JP;
- Issues with current regulations and proposed changes;
- Working examples of substandard lots; and
- Other related amendments to the Code.

Legal Precedence

Potential Takings Issue:

One of the issues identified in the current substandard lot procedure is the legality of requiring residential lot owners to make an offer of their lot to the abutting property owners. Generally, governmental regulation of property does not affect a taking, but the regulation should not be so burdensome that it becomes one. “The general rule at least is that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking.” *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922). In reviewing Chapter 8 substandard lot regulations, the Planning Department determined that requiring property owners to take such actions as paying for appraisals and obtaining offers from abutting properties owners is, not only unduly burdensome, but likely represented a regulatory taking.

“The Takings Clause of the Fifth Amendment provides that private property shall not “be taken for public use, without just compensation.” The Clause is made applicable to the States through the Fourteenth Amendment.” *Murr* at 1942 quoting *Chicago, B. & Q.R. Co. v. Chicago*, 166 U.S. 226 (1897). As was recognized in *Mahon*, and countless other cases since that decision, regulations can exceed what is necessary to protect the health, safety and general welfare of the public and can amount to a taking of private property without just compensation. The regulations requiring the property owner of a residential substandard lot to offer to sale his lot to his neighbor likely exceeds what is necessary to protect the health, safety, and general welfare of the public. As such, it is recommended that this language be removed from the current regulations governing substandard lots.

Justification for Merger Regulations:

The Parish’s regulations for substandard lots include merger provisions, which are found in Chapter 40, and require two or more adjoining substandard lots in single-ownership be re-subdivided to come into conformity with the code. The legality of the Parish to require a subdivision of substandard lots was affirmed as recently as 2017 in *Murr v. Wisconsin*, 137 S. Ct. 1933, 1947 (2017). As stated by the *Murr* Court, “Merger provisions often form part of a regulatory scheme that establishes a minimum lot size in order to preserve open space while still allowing orderly development. See E. McQuillin, *Law of Municipal Corporations* § 25:24 (3d ed. 2010); see also *Agins, supra*, at 262, 100 S.Ct. 2138 (challenged “zoning ordinances benefit[ed] the appellants as well as the public by serving the city’s interest in assuring careful and orderly development of residential property with provision for open-space areas”).” *Murr v. Wisconsin*, 137 S. Ct. 1933, 1947 (2017)

In this case a St. Croix County, Wisconsin ordinance prohibited the use or sale of adjacent lots under common ownership as separate building sites unless they have at least one acre of land suitable for development. *Murr* at 1936. The Petitioners owned two adjacent lots that, while being an acre each, did not have an acre each of developable land due to topography. Petitioners were interested in selling one of the two lots, and sought variances from the St. Croix County Board of Adjustment. *Murr* at 1941. The request was denied because the ordinance mandated the merger of the two lots. The Petitioners filed suit, alleging that the regulations worked a regulatory taking that deprived them of the use

of their lots. The case was heard before both the Circuit Court for St. Croix County and the Wisconsin Court of Appeals, and both rulings were in favor of the State and St. Croix County.

Following the two lower courts' rulings, the Petitioners appealed to the U.S. Supreme Court. In its ruling, the Supreme Court held that, in pertinent part, the merger provisions in local minimum lot size regulation applicable to property...was a legitimate exercise of government power and the St. Croix County regulations did not affect a compensable regulatory taking. In much the same manner, the Jefferson Parish merger provisions represent a legitimate exercise of regulatory power and should remain as a provision for addressing substandard lots.

Amendments to Jefferson Parish substandard lot regulations are necessary to bring more lots into commerce and more closely align these regulations with existing regulations as well as with those of communities similar to Jefferson Parish.

Community Comparisons

Planning staff looked at the substandard lot regulations of seven (7) other communities: New Orleans, LA; Lafayette, LA; Hattiesburg, MS; Lake Charles, LA; Memphis, TN; St. John the Baptist Parish, LA; and St. Tammany Parish, LA. In reviewing the code language of these communities, it became clear that the term "substandard lot" is itself outdated. Six out of seven of the communities planning staff evaluated use the term "nonconforming lot." Four out of seven of these communities have updated their code of ordinances within the last ten years. Planning staff found that "nonconforming lot" seemed to be the preferred term over "substandard lot" when reviewing "A Planners Dictionary: which is a compilation of phrases and terms needed for understanding planning documents and is published by the American Planning Association.

Chapter 40-696 of the Jefferson Parish Code of Ordinances defines nonconforming uses, and has space reserved for defining other nonconformities. Reevaluating the substandard lot procedures has also presented the opportunity to take another look at the terminology used, as well as the definition of a lot that does not meet minimum standards.

Many of the communities that Planning Department Staff looked at for comparison allowed these substandard or nonconforming lots to be used for any use permitted in the zoning district in which the lot is located provided that the lot meets some minimum criteria. These criteria is typically that the lot is in single ownership, and that all other requirements of the zoning code are met. None of the seven other codes that were evaluated mentioned meeting neighborhood norm standards, or a hearing process. In comparison to these seven (7) other communities that were analyzed, the process for obtaining a building permit for a substandard lot in Chapter 8 of the Jefferson Parish Code of Ordinances is onerous and outdated.

New Orleans, LA and Lake Charles, LA allow for single-family homes to be built on nonconforming lots as long as the lot is in single ownership and no other section of the code is violated. Memphis, TN allows nonconforming lots to be developed with single-family dwellings as long as the lot is in separate ownership and has remained so since 1989, and is not less than 25 feet in width. Lafayette, LA allows for single-family dwellings or utilities to be built on nonconforming lots in residential districts; for all other districts any permitted use may be built, subject to zoning and development standards. Lafayette, LA does allow for administrative approval of variances to yard requirements in nonconforming lots as long as the building does not exceed height restrictions of the zoning district. Hattiesburg, MS allows for vacant nonconforming lots to be granted administrative approval for use of any permitted use in the applicable zoning district, provided that the lot is in single ownership, the lot area is not more than twenty (20) percent below the specified minimum, and all other dimensional requirements are met.

If the deficient area of the lot exceeds twenty (20) percent, or other dimensional requirements cannot be met, the BZA would be put in charge of approving a variance to establish site-specific dimensional requirements.

	<u>Terminology</u>	<u>Neighborhood Norm Standards Applied</u>	<u>Hearing Process</u>
<u>New Orleans, LA</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>Lafayette, LA</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>Hattiesburg, MS</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>Lake Charles, LA</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>Memphis, TN</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>St. John the Baptist Parish, LA</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>St. Tammany Parish, LA</u>	<u>Substandard</u>	<u>No</u>	<u>No</u>

Small-Lot Development Pattern

A sizeable portion of Jefferson Parish was platted prior to the 1958 adoption of the zoning ordinance. In many cases, multiple lots comprise a development site. Numerous lots do not meet the minimum lot requirements of their respective zoning district. Figure 3 shows an original subdivision plat of Bonnabel Place Subdivision from 1924. Jefferson Parish subdivision regulations date back to 1947 via Ordinance 959. When the Parish adopted zoning in 1958, subdivisions now had to meet the minimum lot requirements of the respective zoning district. In 1962, the Parish approved Ordinance 5687 which codified Sec. 40-740 requiring two or more vacant substandard lots with continuous frontage to be resubdivided into one lot. Ordinance 22012, adopted in 2003, required no building or structure shall be built across lot lines (this was later amended to permit fences). Over the years, our regulations have evolved to require property owners to consolidate multiple lots of records in various situations and zoning districts. The OMNCD and CPZ overlay districts have similar provisions.



Figure 3: Bonnabel Plat from 1924 (right); current GIS map (left)

There are many benefits to small-lot development, the American Planning Association writes that “the goal of small-lot development is to allow development or redevelopment in areas where the existing development pattern is small-lot, but the zoning code no longer permits small-lots.” Small-lot development places vacant lots back into commerce, and promotes infill development in areas where large-lot development is predominant.

By reevaluating both the definition of a substandard lot and the permitting process for building on substandard lots, Jefferson Parish could help facilitate the development of lots that might otherwise remain vacant due to restrictive and burdensome code requirements. The prevalence of small-lot development in Jefferson Parish supports the need to streamline the building permit process for substandard lots.

Issues with Current Regulations and Proposed Changes

Terms and Definitions

As previously stated, substandard lot is defined in Chapter 8, for the purposes of issuing a building permit, but the term is referenced in multiple places throughout the Jefferson Parish Code of Ordinances with conflicting information.

Chapter 8, Section 8-2-110.1 of the Code defines “substandard lot” as:

A lot, tract or parcel of land that has an area or frontage less than the minimum required for the zoning district in which it is located, but also a lot of record in original ownership separate from adjoining property at the time of passage of Ordinance No. [3813](#) on August 28, 1958, as amended. Any lot approved by the parish council after August 28, 1958 is not to be considered as a substandard lot.

Chapter 40, Section 40-740 of the Code discusses the term *substandard lot* in reference to re-subdivisions:

Where two (2) or more adjoining and vacant lots with continuous frontage are in a single ownership at the time of passage of Ordinance No. [5687](#), and such lots have a frontage or lot area less than is required by the district in which they are located, such lots shall be re-platted or re-subdivided so as to create one (1) or more lots which conform to the minimum lot area requirements of the

district.

Each section references a different Ordinance number which were both passed at different times. Ordinance 3813 adopted the initial zoning regulations and districts for Jefferson Parish in 1958. This ordinance has been frequently amended over time, as in the case of Ordinance 5687 which was approved in 1962. The latter amended the zoning regulations set forth in Ordinance 3813, and introduced regulations for the eventual discontinuance of non-conforming uses amongst other amendments.

In order for the lot to meet the substandard lot definition, the lot must have been in original ownership separate from adjoining property on or before August 28, 1958. However, in order to determine if two or more substandard lots must be subdivided into one lot of record, research of ownership must be conducted until 1961, which is when Ordinance 5687 was adopted. This language surrounding ownership is not only unclear, it also presents the challenge of determining original ownership. Both definitions hinge on determining the ownership, but neither definition describes who is responsible for researching the chain of title. Prior to the interim-regulations of this study, that responsibility fell on Planning Department staff. This part of the procedure is not codified and title research is not a function of the Planning Department.

The definition in Chapter 8 states that “any lot approved by the Parish Council after August 28, 1958 is not to be considered a substandard lot.” However, this definition excludes lot created by the Police Jury prior to the adoption of the Jefferson Parish Code of Ordinances. Plats approved by the Police Jury were the precursor to plats approved by an action by the council, and should not be deemed substandard. Police Jury approved subdivisions are also accepted when determining a lot’s legal description for the purposes of correcting our GIS system.

Both sections reference the term “frontage”; whereas, the residential zoning districts in the Comprehensive Zoning Ordinance all use the term “lot width” when discussing minimum lot requirements. “Lot width” is also referenced in the general development requirements of the Unified Development Code as well. Furthermore, both chapters state that a lot is considered substandard if in separate ownership from adjoining lots, but there are two different ordinance numbers cited. Chapter 8 states that the lot needed to be in separate ownership at the time of the passage of Ordinance No. 3813, while Chapter 40 cites Ordinance No. 5687.

In order to better align terminology used in the Jefferson Parish Code of Ordinances with that of comparable communities, *21st Century Land Development Code*, and the American Planning Association, Planning Staff recommends that the terms “nonconforming lot” and “legal nonconforming lot” be used in place of “substandard lot.” Planning Staff recommends adopting the following terms and definitions into Chapters 33 and 40:

Lot, Legal Nonconforming shall mean an existing lot, tract or parcel of record that does not meet the minimum lot requirements of its applicable zoning district and meets the following conditions:

1. The lot configuration was approved by the Parish Council or Police Jury; and
2. The subject property is a lot of record that was owned separately from adjoining property on August 28, 1958. If two or more adjacent nonconforming lots with continuous frontage are in common ownership, they shall be subdivided into one or more conforming lots which meet(s) the minimum lot area and frontage of its respective zoning district as per Sec. 33-4.2.3.

***Lot, Nonconforming* shall mean a lot, tract, or parcel which does not meet the minimum lot requirements of its applicable zoning district.**

The new definitions would be placed in Chapters 33 and 40 in the respective definition sections. The proposed regulations aim to simplify the process for residents applying for building permits on residentially zoned nonconforming lots and is consistent with the following purpose statements of the UDC (nonresidentially zoned lots are not impacted by these proposed regulations):

- Protect or enhance property values parish-wide;
- Protect private property rights;
- Promote safe, orderly development and use of land and natural resources

Procedures

Chapter 8 provides the procedure required by owners who must go through the public hearing process in order to obtain a building permit for their substandard lot. The requirements of the procedure also differ between residential and nonresidential lots. The Parish Council may approve a building permit for a nonresidential lot if:

- The structure to be located on the lot meets all requirements of the zoning ordinance and building code, and;
- Conforms to other structures in the neighborhood in the opinion of the Parish Council.

If the lot is residentially zoned, the following procedure and requirements must be met:

- The owner is required to advise the Council if other substandard lots exist within one thousand (1,000) feet of the proposed site;
- The owner must prove to the satisfaction of the council that two (2) fair appraisals were obtained on the property and that an offer was made to the abutting property owner to sell the lot to them at not more than average value of the two (2) appraisers, and that the offer was read;
- The Council will use their discretion to either permit structures to be built on the lot or acquire the lot for open space purposes.

The Council review criteria laid out in this procedure differs from the grant without hearing criteria. The grant without hearing criteria considers the square footage and frontage of the lot; whereas, the public hearing criteria considers the square footage, design and conformity of the structure to other structures in the neighborhood. The council also evaluates the conformity of the structure, and not the lot, if the lot is nonresidential.

This procedure is an undue burden, financial and otherwise, for owners of residential lots. If the lot is used for residential purposes, the owner is required to furnish the Council with information that can only be obtained with the help of professionals such as title abstractors and appraisers. Moreover, these regulations likely “go too far” and may represent a regulatory taking of private property for which the Parish would be liable as discussed in the Legal Precedence section in the report. See *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922).

A major problem with the current substandard lot procedure, which was highlighted by SSL-2-18, is that there is no clear process of initiating the public hearing process. The application was submitted to ICE, but there is not a specific application for a substandard lot petition. There is no clear procedure outlined in Ch. 8 for placing the item on a Parish Council agenda. In practice, ICE drafts a resolution of the applicant’s request and places it on the next Council agenda.

After researching comparable communities’ nonconforming lot standards, the Planning Staff proposes amendments to the procedure (Figure 3). The proposed procedure would make it easier for lot owners to obtain a building permit without a public hearing, while ensuring the proposal has been reviewed to minimize any negative impacts to neighboring residences. Planning Staff recommends the following procedure to allow ICE to grant a building permit to a substandard lot owner without a hearing:

- Vacant non-conforming lots may be used for any permitted use in the zoning district in which it is located provided that:
 - Lot area is not more than twenty (20) percent below the specified minimum of the zoning district;
 - Two vacant adjacent lots in single ownership at the time of building permit submittal must be subdivided into one if one or both of the lots are nonconforming;
 - For new single-family development, a building permit may be granted if lot(s) were previously developed with a single-family structure (if demo permit is issued, and new building permit is applied for, and
 - All other requirements of the zoning code are met.
- If a lot does not meet any of the above-mentioned criteria, the applicant will be required to apply to the Board of Zoning Adjustments (BZA) for variances to the lot-area-per-family and/or yard setback variances.
- Two or more abutting undeveloped nonconforming lots shall be subdivided into a lot(s) of record that meet the minimum lot requirements.

The interim standards of this study required all applicants seeking a building permit for a substandard lot to appear before the BZA for judgement. However, there are no clearly defined procedures for the BZA to follow when reviewing an application. Planning staff recommends establishing criteria for the BZA to grant a building permit if the Department of Inspection and Code Enforcement determines an application does not meet the initial set of proposed criteria. An application shall be made to the BZA for a lot-area-per-family variance. The BZA would review the building permit request based on the following information:

1. A map supplied by the applicant indicating the average width and area of all development sites on both sides of the street for the particular block face the property in question is located
2. The BZA will determine whether or not the lot is consistent with both sides of the street within the given block face using the neighborhood norm standards of Ch. 33
3. The BZA may determine if any other additional information is required for submittal

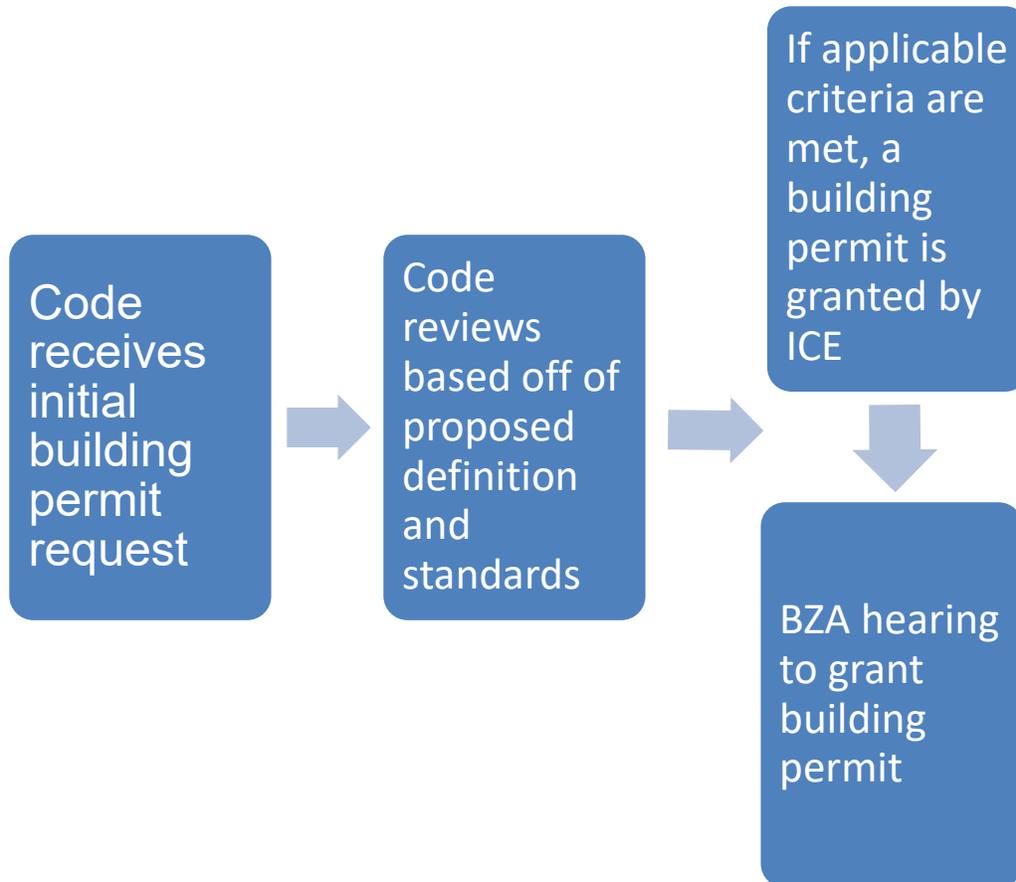


Figure 4: Proposed Procedure

Neighborhood Norm

There are four different measurements of comparison for determining variations of neighborhood norm (see table 1). The measurement used depends on what procedure an applicant must go through in order to receive a building permit.

If a lot does not meet the area regulations of the applicable zoning district, the information was forwarded to the Planning Department, where staff determined if the lot(s) met the definition of a substandard lot. Planning Department staff also evaluated if the lot met the nine criteria laid out in the neighborhood norm section. The first of those criteria defines

what the neighborhood is. In this case, it is an area that consists of two (2) street blocks on either or both sides of the street, and not less than six hundred (**600**) from the subject property.

If the Planning Department determined that the lot does not meet the definition of a substandard lot, or meet the neighborhood norm criteria, then the applicant must appear before the Parish Council in order to obtain an objection of no resolution for a building permit. Sec. 8-2-110.3, which outlines the procedure for going before the Council, requires the applicant to inform the Council of other substandard lots within **1,000 feet** of the subject property, if the lot is in a residential zoning district. Sec. 8-3-110.11 details the criteria that the Council uses when determining if a resolution of no objection for a building permit is appropriate for a substandard lot. When the Council is evaluating the neighborhood norm, they are required to look at the average area of structures within **200 feet** of the subject property.

Table 1: Neighborhood Norm Measurements of Comparison

	Sec. 33-6.6.4	Sec. 8-2-110.2 (a)	Sec. 8-2-110.3(1) a	Sec. 8-2-110.6
Distance	2 street blocks on both sides of the street, not less than 600 ft. from property	Names of the property owners on both side of the street/road within 200' of the lot	For residential districts, any substandard lots within 1,000 ft. of proposed site	The neighborhood norm shall be defined as at least fifty percent (50%) of developed substandard lots within the block or three hundred feet (300') on the same street.
Item Evaluated	Lot	Lot	Lot	Structure

While ICE recently added these criteria for determining the neighborhood norm when evaluating substandard lots, the problem of conflicting measurement criteria was not resolved. The substandard procedure for Chapter 8 contains several conflicting distance requirements: one for the application to be furnished to ICE (Sec. 8-2-110.2); one for information to be supplied to Council (Sec. 8-2-110.3); and one for the grant without hearing (Sec 8-2-110.6). All of which differ from the Neighborhood Norm standards found in Ch. 33.

A single distance requirement provides a more accurate depiction of the immediate area, and is easier to apply than several differing criteria. Planning recommends deleting the current variations of neighborhood norm measurements found throughout Sec. 8-110 and using the Neighborhood Norm standards of Sec. 33-6.6.4 for evaluating residential building permit applications for nonconforming lots.

Working Examples

The Planning Department has applied the proposed regulations to three different substandard lot examples:

- **SSL-2-18**

It was determined that the lot in question did not qualify for a building permit to construct a new single-family development without a public hearing because the lot was not in single ownership from adjoining lots in 1958, but had been sold separately at some point in the 1970's. Furthermore, the lot did not meet the neighborhood norm for development sites. Twenty of the 34 development sites in the area met or exceeded the R-2 standards. To our knowledge, this lot remains undeveloped because it could not be granted a building permit without a hearing, and there was no clear mechanism to send this case before the Council.

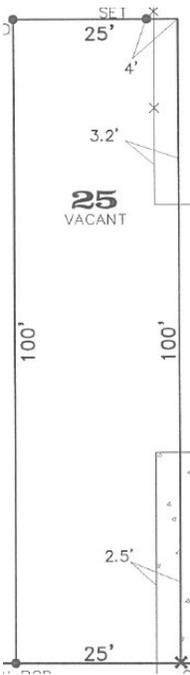


Figure 5: Belt Bridge Subdivision Lot (subject of SSL-2-18)

This lot would still not qualify for a building permit without a public hearing under the proposed regulations. ICE would be unable to issue a building permit under the proposed regulations, because, at 2,500 sq. ft., the lot area is greater than 20 percent below the minimum 4,000 sq. ft. of the R-2 zoning district. However, under the proposed procedure, the owner would be able to go to the BZA to seek a variance to the lot-area-per-family requirement needed to construct a new single-family dwelling on a R-2 zoned lot.

- **804 Turnbull**

Existing Lot 10 was platted in 1927. The title history showed Lot 10 was owned in conjunction with abutting Lot 9 as one development site bearing the municipal address 1304 N. Turnbull Dr. from December 1960 through December 2019. The existing residence for 1304 N.

Turnbull was located on Lot 9 and the required parking space for the existing residence was located on Lot 10. In 2019, the owner sold Lot 10 to a developer looking to construct a new single-family residence, and then sold Lot 9 one month later to an unrelated individual in January 2020.

Since both lots were held in single ownership, the original owner should have subdivided the lots into one lot of record in order to come into compliance with our regulations. Instead, the new owner of Lot 10 had to re-designate Lot 10 with waivers to the area requirements of the R-1A zoning district through the major subdivision process before a building permit could be issued. The major subdivision process takes approximately three to four months to complete.

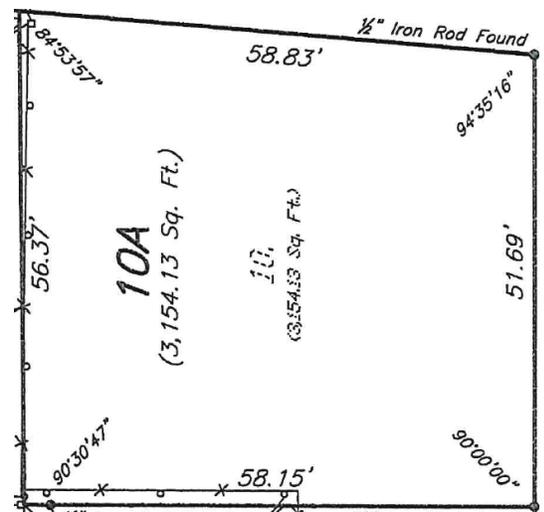


Figure 6: Approved Lot 10A via Ordinance 26250

Under the proposed regulations, the property would require a variance to the lot area-per-

family regulations from the BZA since the required lot area is more than 20 percent below the zoning district's minimum; however, the BZA process is less expensive and less time-consuming than the resubdivision process. The BZA would have to determine if development pattern is based off lots dimensions or development site dimensions.

Related Code Amendments

The proposed amendments require an undeveloped lot's area be evaluated. In proposing these new regulations, the term "lot area" becomes problematic. "Lot area" is to mean sum of the depth of the lot multiplied by the width of the lot in the proposed regulations. In Chapter 40, the R-1A, R-2, RR-3, R-3, R-1TH, R-1CO, H-1 and GO-2 zoning districts use the term "lot area" as the section heading of code referring to the minimum lot requirements and/or lot area per family requirements in those respective districts. The R-1B, R-1C and R-1D zoning districts do not use the term "lot area," when not referring to width times depth. Instead, the sections of code that discuss lot area per family and lot requirements in these districts use the term "minimum lot requirements."

For consistency and clarity, Planning Department Staff recommends changing the terminology in the R-1A, R-2, RR-3, R-3, R-1TH, R-1CO, H-1 and GO-2 districts from "lot area" to "minimum lot requirements." Additionally, the term "frontage" shall be replaced with "width" to be consistent with the General Development Standards of Chapter 33, as well as the lot area requirements in residential zoning districts when referring to lot width. Further, references to substandard lots found in the OBM-2 and MUCD districts, should be replaced by "nonconforming lots" and included in a table consistent with other sections of the Code.

Additional edits are proposed to clarify that lot area is not required in the newly created TCMU district, and that the minimum/maximum size requirements of retail and service establishments in the OBM-1 and OBM-2 districts are based upon individual uses, not by lot or development site.

While evaluating the "lot area" sections of the residential zoning districts in Chapter 40, Planning staff identified the townhome requirements are located in the Exceptions and Modification section of Chapter 40, not in their respective zoning districts. For the purpose of consistency and uncomplicated application, staff proposes relocating these regulations to the R-2, RR-3, and R-3 districts as applicable. See the Amended Ordinance Text of this report for further detail.

CONCLUSION AND STAFF RECOMMENDATION

Not all nonconformities pose risks to public health and safety. There are those that are detrimental, and those that are largely benign, such as small deviations from setbacks and lot area requirements (PAS Quicknotes, No. 50, "Managing Zoning Nonconformities", 2014).

Currently, a substandard lot is defined as a lot, tract or parcel of land that has an area or

frontage less than the minimum required for the zoning district in which it is located, but also a lot of record in original ownership separate from adjoining property at the time of passage of Ordinance No. 3813 on August 28, 1958, as amended. Certain substandard lots that do not meet specified neighborhood norm criteria require a vote of no objection from the Parish Council.

Compared to other local jurisdictions, the Parish's current regulations regarding substandard, or nonconforming lots, are inconsistent, outdated and burdensome. Besides the November 2020 revision, these regulations have not been updated since their inception to the Code in 1963. Furthermore, by requiring Parish Council approval without a clear procedure is time-consuming and frustrating to the applicant. If the goal is to get more of these lots back into commerce, then the regulations should be updated to reflect that these nonconforming lots are to be considered benign.

To address inconsistencies with current definition of substandard lot in Chapter 8 and Chapter 33, Planning proposes to delete Chapter 8 provisions, replace substandard lot term definition with new definitions for nonconforming lot and legal nonconforming lot.

To alleviate burden on property owners, support infill development, address issues with the lot pattern of Jefferson Parish, the Planning Department proposes to streamline procedure for issuing building permits for certain nonconforming lots that meet certain criteria and establish clear variance procedures and evaluation criteria for those that don't.

This recommendation supports the following *Envision Jefferson 2040* goals, objectives, and policies from *Chapter 6. Housing*:

- Goal 2: Abundant housing choices in diverse locations to draw and retain residents.
 - Objective 1: Recognize housing market demand and desire among some segments of the population for higher density residential opportunities.
 - Objective 2: Provide siting opportunities for the full range of housing, including stand-alone single family, small- and large-lot, townhouses, multifamily, independent and assisted living, and nursing homes; and mixed-use development that includes residential and nonresidential uses.
- Goal 3: Regulations and standards promote the provision, maintenance, and improvement of housing.
 - Objective 2: Adopt uniform development and infrastructure standards that support both private and public interests in the development of housing.
- Goal 4:
 - Objective 4: Promote affordable housing for low- and moderate-income groups throughout the parish.
- Goal 6: Home ownership is possible for all person including protected classes.
 - Objective 3: Facilitate housing options or financing strategies that provide affordable rents or home mortgages.
- Goal 7: Housing recovers quickly from economic, environmental and demographic threats.

- Objective 4: Provide diverse housing types to accommodate fluctuations in the market and satisfy changing needs and desires.
- Objective 6: Enhance neighborhoods holistically since housing and neighborhood vitality are linked.

To achieve this recommendation, the Planning Department recommends the following text amendments:

- Amend Ch. 8 to delete Division 2- Permit for Substandard Lots (Sec.8-2-110.1:8-2-110.6) (#1)
- Add Code language and new sub-headers for Ch. 33-4. Nonconforming Situations/Vested Rights with new standards and procedures for nonconforming lots (#4)
- Add definitions of **Lot**, **Legal Nonconforming** and **Lot, Nonconforming** to following sections:
 - Ch. 33, Sec.33-10.2 (#6); and
 - Chapter 40, Sec. 40-3 (#7)
- Delete Sec. 40-740 since the language will be added into Nonconforming Lot definition (#21)
- Rename “Lot Area” sections of Ch. 40 in the following zoning districts:
 - R-1A (#8),
 - R-2(#10)
 - RR-3 (#12)
 - R-3 (#14)
 - R-1TH (#15)
 - R-1CO(#16)
 - H-1 (#17)
 - GO-2(#18)
- Clarify there is no minimum lot area for the TCMU district in Table 33-3.54.3-1 (#3)
- Amend Ch. 33 and 40 to rename references to Substandard Lots of the OBM-2 and MUCD (Sec. 33-52.3; Sec. 40-444; and Sec. 40-449(c))
 - Replace term “Substandard Lots” in 33-52.3B1 Dimensional Standards to “Nonconforming Lots”(#2)
 - Replace term “Substandard Lots” in Sec.40-444(2)c with “Nonconforming Lots” and add replace the text with a table (#19)
 - Replace term “Substandard Lots” in Sec. 40-449(c) with “Nonconforming Lots” (#20)
- Add townhouses as a permitted use in Ch. 40 in zoning districts R-2, RR-3, and R-3, add a townhome regulation to Ch.33, and delete from Exceptions and Modifications:
 - Add Sec. 33-6.8.2.4 to add townhouse regulations to Ch. 33 6-2 Design Standards (#5)
 - Sec. 40-202. Permitted Uses (R-2). (#9)
 - Sec. 40-217. Permitted Uses. (RR-3) (#11)
 - Sec. 40-237. Permitted Uses. (R-3) (#13)
 - Delete Sec. 40-746 (#22)

Staff recommends the following text amendments:

- 1. **Amend Chapter 8 Building and Building Regulations, to delete Division 2.- Permit for Substandard Lots Secs. 8-2-110-8-3-110.6 and renumber the subsequent sections accordingly, to read as follows:**

* * *

DIVISION 2. - PERMIT FOR SUBSTANDARD LOTS

Sec. 8-2-110 – Sec. 8-2-110.6. **Reserved**

~~**Sec. 8-2-110. – Procedure.**~~

~~The Council hereby establishes the following procedure in this Division to be carried out when issuing a building permit on a substandard lot in the unincorporated area of the Parish.~~

~~**Sec. 8-2-110.1. – Substandard lot defined.**~~

~~A "substandard lot" shall be defined as a lot, tract or parcel of land that has an area or frontage less than the minimum required for the zoning district in which it is located, but also a lot of record in original ownership separate from adjoining property at the time of passage of Ordinance No. 3813 on August 28, 1958, as amended. Any lot approved by the parish Council after August 28, 1958 is not to be considered as a substandard lot.~~

~~**Sec. 8-2-110.2. – Application.**~~

- ~~(a) The applicant shall file an application with the Department of Inspection and Code Enforcement for a building permit showing lot location, lot and structure dimensions, setbacks from all property lines, and height of structure; however, fees for such permit need not be paid until all approvals have been obtained.~~
- ~~(b) The applicant shall be required to furnish to the Department of Inspection and Code Enforcement the names of the property owners on both sides of the street or road within two hundred (200) feet of the lot, such measurement to be made along the street or road front of the lot. Should the lot be situated on a corner or at the intersection on two (2) or more streets, then, in this event the names should be obtained from the property owners on both sides of the street or road within two hundred (200) feet thereof.~~

~~**Sec. 8-2-110.3. – Information to be supplied to council.**~~

The following procedure is required by all substandard lot owners applying to the Council for a resolution of no objection to the construction of a building on the substandard lot:

~~(1) **Residential lots:**~~

~~(a.) The owner of a substandard lot shall be required to advise the Council if other substandard lots exist within one thousand (1,000) feet of the proposed site.~~

~~(b.) The owner must prove to the satisfaction of the Council that two (2) fair appraisals were obtained on the property and that an offer was made to the abutting property owner to sell the lot to them at not more than the average value of the two (2) appraisers, and that the offer was refused.~~

~~(c.) The Council will use their discretion to either permit structures to be built on lot or acquire the lot for open space purposes.~~

~~(2) **Nonresidential lots:** The resolution may be approved if the structure to be located on the lot meets all the requirements of Jefferson Parish Code of Ordinances chapter 33 and chapter 40, building code, and conforms to other structures in the neighborhood in the opinion of the parish Council.~~

~~**Sec. 8-2-110.4. -- Notification of abutting property owners.**~~

~~(a) The Department of Inspection and Code Enforcement shall send certified letters to the property owners of the property adjoining the property of the applicant calling their attention to a public hearing to be held by the parish Council.~~

~~(b) Abutting property owners to substandard lots should be made aware that unless a genuine effort to take the abutting substandard lot out of commerce is made, the Council may permit the building of a structure on the lot.~~

~~**Sec. 8-2-110.5. -- Conduct of hearing; criteria.**~~

~~(a) The Council will conduct a public hearing and adopt a resolution of no objection to the utilization of the substandard lot when it is satisfied that granting a permit will not adversely affect the property in the area.~~

~~(b) The following criteria shall be used by the parish Council when considering a resolution of no objection to the utilization of a substandard lot in the unincorporated area of the Parish; square footage of the structure to be constructed, the design of the structure, the conformity of the structure to other structures in the neighborhood, and the existing development in the neighborhood. In all cases when the Council permits a substandard lot to be utilized, the building must contain an area of not less than the average of the area of the structures~~

~~within two hundred (200) feet of the property, such measurement to be made along the street or road fronts on both sides of the property.~~

~~**Sec. 8-2-110.6. -- Grant without hearing.**~~

~~Notwithstanding anything contained in this Division, substandard lots may be used without a public hearing before the parish Council when the lot meets the neighborhood norm in terms of area or frontage, whichever is substandard, but is below the subdivision regulations and requirements.~~

~~For the purposes of this section, the neighborhood norm shall be defined as at least fifty percent (50%) of developed substandard lots within the block or three hundred feet (300') on the same street.~~

* * *

2. Amend Chapter 33, Unified Development Code, Division 3, Old Bucktown Mixed-Use Commercial (OBM-2), Sec. 33-3.52.3 Dimensional standards, to replace the term substandard with nonconforming lots and reformat dimensional standards, to read as follows:

Sec. 33-3.52.3. - Dimensional standards.

* * *

(b) The following exceptions to the dimensional standards shall apply:

(1) ~~Substandard~~ **Nonconforming** lots of record established prior to the adoption of this article shall provide a side yard in accordance with the following requirements when abutting a zoning district other than S-1, R-1A, R-1B, R-1C, R-1D, R-1MH, R2, RR-3, and R-TH:

~~a. Lot widths less than fifty (50) feet: No side yard is required.~~

~~b. Lot widths fifty (50) to fifty-nine (59) feet: One (1) side yard having a minimum width of five (5) feet each are required in the vehicular use area; one (1) side yard having a minimum width of ten (10) is required for the building.~~

~~c. Lot widths sixty (60) to seventy four (74) feet: Two (2) side yards having a minimum width of five (5) feet each are required in the vehicular use area; one (1) side yard having a minimum width of ten (10) is required for the building.~~

Lot Width of Established Site	Side Yard Requirements	
	Building	Vehicular use area

Less than 50 feet	No side yard required	No side yard required
50 feet to 59 feet	One (1) side yard at a min. of 10 ft.	One (1) side yard at a min. of 5 ft.
60 feet to 74 feet	One (1) side yard at a min. width of ten (10) ft.	Two (2) side yards at a minimum width of five (5) ft.

* * *

3. Amend Chapter 33, Unified Development Code, Division 3, Town Center Mixed Use District (TCMU), Sec. 33-3.54.3-1: Dimensional Standards, Two-family, Three-family, and Four-family Dwellings-TCMU to clarify there is no minimum lot area requirements for these specific uses and reformat table to read as follows:

Table 33-3.54.3-1: Dimensional Standards, Two-family, Three-family, Four-family Dwellings -TCMU

* * *

Building Height (feet), maximum	35
Front and Corner side (feet), minimum	5
Front and Corner side (feet), maximum	10, with 5 additional feet allowed for certain ministerial exceptions
Side (feet), minimum	5
Rear (feet), minimum	15
Lot width (feet)	40
Lot depth (feet)	75
Lot area (square feet)	None

4. Amend Chapter 33, Unified Development Code, Article 4. Nonconforming Situations/Vested Rights, to populate section with standards and procedures for issuing a building permit for nonconforming lots and rename certain reserved sections, to read as follows:

Sec. 33-4.1 Purpose

The purpose of these regulations is to provide regulations for nonconformities that protect and mitigate impacts on surrounding areas.

DIVISION 1. NONCONFORMITIES

Sec. 33-4.32. Nonconforming lots of record and uses

Sec. 33-4.2.1. Purpose.

The purpose of the nonconforming lots of record regulations is to allow for development or redevelopment of lots or parcels that do not meet the minimum area requirements of their respective zoning district, and provide guidelines for obtaining a building permit.

Sec. 33-4.2.2. Applicability.

For the purposes of this section, these regulations shall apply for building permits to construct single-family dwellings on nonconforming lots in the following zoning districts: R-1A, R-2, and the S-1 district. Any other nonconforming regulations stated elsewhere in this Code shall also apply.

Sec. 33-4.2.3. Generally.

Where two or more adjacent nonconforming lots with continuous frontage are in single ownership, they shall be subdivided into a lot(s) of record that meet(s) the minimum lot requirements.

Sec. 33-4.2.4. Building Permit Approval.

The applicant shall submit an application to the Department of Inspection and Code Enforcement for a building permit to construct a single-family dwelling on nonconforming lot(s) in residential districts. In addition to an application for a building permit, the applicant must include any applicable recorded acts of sale or surveys that show ownership and lot designation prior to August 28, 1958, which will be used to determine the nonconforming status. A building permit may or may not require a variance from the Board of Zoning Adjustments (BZA) depending on whether certain criteria are met.

(a) *BZA review and approval not required.* BZA review and approval is not required if:

- (1) The lot has been determined to be a legal nonconforming lot; or
- (2) The lot frontage or area of the lot of record is not more than twenty (20) percent below the specified minimum lot requirements of that zoning district; or
- (3) The lot(s) of record were previously developed with a single-family structure.
- (4) All other requirements of the zoning code are met.

(b) *Exception.* Notwithstanding the provisions of Sec. 33-4.2.4(a), any nonconforming lots in common ownership that were not subdivided into one or more conforming lots which meet the minimum lot area of the(ir) respective zoning district as per Sec. 33-4.2.3, the provisions of Sec. 33-4.2.4(a)(2) do not apply.

(c) *Required BZA review and approval.* If the above criteria are not met, the property owner or applicant shall submit a variance application to Jefferson Parish. A building permit shall not be issued unless the Board of Zoning Adjustments (BZA) grants a variance(s) to the lot-area-per-family requirements of the respective zoning district, and all other variances that may be applicable, in accordance with Article XLII of Chapter 40 of this Code.

The BZA shall evaluate the lot-area-per-family variance request by the neighborhood norm standards provided in Sec. 33-6.6.4.

~~Sec. 33-4.23. Continuation/completion of non-conforming projects~~ **Nonconforming Uses**
(Reserved)

~~Sec. 33-4.4. Expansion, improvement, restoration, and maintenance of non-conformity~~
Nonconforming Signs (Reserved)

5. Amend Chapter 33 Unified Development Code, Division 2. Design Standards, Sec. 33-6.8.2. Single-, two-, three-, and four-family dwellings, to add a new subsection with certain townhouse provisions previously located in Chapter 40, to read as follows:

Sec. 33-6.8.2. Single-, two-, three-, and four-family dwellings.

* * *

Sec. 33-6.8.2.4. Townhouses.

A. **Ownership.** A townhouse dwelling and the individual lot it occupies may be sold separately if separate utilities systems are provided and if separate lots for each dwelling unit in a group are lots of record.

B. **Design.** The facades of dwelling units in townhouses shall be varied by changed front yards of not less than two (2) feet and variation in materials or design so that no more than two (2) abutting units will have the same front yard depth.

C. **Maintenance.** Provisions satisfactory to the Jefferson Parish Council shall be made to assure that non-public area for the common use and enjoyment of occupants of townhouses, but not in individual ownership by such occupants shall be maintained in a satisfactory manner without expense to the general taxpayer.

6. Amend Chapter 33 Unified Development Code, Article 10. Definitions, Sec. 33-10.2 Definitions applicable to this entire UDC, to add definitions for *legal nonconforming lot and nonconforming lot*, to read as follows

* * *

Lot, Legal Nonconforming shall mean an existing lot, tract or parcel of record that does not meet the minimum lot requirements of its applicable zoning district and meets the following conditions:

1. **The lot configuration was approved by the Parish Council or Police Jury; and**

2. The subject property is a lot of record that was owned separately from adjoining property on August 28, 1958. If two or more adjacent nonconforming lots with continuous frontage are in common ownership, they shall be subdivided to one or more conforming lots which meets the minimum lot area of its respective zoning district as per Sec. 33-4.2.3.

Lot, Nonconforming shall mean a lot, tract, or parcel which does not meet the minimum lot requirements of its applicable zoning district.

* * *

7. Amend Chapter 40 Zoning, Article I. In General, Sec. 40-3 Definitions, to add definitions for *legal nonconforming lot and nonconforming lot*, to read as follows:

* * *

Lot, Legal Nonconforming shall mean an existing lot, tract or parcel of record that does not meet the minimum lot requirements of its applicable zoning district and meets the following conditions:

1. The lot configuration was approved by the Parish Council or Police Jury; and
2. The subject property is a lot of record that was owned separately from adjoining property on August 28, 1958. If two or more adjacent nonconforming lots with continuous frontage are in common ownership, they shall be subdivided to one or more conforming lots which meets the minimum lot area of its respective zoning district as per Sec. 33-4.2.3.

Lot, Nonconforming shall mean an existing lot, tract or parcel of record that has a lot width, depth and/or area less than the minimum required for the zoning district in which it is located.

* * *

8. Amend Chapter 40 Zoning, Article VI. Single-Family Residential (R-1A), Sec. 40-94(b) *Lot area*, to rename the subsection and add a summary chart, to read as follows:

Sec. 40-94. Area regulations.

* * *

(b) **Minimum Lot-area requirements**

- (1) ~~Every lot shall contain an area of not less than five thousand (5,000) square feet, a width of not less than fifty (50) feet and a depth of not less than one hundred (100) feet.~~ **Lot area--Five thousand (5,000) square feet.**

- (2) Lot width--Fifty (50) feet.
- (3) Lot depth--One hundred (100) feet.

(c) Summary Chart

MINIMUM LOT REQUIREMENTS

Lot Area	5,000 sq. ft.
Lot Width	50 feet
Lot Depth	100 feet

* * *

9. Amend Chapter 40 Zoning, Article XII. Two-Family Residential District (R-2), Sec. 40-202 Permitted Uses, to clarify that townhouses are permitted in the zoning district, to read as follows:

Sec. 40-202. Permitted uses.

* * *

- (6) **Townhouses, provided no more than two (2) townhouse units may be grouped in one (1) building.**

* * *

10. Amend Chapter 40 Zoning, Article XII. Two-Family Residential District (R-2) Sec. 40-204(b) Lot Area to rename the subsection and reformat minimum lot requirements, to read as follows:

Sec. 40-204. Area regulations.

* * *

(b) **Minimum Lot-area requirements**

~~(1) Lots occupied by single family dwelling shall contain an area of not less four thousand (4,000) square feet, a width of not less than forty (40) feet, and a depth of not less than seventy-five (75) feet, except on cul-de-sac lots the frontage may be measured at the front yard set back line.~~ **Single-family dwellings**

- a. Lot area--four thousand (4,000) square feet.
- b. Lot width--forty (40) feet. Frontage of cul-de-sac lots may be measured at the front yard setback line.
- c. Lot depth--Seventy-five (75) feet.

(2) **Two-family dwellings**

- a. Lot area per family--Twenty-five hundred (2,500) square feet per family.

(c) Summary Chart

MINIMUM LOT REQUIREMENTS

	Lot area	Lot width	Lot Depth	Lot area per family
Single-Family dwellings	4,000 sq. ft.	40 ft.	75 ft.	
Two-Family dwellings	n/a	n/a	n/a	2,500 sq. ft./family
Townhouse	3,000 sq. ft.	18 ft.	90 ft.	

* * *

11. Amend Chapter 40 Zoning, Article XIII. Three- and Four-Family Residential District (RR-3) Sec. 40-217 Permitted uses to clarify that townhouses are permitted in the zoning district, to read as follows

Sec. 40-217. Permitted uses.

* * *

- (21) Townhouses, provided no more than four (4) townhouse units may be grouped in one (1) building.

* * *

12. Amend Chapter 40 Zoning, Article XIII. Three- and Four-Family Residential District (RR-3) Sec. 40-219(b) *Area Regulations* to rename the subsection, add townhouse minimum requirements, and add a minimum setback requirement table to read as follows:

Sec. 40-219. Area regulations.

* * *

- (b) **Minimum Lot area requirements**

- ~~(1) Lots occupied by four family dwellings shall contain a minimum lot area of two thousand (2,000) square feet per family, for a total minimum lot area of eight thousand (8,000) square feet.~~
- ~~(2) Lots occupied by three family dwellings shall contain a minimum lot area of two thousand four hundred (2,400) square feet per family, for a total minimum lot area of seven thousand two hundred (7,200) square feet.~~
- ~~(3) Lots occupied by two family dwellings shall contain a minimum lot area of three thousand (3,000) square feet per family, for a total minimum lot area of six thousand (6,000) square feet.~~

MINIMUM RR-3 **LOT AREA REGULATIONS REQUIREMENTS**

	Minimum Lot area	Minimum Lot area per family	Minimum Width	Minimum Depth
Four-Family dwellings	8,000 sq. ft.	2,000 sq. ft.	60	100
Three-Family dwellings	7,200 sq. ft.	2,400 sq. ft.	60	100
Two-Family dwellings	6,000 sq. ft.	3,000 sq. ft.	60	100
Townhouse	2,000 sq. ft.	--	18 ft.	90 ft.
Other Uses	See Permitted Uses Sec. 40-217			

* * *

(e) **Summary Chart Townhouse minimum requirements**

- (1) Lot area--Two thousand (2,000) square feet
- (2) Lot width--Eighteen (18) feet
- (3) Lot depth--Ninety (90) feet

(f) **MINIMUM SETBACK REQUIREMENTS**

	Minimum Depth
Front Yard	25 ft.
Side Yard	7.5
Rear Yard	20 ft.

13. Amend Chapter 40 Zoning (R-3) Sec. 40-237 Permitted uses to read as follows:

Sec. 40-237. Permitted uses.

* * *

- (9) **Townhouses, provided no more than ten (10) townhouse units may be grouped in one (1) building.**
- (10) **Accessory buildings and uses customarily incidental to any of the above uses, when located on the same lot and not involving the conduct of a business, including parking and storage garages, where the lot is occupied by a multiple-family dwelling.**

* * *

14. Amend Chapter 40 Comprehensive Zoning Ordinance (R-3) Sec. 40-239(c) Lot Area to read as follows:

Sec. 40-239. Area regulations.

* * *

(c) Minimum Lot requirements

(1) ~~Lots occupied by single-family dwellings shall contain an area of not less than four thousand (4,000) square feet, a width of not less than forty (40) feet and a depth of not less than seventy five (75) feet, except on cul-de-sac lots the frontage may be measured at the front yard setback line. Single-family dwellings~~

- a. Lot area--Four thousand (4,000) square feet.
- b. Lot width-- Forty (40) feet. Frontage of cul-de-sac lots may be measured at the front yard setback line.
- c. Lot depth--Seventy-five (75) feet.

(2) ~~Lots occupied by two-family dwellings shall contain an area of not less than twenty five hundred (2,500) square feet per family. Two-family dwellings~~

- a. Lot area—Twenty-five hundred (2,500) square feet per family.

(3) ~~Lots occupied by three-family dwellings shall contain an area of not less than two thousand (2,000) square feet per family. Three-family dwellings~~

- a. Lot area—Two thousand (2,000) square feet per family.

(4) ~~Lots occupied by four-family dwellings shall contain an area of not less than fifteen hundred (1,500) square feet per family. Four-family dwellings~~

- a. Lot area— Fifteen hundred (1,500) square feet per family.

(5) ~~Lots occupied by five-family dwellings shall contain an area of not less than twelve hundred (1,200) square feet per family. Five-family dwellings~~

- a. Lot area—Twelve hundred (1,200) square feet per family.

(6) Multiple-family dwellings shall contain an area as follows ([see Summary Chart below](#)).

~~Six (6) through twelve (12) apartments: One thousand (1,000) square feet per family.~~

~~Thirteen (13) apartments: Twelve thousand three hundred (12,300) square feet total lot area.~~

~~Fourteen (14) through twenty (20) apartments: Nine hundred (900) square feet per family.~~

~~Twenty-one (21) and twenty-two (22) apartments: Eighteen thousand two hundred (18,200) square feet total lot area.~~

~~Twenty-three (23) through thirty-nine (39) apartments: Eight hundred (800) square feet per family.~~

~~Forty (40) through forty-three (43) apartments: Thirty-one thousand five hundred (31,500) square feet total lot area.~~

~~Forty-four (44) or more apartments: Seven hundred (700) square feet per family.~~

(7) Townhouses.

- a. Lot area--One thousand three hundred fifty (1,350) square feet.**
- b. Lot width--Eighteen (18) feet.**
- c. Lot depth--Seventy-five (75)**
- d. Number--No more than ten (10) townhouse units may be grouped in one (1) building.**

Lot area per family regulations shall not apply to dormitory buildings, fraternity, or sorority houses not having culinary facilities.

(d) Summary Chart

MINIMUM LOT REQUIREMENTS

	Lot area	Lot width	Lot Depth	Lot area per family
Single-Family dwellings	4,000 sq. ft.	40 ft.	75 ft.	
Two-Family dwellings	--	--	--	2,500 sq. ft./family
Three-Family dwellings	--	--	--	2,000 sq. ft./family
Four-Family dwellings	--	--	--	1,500 sq. ft./family
Five-Family dwellings	--	--	--	1,200 sq. ft./family
Townhouse	3,000 sq. ft.	18 ft.	90 ft.	

Multiple-Family dwellings				
6-12 apartments	--	--	--	1,000 sq. ft./family
13 apartments	12,300 sq. ft.	--	--	--
14-20 apartments	--	--	--	900 sq. ft./family
21 & 22 apartments	18,200 sq. ft.	--	--	--
23-39 apartments	--	--	--	800 sq. ft./family
40-43 apartments	31,500 sq. ft.			
44 or more apartments	--	--	--	700 sq. ft./family

* * *

15. Amend Chapter 40 Comprehensive Zoning Ordinance (R-1TH) Sec. 40-254 to read as follows:

Sec. 40-254. Area regulations.

* * *

(d) **Minimum lot area requirements** ~~The lot area for townhouse dwellings shall not be less than one thousand seven hundred fifty (1,750) square feet, a width of not less than eighteen (18) feet and a depth of not less than seventy-five (75) feet.~~

(1) Townhouses.

a. Lot area--One thousand seven hundred fifty (1,750) square feet.

b. Lot width--Eighteen (18) feet.

c. Lot depth--Seventy-five (75) feet.

(2) Single-family dwellings.

a. Lot area--Four thousand (4,000) square feet.

b. Lot width-- Forty (40) feet. Frontage of cul-de-sac lots may be measured at the front yard setback line.

c. Lot depth--Seventy-five (75) feet.

~~(e) Lots occupied by single family dwellings. Lots occupied by single family dwellings shall contain an area of not less than four thousand (4,000) square feet, a width of not less than forty (40) feet and a depth of not less than seventy-five (75) feet, except on cul-de-sac lots the frontage may be measured at the front yard set back line.~~

* * *

16. Amend Chapter 40 Comprehensive Zoning Ordinance (R-1CO) Sec. 40-269 to read as follows:

Sec. 40-269. Area regulations.

* * *

(c) **Minimum Lot area requirements**

(1) ~~Lots occupied by single family dwellings shall contain an area of not less than four thousand (4,000) square feet, a width of not less than forty (40) feet and a depth of not less than seventy five (75) feet, except on cul-de-sac lots the frontage may be measured at the front yard set back line.~~ Single-family dwellings

a. Lot area--Four thousand (4,000) square feet.

b. Lot width-- Forty (40) feet. Frontage of cul-de-sac lots may be measured at the front yard setback line.

c. Lot depth--Seventy-five (75) feet.

(2) ~~Lots occupied by two family dwellings shall contain an area of not less than twenty five hundred (2,500) square feet per family.~~ Two-family dwellings

a. Lot area--Twenty-five hundred (2,500) square feet per family.

(3) ~~Lots occupied by three family dwellings shall contain an area of not less than two thousand (2,000) square feet per family.~~ Three-family dwellings

a. Lot area--Two thousand (2,000) square feet per family.

(4) ~~Lots occupied by four family dwellings or more shall contain an area of not less than seventeen hundred fifty (1,750) square feet per family.~~ Four-Family dwellings

a. Lot area--Seventeen hundred fifty (1,750) square feet per family

(5) ~~Lots occupied by condominiums of multiple family dwellings that exceed the height limit of the district shall contain an area equal to that required by the R3 District lot area requirements.~~ Multiple-family dwellings or Condominiums (exceeding height limit)--See R-3 Minimum lot requirements provided in Sec. 40-239 (c).

(6) **Townhouses.**

a. Lot area--One thousand seven hundred fifty (1,750) square feet.

- b. Lot width--Eighteen (18) feet.
- c. Lot depth--Seventy-five (75) feet.

* * *

17. Amend Chapter 40 Comprehensive Zoning Ordinance (H-1) Sec. 40-285 to read as follows:

Sec. 40-285. Area regulations.

* * *

- (d) **Minimum** ~~Lot area per family~~ **requirements**. ~~The lot area regulations for dwellings are the same as those in the R-1A, Single-Family Residential District.~~

(1) Dwellings

- a Lot area--Five thousand (5,000) feet.
- b Lot width--Fifty (50) feet.
- c Lot depth--One hundred (100) feet.

~~(Ord. No. 20783, § 3(XI(5)), 9-22-99)~~

* * *

18. Amend Chapter 40 Comprehensive Zoning Ordinance (GO-2) Sec. 40-364 to read as follows:

Sec. 40-364. Area regulations.

* * *

- (4) **Minimum** ~~Lot area~~ **requirements**
- a. Residential and Mixed Uses—See R-3 Minimum lot requirements provided in Sec. 40-239 (c).

* * *

19. Amend Chapter 40 Comprehensive Zoning Ordinance (MUCD) Sec. 40-444 Area Regulations to read as follows:

Sec. 40-444. Area regulations.

* * *

- (b) Setbacks.

* * *

- (2) Side yard.

* * *

Substandard **Legal Non-conforming** lots of record established prior to the adoption of this ordinance as amended shall provide a side yard as per the following schedule when abutting a non-residential use or district:

1. ~~Lot widths less than fifty (50) feet. No side yard is required.~~
2. ~~Lot widths fifty (50) to fifty-nine (59) feet. No side yard is required for the building; side yard when provided adjacent to building: a minimum of five (5) feet; one (1) side yard having a minimum width of five (5) feet is required in the vehicular use area.~~
3. ~~Lot widths sixty (60) to seventy-four (74) feet. One (1) side yard having a minimum width of ten (10) feet is required for the building; two (2) side yards having a minimum width of five (5) feet each are required for the vehicular use area.~~

Lot Width of Established Site	Side Yard Requirements	
	Building	Vehicular use area
Less than 50 feet	No side yard required	No side yard required
50 feet to 59 feet	None; but 5 ft min. where provided.	One (1) side yard at a min. 5 ft.
60 feet to 74 feet	One (1) side yard at a min. width of ten (10) ft.	Two (2) side yards at a minimum width of five (5) ft.

20. Amend Chapter 40 Comprehensive Zoning Ordinance (MUCD) Sec. 40-449(c) Area Regulations to read as follows:

Sec. 40-449. Development review procedures in the Mixed Use Corridor District.

* * *

(c) Substandard **Nonconforming Lots** lots-of record within the MUCD.

- (1) Development proposals on lots less than ten thousand (10,000) square feet within the MUCD shall be submitted to the Jefferson Parish Planning Department, which will determine the level of site plan review required in accordance with section 40-449(a), general review procedures.
- (2) Lots which do not meet the site area or other requirements delineated in section 40-444, Area Regulations, shall follow the landscaping requirements for developments existing prior to the establishment of the MUCD in section 40-449(b)(3), Landscaping and Buffer Standards for Existing Development.

21. **Amend Chapter 40 Zoning, Sec. 40-740 Sub-standard lots of record to read as follows:**

Sec. 40-740. Sub-standard lots of record. Reserved.

~~Where two (2) or more adjoining and vacant lots with continuous frontage are in a single ownership at the time of passage of Ordinance #5687, and such lots have a frontage or lot area less than is required by the district in which they are located, such lots shall be re-platted or re-subdivided so as to create one (1) or more lots which conform to the minimum lot area requirements of the district.~~

~~(Ord. No. 20783, § 3(XX(5)), 9-22-99)~~

* * *

22. **Amend Chapter 40 Zoning, Sec. 40-476 Regulations for townhouse dwellings to read as follows:**

Sec. 40-746. Regulations for townhouse dwellings. Reserved.

~~(a) Townhouse dwellings may be permitted in an R-2, Two-Family Residential District provided no more than two (2) townhouse units are grouped in one (1) building, in an RR-3, Three- and Four-Family Residential District provided no more than four (4) townhouse units are grouped in one (1) building and in an R-3, Multiple-Family Residential District provided no more than ten (10) townhouse units are grouped in one (1) building and further providing that the following regulations shall also apply:~~

- ~~(1) Lots occupied by townhouse dwellings in an R-2, Two-Family Residential District shall contain an area of not less than three thousand (3,000) square feet, a width of not less than eighteen (18) feet and a depth of not less than ninety (90) feet.~~
- ~~(2) Lots occupied by townhouse dwellings in an RR-3, Three- and Four-Family Residential District shall contain an area of not less than two thousand (2,000) square feet, a width of not less than eighteen (18) feet and a depth of not less than ninety (90) feet.~~
- ~~(3) Lots occupied by townhouse dwellings in an R-3, Multiple-Family Residential District shall contain an area of not less than one thousand three hundred fifty (1,350) square feet, a width of not less than eighteen (18) feet and a depth of not less than seventy-five (75) feet.~~
- ~~(4) A townhouse dwelling and the individual lot it occupies may be sold separately if separate utilities systems are provided and if separate lots for each dwelling unit in a group are lots of record.~~
- ~~(5) The facades of dwelling units in townhouses shall be varied by changed front yards of not less than two (2) feet and variation in materials or design so that no more than two (2) abutting units will have the same front yard depth.~~
- ~~(6) Provisions satisfactory to the Jefferson Parish Council shall be made to assure that non-public area for the common use and enjoyment of occupants of townhouses, but not in individual ownership by such~~

~~occupants shall be maintained in a satisfactory manner without expense to the general taxpayer.~~

~~(Ord. No. 20783, § 3(XX(11)), 9-22-99)~~

* * *

REFERENCE

"Murr v. Wisconsin." Oyez. Accessed May 29, 2020. <https://www.oyez.org/cases/2016/15-214>.
"Murr v. Wisconsin."

TXT-8-21: SUBSTANDARD LOTS

Jefferson Parish Planning Department

All users acknowledge that the content of these graphics were submitted and/or created specifically as demonstrative aides for the related land use matter being presented by the Jefferson Parish Planning Department identified with the appropriate docket number provided above. As such, Jefferson Parish makes no warranty as to the reliability or accuracy of the maps, their associated data tables and/or any graphics included in this presentation. Furthermore, Jefferson Parish is not responsible for the inaccuracies that could have occurred due to errors in the original data input or subsequent update process. All users of these graphics produced in connection with the related land use matter identified above specifically acknowledge, agree and accept that any zoning and/or land uses identified in said graphics are solely intended to be a demonstrative aide in the related land use matter and, as such, should not be relied upon outside of said related land use matter. User assumes all responsibility for verifying accuracy of data for any intended use.

Study Overview

- Resolution No. 133043 called for a study of the substandard lot standards and procedures, including the definition and criteria for neighborhood norm
 - *Evaluate, clarify, and amend the criteria for a substandard lot and the standards and procedures for issuing a building permit for a substandard lot, including the definition of and criteria for determining neighborhood norm; establish interim development standards during the course of the study; and provide for related matters.*
 - *Interim Standards were in place till February 6, 2020 (Resolution No. 135183)*
- Docket No. SSL-2-18 was the impetus for the study
 - *Application to build a single-family residence on a 2,500 sq. ft. lot in Belt Bridge Subdivision zoned R-2; did not meet minimum lot requirements of the zoning district*
 - *Did not meet neighborhood norms based upon development sites within 600 ft.*
 - *Was supposed to go to Council for approval, but no clear procedure established, so lot remains undeveloped*
- Interim standards granted the BZA authority to issue building permits on lots that don't meet minimum area regulations per zoning district
 - *The BZA has the authority to grant lot-area-per-family variances in any zoning district*
 - *Code Enforcement sent all new building permit requests for lots not meeting minimum requirements to BZA under interim regulations*

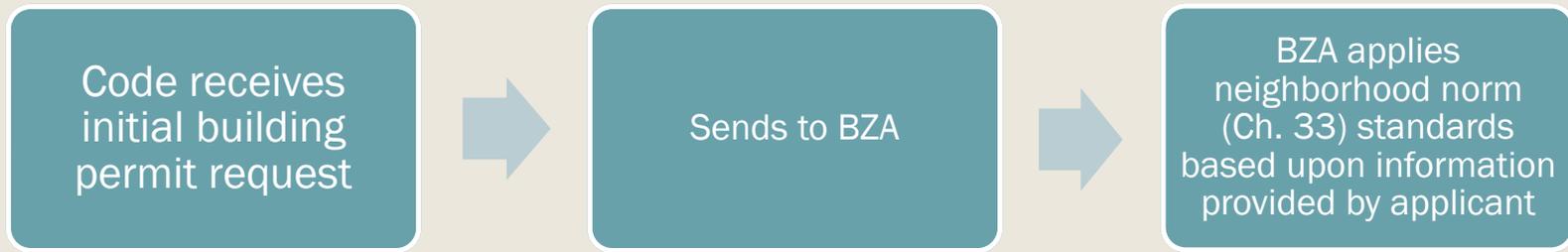
Background: Overview of Current JP Regs

- Substandard lots addressed in both Chapter 8 and Chapter 40
 - **Sec. 8-2-110.1. - Substandard lot defined. (For the purposes of obtaining a building permit)**
A "substandard lot" shall be defined as a lot, tract or parcel of land that has an area or frontage less than the minimum required for the zoning district in which it is located, but also a lot of record in original ownership separate from adjoining property at the time of passage of Ordinance No. 3813 on August 28, 1958, as amended. Any lot approved by the parish Council after August 28, 1958 is not to be considered as a substandard lot.
 - **Sec. 40-740. - Sub-standard lots of record.**
Where two (2) or more adjoining and vacant lots with continuous frontage are in a single ownership at the time of passage of Ordinance No. 5687, and such lots have a frontage or lot area less than is required by the district in which they are located, such lots shall be re-platted or re-subdivided so as to create one (1) or more lots which conform to the minimum lot area requirements of the district.
- A building permit can be issued without a hearing if the lot meets the definition for a substandard lot as defined in Chapter 8, and meets the neighborhood norm.
- If the lot does not fit the definition of a substandard lot or the neighborhood norm, the matter will be required to go to Council so that they may grant a resolution of no objection.

Background: Overview of Current JP Regs



Background: Interim Regulations



- Attempted to streamline and clarify the process for issuing a building permit
- However, the interim regulations were still cumbersome to property owners in terms of cost and time
- It remained unclear as to which party is responsible for title research
- Still lacked clear neighborhood norm regulations

Analysis

As part of this study Planning addresses the following matter related to substandard lots, including but not limited to:

- Community Comparison
- Existing small lot development pattern
- Issues with Current JP Regs

Community Comparison

- Reviewed Sub-Standard lot regulations of 7 other communities
 - *Terminology*
 - ❖ 6 communities use the term “nonconforming lots”
 - *Use*
 - ❖ 3 communities allow single-family dwellings to be built as long as zoning district requirements are met
 - ❖ 2 communities permit any use allowed in the zoning district the lot is located in as long as it meets building requirements
 - *Criteria*
 - ❖ 2 communities give specific criteria that must be met in order for a building permit to be issued without going before the (BZA)

- Lafayette, LA
- New Orleans, LA
- Hattiesburg, MS
- Lake Charles, LA
- Memphis, TN
- St. John the Baptist Parish, LA
- St. Tammany Parish, LA

Community Comparison

- Definitions from “A Planners Dictionary”
 - **Substandard lot of record** “Any lot lawfully existing at the time of adoption or amendment of this zoning code and not in conformance with the dimensional and/or area provisions of this zoning code.” (Newport, RI)
 - **Nonconforming lot** “A lot or parcel of land that was of record and lawfully established and maintained but which, because of the enactment of the code, no longer conforms to the land-use standards or use regulations of the zone in which it is located.” (Island County, WA)
 - **Nonconforming lot** “A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning ordinance which no longer conforms to the zoning standards because of said revision or amendment.” (Clarksdale, AZ)

Community Comparison

	<u>Terminology</u>	<u>Neighborhood Norm Standards Applied</u>	<u>Hearing Process</u>
<u>New Orleans, LA</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>Lafayette, LA</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>Hattiesburg, MS</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>Lake Charles, LA</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>Memphis, TN</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>St. John the Baptist Parish, LA</u>	<u>Nonconforming Lot</u>	<u>No</u>	<u>No</u>
<u>St. Tammany Parish, LA</u>	<u>Substandard</u>	<u>No</u>	<u>No</u>

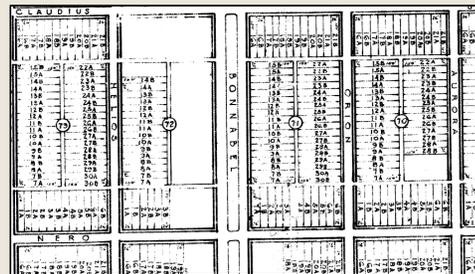
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Benefits of Small-Lot Development

- American Planning Association | PAS QuickNotes No. 71 “Small-Lot Subdivision Design”(2017)
 - Expand local housing choices
 - Often, increases opportunities for home ownership
- The goal of small-lot development is to allow development or redevelopment in areas where the existing development pattern is small-lot, but the zoning code no longer permits small-lots. Benefits include:
 - Promotes infill development in areas where large-lot development is predominate
 - Places vacant lots back into commerce

Small-Lot Development in JP

- JP subdivision regulations date back to 1947, Ord. 959
- When zoning was adopted in 1958 under Ord. 3813 subdivisions were required to meet minimum lot requirements.
- In 1962 Ord. 5687 was adopted, which required two or more vacant substandard lots with continuous frontage to be resubdivided into one lot.
- In 2003 Ord. 22012 was adopted, prohibiting buildings or structures to be built across lot lines.
- A lot of the Parish was platted prior to 1958
 - *Development sites are frequently comprised of multiple lots*
 - *Numerous lots do not meet the lot requirements of their zoning districts, or even general development standards*



Bonnabel Plat from 1924



Current GIS map of Bonnabel

Compatibility with Comp Plan

- Development of “substandard lots” supports the following goals of the Comprehensive Plan:
 - *Goal 2: Abundant housing choices in diverse locations draw and retain residents (Objectives 1 & 2)*
 - *Goal 3: Regulations and standards promote the provision, maintenance, and improvement of housing (Objective 2)*
 - *Goal 4: The full range of housing cost provides affordable housing for all citizens (Objective 4)*
 - *Goal 6: Home ownership is possible for all persons including protected classes (Objective 3)*
 - *Goal 7: Housing recovers quickly from economic, environmental, and demographic threats (Objectives 4 & 6)*

Issues with Current Regs: Definition of Substandard Lots

- Issues with Chapter 8 definition
 - *Use of “frontage”- All residential zoning districts use “lot width”; general development regs use width*
 - *Ownership language – who confirms?*
 - *What if lots were created by Police Jury/Council Ordinance prior to August 28, 1958*
 - *Does a Council approved rezoning omit a lot from being substandard?*
- Issues with Chapter 40 definition
 - *“Vacant lots”- ICE would grant building permits for substandard lots if they were previously developed*
 - *References different Ordinance # then Ch. 8 definition*
 - *Ownership language – who confirms?*
 - *Located in a different Chapter of the Code of Ordinances than rest of substandard regs.*

Issues with Current JP Regs: Building Permit Without Hearing

- Current Process
 - “Notwithstanding anything contained in this Division, substandard lots may be used without a public hearing before the Parish Council when the lot meets the neighborhood norm in terms of area or frontage, whichever is substandard, but is below the subdivision regulations and requirements.
 - For the purposes of this section, the neighborhood norm shall be defined as at least fifty percent (50%) of developed substandard lots within the block or three hundred feet (300') on the same street.”
- Issues with definition
 - Regulation is not clear as to who applies neighborhood norm standards
 - Neighborhood norm definition seems to only apply to other substandard lots in the vicinity
 - This definition of neighborhood norm differs from the definition in Sec. 33-6.6.4

Issues with Current JP Regs: Public Hearing Process

- Application must be submitted to Department of Inspection and Code Enforcement- no application fee clearly stated
- Different requirements for residential v. nonresidential zoned properties:
 - *Residential lot owners must provide to Parish Council:*
 - ❖ All substandard lots within 1,000 ft. of subject property
 - ❖ Acquire two (2) fair appraisals; offer made to abutting property owner
 - ❖ Council uses discretion to either permit building, or acquire lot for open space
 - *Nonresidential lots must meet all requirements of zoning ordinance, building code, and conforms to other structures in the neighborhood*
- Council review criteria differs from grant without hearing criteria
 - *Square footage of structure*
 - *Conformity of structure to other structures in the neighborhood*

Issues with Current JP Regs: Neighborhood Norm

Chapter 8 standards

- Sec. 8-3.110.3(1): The owner of a *substandard lot* shall be required to advise the council if other *substandard lots* exist within **one thousand (1,000) feet** of the proposed site.
- Sec. 8-3.110.6: For the purposes of this section, the neighborhood norm shall be defined as **at least fifty percent (50%) of developed substandard lots within the block or three hundred feet (300') on the same street.**

Chapter 33 standards

- The immediate area is the area that consists of **two (2) street blocks on either or both sides of a street and not less than six hundred (600) feet from subject property.**
- The neighborhood is an area possessing identifiable characteristics that are common to the properties or lots within a subdivision or portion thereof, that may be demarcated by a street, highway, canal or water course.
- General purpose or intent of the original lot layout within the subdivision in general, and in particular, within the immediate area of subject property.
- The predominant front footage (lot width) within the immediate area of subject property.
- The predominant square footage (lot area) of the lots within the immediate area of subject property.
- The average lot area and/or lot frontage within the immediate area of subject property.
- The predominant lot depth within the immediate area of subject property.
- The orientation of lots within the immediate area of the property.
- Neighborhood stability relative to the frequency of re-subdivision of lots within the immediate area of subject property.

Issues with Current JP Regs: Neighborhood Norm Discrepancies

	Sec. 33-6.6.4	Sec. 8-3-110.3(1)	Sec. 8-3-110.6
Distance	2 street blocks on both sides of the street, not less than 600 ft. from property	For residential districts, any substandard lots within 1,000 ft. of proposed site	the neighborhood norm shall be defined as at least fifty percent (50%) of developed substandard lots within the block or three hundred feet (300') on the same street.
Item Evaluated	Lot	Lot	Substandard Lot

Findings

- Conflicting terms and neighborhood norm standards in Chapter 8 and Chapters 33 and 40
- JP regulations for substandard lots are overly strict compared to other communities
- Existing small lot development creates an oversupply of these types of lots and certain situations where owners have single lots not adjacent to other property.
- Allowing for an appropriate amount of flexibility will support infill development, reduce vacancy and bring property back into commerce
- Make it easier for property owners to develop their property

Preliminary Recommendations: Proposed Definitions

- Redefine substandard lots as *nonconforming lots*
 - New definition based off *21st Century Land Development Code* and *APA*

New definition to include the following:

- Change *frontage* to *width*
 - *General Development Standards and Lot area requirements in all residential zoning districts refer to lot width.*
- Clarify that lots created by Police Jury or Council Ordinance pre-1958 are not substandard

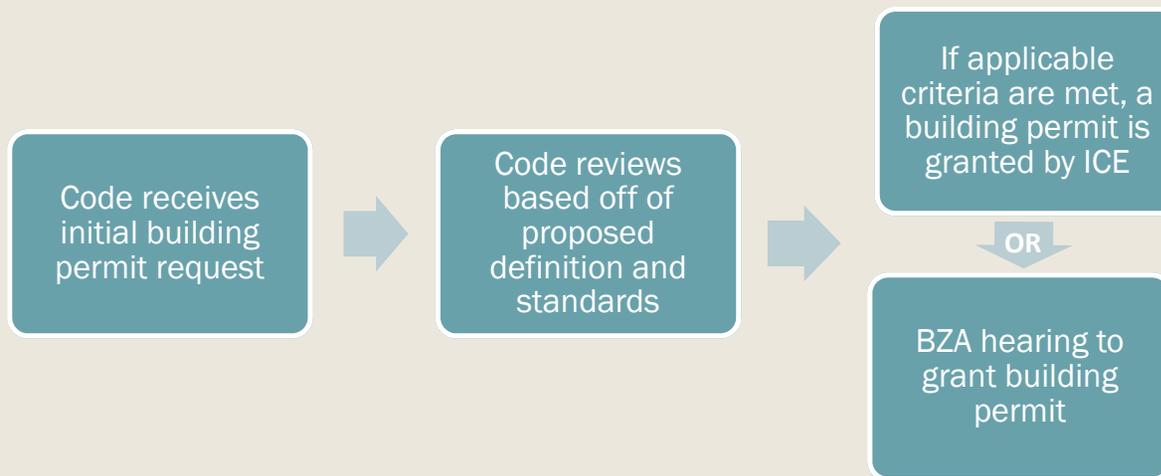
Recommendation: Proposed Definitions - Nonconforming Lots (Ch. 33 & 40)

Lot, Legal Nonconforming shall mean an existing lot, tract or parcel of record that does not meet the minimum lot requirements of its applicable zoning district and meets the following conditions:

- The lot configuration was approved by the Parish Council or Police Jury; and
- The subject property is a lot of record that was owned separately from adjoining property on August 28, 1958. If two or more adjacent nonconforming lots with continuous frontage are in common ownership, they shall be subdivided to one or more conforming lots which meets the minimum lot area of its respective zoning district as per Sec. 33-4.2.3.

Lot, Nonconforming shall mean a lot, tract, or parcel which does not meet the minimum lot requirements of its applicable zoning district.

Recommendation: Proposed Procedure



Recommendation: No BZA Review and Approval Required

- Establish a procedure to allow ICE to grant a building permit without a hearing
 - *Vacant lots may be used for any permitted use in the zoning district it's located provided that:*
 - ❖ Lot area is not more than 20% below specified minimum of the zoning district
 - ❖ Two adjacent nonconforming lots with continuous frontage in single ownership must be subdivided into one lot of record that meet(s) the minimum lot requirements.
 - ❖ For new single-family development, a building permit may granted if lot was previously developed with a single-family structure (if demo permit issued, and new building permit is applied for, the footprint of proposed structure may not exceed that of previous structure- cannot increase size of nonconformity)
 - ❖ All other requirements of the zoning code are met
 - *If lots do not meet any of the above-mentioned criteria, applicant must submit an application to the BZA for variances to lot-area-per-family and/or yard setback variances*

Recommendation: Required BZA Review and Approval

- Establish a procedure for BZA to grant a building permit if
 - *ICE determines application does not meet previous criteria, applicant submits an application to the BZA for a lot-area-per-family variance request*
 - *Determine applicable information needed for BZA judgement*
- BZA reviews request subject to the following:
 - *Applicant supplies a map indicating avg. width and area of all development sites on both sides of the street for that block face*
 - *BZA determines lot is consistent with % of lots/developments sites on both sides of the street within that block face*
 - *BZA may determine if any other additional information is required for submittal*

Recommendation

Proposed Nonconforming Lot Section

- Planning Staff recommends adopting the following terms and definitions into Chapters 33 and 40:
 - ***Lot, Legal Nonconforming*** shall mean an existing lot, tract or parcel of record that does not meet the minimum lot requirements of its applicable zoning district, meets at least one (1) of the following conditions:
 1. The lot configuration was approved by the Parish Council or Police Jury; or
 2. The subject property is a lot of record that was owned separately from adjoining property on August 28, 1958. If two or more nonconforming lots are in common ownership, they shall be subdivided to one or more conforming lots which meets the minimum lot area of its respective zoning district as per Sec. 33-4.2.3.
 - ***Lot, Nonconforming*** shall mean a lot, tract, or parcel which does not meet the minimum lot requirements of its applicable zoning district.
- The new definitions would be placed in Chapters 33 and 40 in the respective definition sections. The proposed regulations aim to simplify the process for residents applying for building permits on residentially zoned nonconforming lots and is consistent with the following purpose statements of the UDC (nonresidentially zoned lots are not impacted by these proposed regulations):
 - Protect or enhance property values parish-wide;
 - Protect private property rights;
 - Promote safe, orderly development and use of land and natural resources

Recommendation: Housekeeping

- Revise and move Chapter 8, Subdivision B- Permit for substandard lots to Chapter 33
- Move Sec. 40-740 to Chapter 33; reference substandard lot procedure in Chapter 33
- Rename “Lot Area” sections of Ch. 40 in the certain zoning districts and clarify requirements as needed
- Amend Ch. 33 and 40 to rename references to Substandard Lots of the OBM-2 and MUCD
- Add townhouses as a permitted use in Ch. 40 in zoning districts R-2, RR-3, and R-3 and delete from Exceptions and Modifications

Recommendation in Summary

- Replace the term “Substandard Lots” with “Nonconforming Lots” and Legal nonconforming lots and define as appropriate in Chapters 33 and 40;
- Establish clear standards and procedures for nonconforming or substandard lots and consolidate related provisions into one section of the Code:
 - *Delete Chapter 8, Article 2, Division 2, Permit for Substandard Lots;*
 - *Populate Chapter 33 Unified Development Code, Article 4. Nonconforming Situations/Vested Rights with standards and procedures for building permits for nonconforming lots;*
 - *Distinguish between nonconforming lots that require BZA review and approval prior to the issuance of a building permit and those that do not and simplify the process; and*
 - *Clarify that the neighborhood norm provisions in Chapter 33 are applicable to those lots that necessitate further review and approval from the BZA.*
- Address parish-wide related matters:
 - *Standardize area regulations; and*
 - *Move townhouse regulations to applicable sections of the Code.*