

ITEM #: 25  
DATE: 02-28-23  
DEPT: P&H

**COUNCIL ACTION FORM**

**SUBJECT: TEXT AMENDMENT TO STANDARDS FOR GENERAL ZONING REGULATIONS PERTAINING TO LOTS**

**BACKGROUND:**

On December 20, 2022, City Council referred to staff a letter from Jerry Nelson regarding zoning standards related to minimum Floor Area Ratio (FAR) for a property with a nonconforming building he owns at 412 Burnett Avenue. FAR is the ratio of floor area to lot area. On January 24, City Council considered the issues related to Mr. Nelson's request regarding the merger of lots and the remodeling of nonconforming buildings. **The Council directed staff to initiate a zoning text amendment for minimum FAR standards related to changes in lot configurations. Council did not direct staff to alter the minimum FAR requirement related to buildings.**

Mr. Nelson's property was three parcels before it was merged into one parcel with a plat of survey on September 6. The parcel combination was done to enable a building addition and a remodeling of the buildings as a single structure rather than multiple buildings. Before platting, the three separate properties each had a single building; one of the buildings was demolished to make way for a larger addition. A site plan for the two existing structures and the addition was also approved administratively on September 6, 2022.

**The plat and the site plan approval were contingent upon one another: neither could be approved alone and comply with zoning standards. The plat could not be approved on its own as it would create a property without the required minimum FAR of 1.0 for the Downtown Service Center Zoning District (DSC). No change in lot lines is allowed that would not maintain conformance to zoning standards or worsen the consistency of the property with zoning standards. The site plan could not be approved for the addition and the remodeling on its own because the building would cross property lines, which is also prohibited.**

**After the site plan and plat were approved, Mr. Nelson decided to renovate the existing buildings, combining them into one, but without constructing the addition that would bring the property into compliance with the minimum FAR and height requirements in DSC. The building plans cannot be approved, and a certificate of occupancy cannot be issued, for a property that is not in compliance with the site plan and is not in compliance with the zoning.**

## **DOWNTOWN SERVICE CENTER (DSC) – CURRENT ZONING:**

DSC zoning has two key design standards to support a traditional two-story historic commercial façade, typical of Main Street buildings constructed a century ago, and to efficiently use centrally located land with higher intensity uses. The first standard is the requirement that all buildings have a minimum floor area ratio of 1.0. The second standard is a requirement for two-story buildings. Buildings that do not meet these requirements are considered nonconforming. **Lots cannot be created or modified that do not result in a conforming configuration or maintain conformance to a standard related to lot dimensions.**

The DSC FAR and height standards have been discussed in the past, with City Council choosing to retain these requirements for the core of the Downtown area. **Due to the importance of these two standards reinforcing the character of the historic downtown, staff does not support removing the requirements in their entirety as a text amendment.**

## **PROPOSED ORDINANCE:**

**On January 24<sup>th</sup>, City Council directed staff to proceed with changing lot merger requirements to allow for properties to be combined regardless of the resulting floor area ratio. However, the allowance for lot mergers would not relieve an owner of the obligation to comply with zoning requirements as a nonconforming building with future changes.**

Below is the proposed code change:

Sec. 29.303 (2) Lots.

(a) Change in Lot Size or Shape Regulated.

- (i) No lot shall be reduced in size or changed in shape so that the total area, minimum frontage, setbacks, lot area per dwelling unit, or other development standards required by this Ordinance are not maintained. Maintaining minimum Floor Area Ratio requirements is excluded for Boundary Line Adjustments and Lot Mergers only. Any building on a lot that results from such a lot merger will be considered nonconforming and subject to the limitations of Sec. 29.307. All remaining development standards and nonconformity requirements related to buildings and site improvements shall still apply.
- (ii) No lot shall be divided so as to create an additional lot that is not in conformity with this Ordinance unless such lot is deeded, dedicated and accepted for public use.

During the discussion on changes related to minimum FAR, staff identified concerns about how FAR is described within the Zoning Ordinance and that the requirement to construct conforming buildings was not clear for all property owners. Therefore, staff also examined other parts of the Zoning Ordinance as they relate to minimum FAR generally.

Staff is recommending that the following section should also be amended to ensure that the minimum FAR requirements of DSC and CSC are preserved. **The intent of this proposed change is to make clear that developing a lot requires a building in order to conform with the Zoning Ordinance standards; a parking lot or other non-building-related improvement is not acceptable on its own in regards to minimum intensity requirements.**

Sec. 29.401

~~(3) Maximum Floor Area Ratios (FARs). Development Intensity, Floor Area Ratio (FAR), and Density.~~ Intensity of development for all Use Categories except residential uses in the Residential Base Zones is set by the establishment of minimum and/or maximum Floor Area Ratios (FARs). The maximum FAR allowed in each zone is listed in the applicable Zone Development Standards Table. Where a minimum FAR is required by the applicable Zone Development Standards Table, construction of a building is required for use of a lot in compliance with this ordinance. In Residential Zones, intensity of development is based on the Residential Density requirements of the Base Zone, Floating Zone, Special Purpose District, or Overlay, described in Section 29.700(3).

The proposed language also cleans up the title of the section to match its relationship to density and FAR. Additionally, “density” is a defined term that applies to more zoning districts and referenced in 29.700 (3).

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission met on February 1, 2023, to consider the proposed text amendment. The Commission voted 6-0-0 to recommend that the City Council amend the Zoning Ordinance to allow lot mergers with nonconforming buildings and to modify the FAR and density section as well.

**ALTERNATIVES:**

1. Approve on first reading a text amendment regarding the General Zoning Regulations related to minimum FAR for lot mergers and minimum intensity, Sec. 29.303(2)(a) and Sec. 29.401(3), as presented above. (Note that the changes apply to all zoning districts with a minimum FAR standard, i.e. DSC and CSC zoning districts.)
2. Direct staff to prepare modifications to the proposed text amendment and return for Council consideration at a later date.
3. Do not approve the proposed text amendment.

## **CITY MANAGER'S RECOMMENDED ACTION:**

The DSC and CSC zoning districts require a minimum FAR of 1.0, a minimum height of two stories, and that new development comply fully with the standards (there is no incremental compliance spread out over time for new development). These standards are designed to reinforce the historic development character of the commercial district and ensure an efficient use of land occurs at a higher intensity of development than is common in other areas.

Staff supports maintaining the minimum FAR and the minimum height related to DSC. Removing these zoning requirements may undermine goals for Downtown to be a dense and walkable, vibrant commercial center.

At issue with this request is a focus on whether lot mergers that indirectly relate to the FAR of existing buildings should be modified. Merging of lots does not change how an existing building is built or configured, but it changes the calculation of floor area and creates requirements for use of a site. The City already has standards regarding nonconformities and limitations on remodeling and changing the lot standards does not alter these limitations.

**Allowing for the lot mergers without complying with FAR will indirectly support extending the useful life of a nonconforming building as it may allow for renovations of existing buildings due to additional space for utilities and modifications to façades. Staff believes it is important that if lot mergers are allowed, a situation is not created that promotes or allows for outdoor improvements, such as parking lots and outdoor activity areas, that do not meet the City's building intensity goals.**

**The proposed alterations to the Zoning Ordinance will maintain the DSC requirements for minimum FAR applied to buildings, while allowing for Mr. Nelson's remodeling project to proceed. Although the change may extend the useful life of some nonconforming buildings, staff finds the change to be a better alternative than to have a project abandoned and the existing buildings left vacant. The proposed change maintains the requirements that any proposed structural changes to a nonconforming building or the construction of a new building must fully comply with the zoning standards. A nonconforming building will not be permitted to build an addition if it does not reach full conformance with the FAR and height requirements of the zoning standards. Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1.**

## **Attachment A Request to Council**

Dear Honorable Mayor and City Council Members:

Our project at 5<sup>th</sup> and Burnett has encountered a complex issue with the zoning code relating to non-conforming structures that is preventing us from completing the renovation of the existing building. We still consider this project to be something that will be an asset to the Downtown area and respectfully ask that you direct staff to provide options to Council that would fix the issue and reasonably allow us to finish the project, provide flexibility to future projects in Downtown, and continue to support making the area more energetic and vibrant. Time is of the essence as this was surprise and we have leases in place and contractors ready to begin work for the space in the existing building. We appreciate your commitment to Downtown and your consideration.

Thank you,

A handwritten signature in black ink that reads "Jerry Nelson". The signature is written in a cursive, flowing style.

Jerry Nelson  
Onondaga Investments

**Attachment B  
Proposed Ordinance**

**ORDINANCE NO.**

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY AMENDING SECTIONS 29.303(2)(a) AND 29.401(3) THEREOF, FOR THE PURPOSE OF AMENDING LOT SIZE REGULATIONS AND FLOOR AREA RATIOS, REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.**

**BE IT ENACTED**, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by amending Sections 29.303(2)(a) and 29.401(3) as follows:

**“Sec. 29.303. GENERAL ZONING REGULATIONS**

**(2) Lots.**

(a) Change in Lot Size or Shape Regulated.

(i) No lot shall be reduced in size or changed in shape so that the total area, minimum frontage, setbacks, lot area per dwelling unit, or other development standards required by this Ordinance are not maintained. Maintaining minimum Floor Area Ratio requirements is excluded for Boundary Line Adjustments and Lot Mergers only. Any building on a lot that results from such a lot merger will be considered nonconforming and subject to the limitations of Sec. 29.307. All remaining development standards and nonconformity requirements related to buildings and site improvements shall still apply.

(ii) No lot shall be divided so as to create an additional lot that is not in conformity with this Ordinance unless such lot is deeded, dedicated and accepted for public use.

...

**Sec. 29.401. LOT CONFIGURATION, BUILDING COVERATE, FLOOR AREA RATIOS, AND HEIGHT EXCEPTIONS**

...

**(3) ~~Maximum Floor Area Ratios (FARs).~~ Development Intensity, Floor Area Ratio (FAR), and Density.** Intensity of development for all Use Categories except residential uses in the Residential Base Zones is set by the establishment of minimum and/or maximum Floor Area Ratios (FARs). The maximum FAR allowed in each zone is listed in the applicable Zone Development Standards Table. Where

a minimum FAR is required by the applicable Zone Development Standards Table, construction of a building is required for use of a lot in compliance with this ordinance. In Residential Zones, intensity of development is based on the Residential Density requirements of the Base Zone, Floating Zone, Special Purpose District, or Overlay. described in Section 29.700(3)

...”

Section Two. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law.

Section Three. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Four. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
Renee Hall, City Clerk

\_\_\_\_\_  
John A. Haila, Mayor