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Planning Director



**CITY PLAN COMMISSION**  
Cranston City Hall  
869 Park Avenue, Cranston, RI 02910

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May 5, 2021

Councilman Reilly  
Ordinance Committee Chair  
Cranston City Hall  
869 Park Avenue  
Cranston, RI 02910

**RE: Ordinance 1-21-05** - Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (Conformance to District Regulations Required & Substandard Lots of Record).

Dear Chairman Reilly:

The above referenced ordinance was reviewed by the City Plan Commission on May 4, 2021 for the purpose of providing the Council with an advisory recommendation, as required by Section 45-24-52 of the Rhode Island General Laws and Section 17.120.030 of the Cranston Zoning Code.

After review and consideration, the City Plan Commission made the following motion:

*Based on the findings that Ordinance #1-21-05 is consistent with the City Comprehensive Plan and Zoning Section 17.04.010, upon a motion made by Mr. Coupe, seconded by Mr. Mason, the Plan Commission voted (5-1 – Ms. Lanphear voted nay) to forward a **positive recommendation** on this ordinance to the City Council, with the minor amendments as suggested in the attached Mark-Up Ordinance.*

For further background on this application, please find the enclosed Planning Department memo and Mark-Up Ordinance referred to in the recommendation that was provided to the Plan Commission in advance of their meeting.

Respectfully submitted,

  
Joshua Berry, AICP, MURP  
Senior Planner/Administrative Officer

## City Planning Department



# Memo

To: Cranston City Plan Commission  
From: Joshua Berry, AICP, Senior Planner  
Date: April 5, 2021  
Re: Ordinance #1-21-05 Entitled "Zoning"  
(Conformance to District Regulations Required & Substandard Lots of Record)

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### I. Introduction & Executive Summary

A few sections of the City Code work together to help the City regulate **lot requirements** for subdivision, land use, and land development purposes.

Staff has identified inconsistencies, ambiguities and inefficiencies in two of these sections and has drafted Ordinance #1-21-05 in order to clarify & improve these specific sections of the Code, Sections 17.20.040 – *Conformance to District Regulations Required* and 17.88.010 – *Substandard Lots of Record*.

The Ordinance proposes numerous small changes, but the two main changes that the ordinance proposes are:

1. It removes the existing language that requires conformance to **lot** requirements when modifying **existing structures**, an untenable requirement that is justifiably not enforced by the City; and
2. It provides a provision for **legally existing lots** within 2/3<sup>rd</sup>s of the minimum lot area of their respective zoning district to be developed (or redeveloped) without requiring relief from the Zoning Board of Review for lot area. The proposed provision does not apply to the creation of new lots via subdivisions, nor does it apply to two-family or multifamily development.

The intended outcomes of the ordinance are to:

- Remove problematic language that the City does not (and should not) enforce;
- Clarify confusing or ambiguous language for the benefit of the public, City staff and development community;
- Create synergy between related code sections so that they work together;
- Reduce the burden of zoning where denial would negate any beneficial use;
- Promote housing development consistent with the Comprehensive Plan policies; and
- Enhance efficiency in the review process.

This memo will discuss the two code sections to be revised individually, followed by an overall analysis of the ordinance and required findings, and will conclude with a recommendation to the City Plan Commission.

## **II. 17.88.010 – Substandard Lots of Record**

The City was platted long before the enactment of zoning in 1966, which imposed lot area and lot frontage/width requirements in excess of the existing platted conditions. There are 31,648 lots in the City<sup>1</sup>. Geographic Information System (GIS) analysis indicates that 16,348 lots have substandard lot area. This is roughly 51.7% of all lots in the City, and there are even more lots that have substandard lot width/frontage that are not included in this figure.

Imposing zoning requirement onto existing conditions that do not meet the imposed requirements renders those conditions as legally nonconforming. City Code Section 17.88.010. (A) defines the lots that it rendered legally nonconforming as 'substandard lots of record.' Ordinance #1-21-05 does not propose to change the definition.

After defining substandard lots of record, the Code then immediately attempts to address the issue it created by making them legally nonconforming lots in Code section 17.88.010 (B)., which reads as follows:

Contiguous Substandard Lots of Record. If two or more contiguous substandard lots of record are owned by the same person as of January 1, 1966, such lots shall be considered to be combined to form as many conforming lots as are permitted in the particular district for the purpose of this chapter; and no single lot or portion thereof shall be used in violation of the requirements of Section 17.20.110 as to lot width, depth and area; provided, however, that in a block that is seventy-five (75) percent or more developed in A-6, B-1 and B-2 zones, lots having an area of at least four thousand (4,000) square feet and having an area and frontage equal to or greater than the average of those developed parcels within two hundred (200) feet of the lot which are on the same side of the street need not be so combined. No parcel, tract or lots of land contiguous to each other and owned by the same person shall be subdivided in a manner where the lot width, depth or area of any resulting lot shall be less than the requirements fixed by this chapter.

This section is confusing and problematic. Code should be written so lay persons can understand it, not in a manner that leaves more questions than answers and puts the Zoning Secretary under consistent pressure for interpretations. Staff has identified the following deficiencies in this section:

- It does not provide clear direction for circumstances where three or more contiguous substandard lots under common ownership could be combined in a variety of different ways.
- It is unclear whether three contiguous substandard lots would *all* merge, or if only two would merge to make a conforming lot and one would remain unmerged.
- The lot merger exemption rule is very difficult to apply to real situations commonly found in the City, particularly in Eastern Cranston.
- The exception provision does not address whether merged lots are calculated separately, whether lots from different zones or which frontage the calculation shall be conducted from in instances of side-corner lots or multiple frontage lots.

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<sup>1</sup> This figure does NOT include individual condo parcels.

Proposed Ordinance #1-21-05 seeks to address these issues. It does not substantively change the rules, but *clarifies* the lot merger regulations in the City.

The only substantive change the ordinance proposes to Section 17.88.010 – *Substandard Lots of Record* is to stipulate that substandard lots of record that are less than 4,000 ft<sup>2</sup> shall be merged to abutting lots under common ownership *whether or not the abutting lot under common ownership is substandard*. Currently, the merger clause only applies to *contiguous* substandard lots, meaning that it does *not* merge conforming lots to nonconforming lots. The proposed change would be slightly more restrictive/conservative than the existing Code, but is specifically targeted to where Staff believes that the City should draw a line for lots that are too small for by-right development. Merging lots under 4,000 ft<sup>2</sup> to abutting lots under common ownership would uniformly apply to all remnant lots interspersed throughout the City.

### III. 17.20.040 – *Conformance to District Regulations Required*

City Code Section 17.20.040 – *Conformance to District Regulations Required* links lot area, width & frontage to buildings & land uses. The section reads as follows:

No structure or land shall be hereafter used and no structure or part thereof shall be erected or moved nor shall the exterior be altered unless in conformity with the regulations herein specified for the district in which it is located, except as provided for in Sections 17.04.070, 17.04.080, Chapters 17.108 and 17.112 of this title.

Considering there are at least 16,348 substandard lots in the City, this language is untenable. The City would not want its tax-paying property owners to ask for zoning relief for their legal nonconforming *lot* in order to “alter the exterior” of their legally established *building*. Changes or improvements to buildings should not be accountable to bring existing lot conditions into conformity, because they are different issues, and because, in most cases, it is not even possible. If the literal interpretation of this section were upheld, it would detriment Cranston residents and property owners, clog up the zoning relief process, burden municipal resources, and would not necessarily provide the City with better outcomes in the built environment. For these reasons, Section 17.20.040 is currently being interpreted as to only require *new* primary structures and subdivision applications to comply with the lot area requirements, and is not applied to accessory structures or improvements of existing structures.

Code Section 17.20.040 needs to be revised for three main reasons:

1. It fails to distinguish between *new* development and altering existing structure(s);
2. It fails to distinguish between primary and accessory structures such as sheds, pools or otherwise to be constructed on nonconforming lots; and
3. It does not exempt changes of use which do not intensify lot area requirements.

**Proposed Ordinance #1-21-05 corrects the above issues.**

In addition to the general issues above, even the application of conformance to lot regulations for new buildings can be problematic for the following reasons:

1. Denial of a request to develop an existing substandard lot of record (especially for a single family residence) may deny the property owner of *any* beneficial use of their land and therefore run the risk of being considered a taking;

2. In most cases, proposals which do not increase or intensify existing nonconformities do not require those conditions to come into compliance; and
3. Code Sections 17.20.040 and 17.88.010 are inconsistent in that if a lot meets the lot merger exemption, **there is no purpose to the exemption if relief for lot area is still required for the land to be developed.**

The Plan Commission should be aware that, due to the reasons above, there have been periods of time where the City has not applied/enforced this section to development of new primary structures. The City has struggled with interpreting when and how to enforce this section, particularly with the inconsistency with Section 17.88.010. For a time, the interpretation was that if a lot was not merged and was a legal nonconforming substandard lot of record, that the interpretation of conflicting sections must lean in favor of the applicant.

**Specifically, Ordinance #1-21-05 proposes the following changes:**

- Distinguishes how this code section applies based on the type of proposal (subdivisions, development proposals, and changes of use);
- Clarifies that all newly proposed lots (subdivisions) must fully comply with lot regulations (consistent/no change from with current regulations – just clarified);
- Allows Administrative Subdivisions (lot changes that do NOT result in new lots but modify existing lots) to result in nonconforming lots if and only if the proposal reduces or does not change any existing nonconformity and does not create any new nonconformity;
- Allows for primary structures on substandard lots of record within 2/3<sup>rd</sup>s of the minimum lot area requirement and with adequate frontage for vehicular access to be developed or redeveloped without zoning relief;
- Codifies the City's existing interpretation that accessory structures do not trigger compliance with lot regulations but shall comply with all other regulations;
- Codifies the City's existing interpretation that additions, expansions or renovations to existing structures do not trigger compliance with lot regulations; and
- Codifies the City's existing interpretation that changes of use which do not result in a required increase of lot area do not trigger compliance with lot regulations.

Staff anticipates that the majority of these changes are not controversial and will not go into detail with every change identified above. This memo will focus on the most significant change, the language found in lines 49-58 allowing development (or redevelopment) on lots within 2/3<sup>rd</sup>s of the minimum lot area requirement:

Primary structures shall be permitted on substandard lots of record that have a minimum of two-thirds the lot area specified for the district which it is located unless said lot is merged to form a conforming lot per Section 17.88.010 *Substandard Lots of Records & Lot Mergers*, and provided that the lot has sufficient accommodations for vehicular access including that required for emergency vehicles as determined by the Fire Chief or his/her designee. Such proposals shall not require conformance with minimum lot area and lot width & frontage. This provision shall not apply to two-family or multi-family development which are subject to Section 17.20.090 *Specific Requirements* & 17.20.120 *Schedule of Intensity Regulations*.

Although this idea may seem bold and new, It Isn't. The concept is derived from the existing lot merger exemption in Section 17.88.010 *Substandard Lots of Record*. This ordinance merely

proposes to extend to this section for consistency. The merger clause states that 4,000 ft<sup>2</sup> lots are exempt from being merged to contiguous substandard lots under common ownership if they meet the codified criteria, which to summarize, are that it has equal or greater than the average area and frontage/width of developed lots on the same block (on the same side of the street). The existing clause uses 4,000ft<sup>2</sup> as it's base which is two-thirds of 6,000ft<sup>2</sup>, the minimum lot area for the zones which it applies. **This is the derivative of the two-thirds rule – the existing exemption in Section 17.88.010 Substandard Lots of Record.**

Under the existing provision, if an undersized lot meets the qualifying criteria, it can be found to be exempt from being merged to an abutting substandard lot under common ownership – **BUT WHY?** What purpose does this serve if the owner of the property cannot build, or even modify an existing structure, or change the land use of the existing structure, unless he/she/they obtain relief for a legal nonconforming lot condition? **Staff finds that there is no purpose to the existing lot merger exemption if the exemption is not extended to Code Section 17.20.040 – Conformance to District Regulations Required. Proposed Ordinance #1-21-05 corrects this issue.**

It is important to know that proposed Ordinance #1-21-05 explicitly states that it does NOT waive any other sections of the Zoning Code (lines 84-85). This means that if a substandard lot of record is found NOT to be merged, and meets the criteria to be exempt from obtaining relief for lot area and width/frontage, that *it still needs to comply with all other regulations under zoning*. This means that all building setbacks, lot coverage, parking and other applicable regulations will still apply. Therefore, the proposed ordinance will NOT result in any home being built closer to a property line than is currently allowed under zoning, nor would it be permitted to cover more of the total lot area, nor would they be exempt from providing the necessary off-street parking.

#### **IV. Planning Analysis**

The inconsistency between zoning and existing conditions is identified as a problem to be addressed in the Comprehensive Plan Land Use Element:

Most properties in the A6, B1 and B2 zoning districts have less than the 6,000 square feet minimize (sic) lot size. In fact, about half (over 48% and 55% of the A6 and B1 zones, respectively) are less than 5,000 square feet in area. This inconsistency between the lot sizes and zoning occurs typically in the older parts of the City, which limits development potential, and requires variances for changes to existing properties. However, the City grants variances routinely when properties are 5,000 square feet, limiting the purpose and effectiveness of the existing minimum size requirements. **The City needs to address this issue and consider changing regulations to reflect the higher density in these areas** (emphasis added), which are essentially built out and have older housing stock. (p. 31)

This is the main reason that staff finds the ordinance to be consistent with the Comprehensive Plan. However, there are addition sections of the Comprehensive Plan to consider:

**LU-25 Adopt Smart Growth principles: Adopt smart growth policies after a series of public meetings geared to determine the appropriate standards for the City.**

Discussion:

Smart Growth principles include promoting compact development and making the process for development approval more predictable and less time consuming (p. 35).

**LU-26 Protect and stabilize existing neighborhoods.**

**Discussion:**

The Comprehensive Plan suggests that this can be accomplished by "Change(ing) zoning to meet current land uses as an incentive to improve buildings without having to get variances for changes" (p. 40).

Some may interpret that infill lots may change the character of existing neighborhoods and therefore the Ordinance could be found to be inconsistent with the above-stated goal in the Comprehensive Plan. Firstly, staff does not find anything in the Comprehensive Plan to suggest such that undeveloped lots should not be developed (with the exception of open space lots) or should that the City benefits from them remaining undeveloped, especially when such lots are relatively consistent with other lots in the surrounding area – a protection that the lot merger clause would continue to provide. In addition to the quote in the previous paragraph, staff finds the policy to develop in-fill lots to be consistent with the goals and objectives in the Plan.

**HA-2 Set a short-term, yearly goal of 30 new affordable housing units per year.**

**Discussion:**

This ordinance does not require that new units be affordable, but it does provide the appropriate context for affordable units to be built, whether they are deed restricted and affordable by definition or whether they are not deed restricted but are affordable in terms of their price point. Staff would be open to restricting units on undersized lots to be deed restricted affordable units, but did not want this stipulation to potentially get in the way of the ordinance as a whole. The City has produced very few affordable units since the adoption of the Comprehensive Plan in 2010, and, according to Housing Works RI's 2020 *Housing Fact Book*, Cranston produced **ZERO** units in 2020. Staff believes that it is long overdue to do something about this issue, and although believes this ordinance is consistent with these values.

**HA-6 Review zoning in existing residential neighborhoods to ensure the zoning matches, as closely as possible, the dimensions and unit types of what has already been built.**

**Discussion:**

This ordinance does not change the zoning districts themselves, but does the next best thing by providing a reasonable relief valve for legally existing conditions to have a burden-free permitting path.

**For the reasons stated above, staff finds that proposed Ordinance #1-21-05 is consistent with the Comprehensive Plan.**

In addition to the Comprehensive Plan analysis, staff has conducted GIS analysis in order to understand the impacts of the ordinance. **Staff has prepared four maps to supplement this staff memo.**

Before reading the maps, please understand the following disclaimers:

- These maps are for visual & discussion purposes only and have no binding authority whatsoever;

- The maps are intended for parcel-level analysis and are not ideal for city-wide viewing. The files are large so that one can zoom-in and observe the results at the parcel level. This is why city-wide maps are not incorporated into the staff memo, but PDF's are provided separately for viewing;
- The analysis is not perfect. The flaws are due to errors and inconsistencies in the data, the assumptions, and/or limitations to the way GIS can query the data. For example, if two abutting substandard lots under common ownership should be merged under the analysis, but one lot has a lien from the city, the ownership information is altered and is no longer identical in our system and they will not merge per the GIS analysis. Another example regarding assumptions is that to be considered a developed parcel (has a primary structure), staff made the decision that all buildings valued at \$100,000 and above are primary structures. Staff has found at least one parcel in the final analysis that was below this evaluation threshold, but is a single family home and therefore does not meet the intended criteria that the property is undeveloped;
- Staff identified "vacant parcels" by eliminating "developed parcels." Staff made the determination to define these as parcels with a building with at least \$100,000 valuation, a round number meant to exclude almost all primary structures and not include almost all accessory structures;
- There are many factors which the analysis did not include which would reduce the number of viable parcels. The following is a non-exhaustive list of such factors:
  - Wetlands;
  - Floodplains & floodway;
  - Hazardous materials/contamination;
  - Utilization of sites for parking or other uses/functions;
  - Physical constraints such as slope;
  - Limited vehicular access/frontage.

#### **Map 1: All Substandard Lots**

This map shows all of the lots in the city that do not meet the minimum zoning requirement for lot area. This analysis does not include lots that are substandard in terms of lot width/frontage.

**This analysis finds that there are 16,348 lots with substandard area in the City.**

#### **Map 2: All Substandard Lots – Merged**

This map shows all of the lots in the city consistent with Map #1, yet takes the additional step of merging abutting substandard lots (in terms of area only) under common ownership. This provides a more accurate depiction of how the undersized lots are considered/function under the Cranston Zoning Ordinance.

**This analysis finds that the 16,348 substandard lots in Map #1 become 12,147 lots after merging abutting substandard lots under common ownership, and finds that 10,185 of those lots still have substandard area.**

#### **Map 3: Vacant Substandard Lots – Merged**

This map has the same analysis as Map #2, but takes the additional step of eliminating "developed parcels" (staff made the determination to define these as parcels with a building with at least \$100,000 valuation).

This analysis finds that there are 2,783 merged vacant parcels, 1,997 of which have substandard lot area.

**Map #4: Vacant Substandard Lots – Merged – Meets Revised Area**

This map takes the 1,997 substandard vacant parcels as found in Map #3 and eliminates parcels that do not have at least two-thirds of the lot area of their underlying zoning district "the revised-area."

**Map #4 shows staff's best effort to anticipate the results of the proposed ordinance as it applies to new development. The conclusion of this analysis finds that there are 666 merged substandard vacant parcels that have at least two-thirds of the minimum lot area as required by their respective zoning district.**

Therefore, staff's analysis anticipates that the two-thirds rule would impact roughly 666 vacant lots. This would also streamline the process for redevelopment of substandard lots that meet the criteria. Staff does not anticipate any reason that the City would prefer to prohibit or regulate redevelopment of these lots, considering all other sections of the Code would still apply.

The non-inclusion of the factors in the last bullet point for the disclaimers on page 7 suggests that the 666 lot estimation is fairly conservative, or higher than the amount of viable parcels to meet the proposed provision.

To understand the breakdown of the analysis *by zoning district*, please observe the table below:

## Area Analysis of Unimproved Lots by District

Zone	Min Area	2/3 Min Area	Unimproved Individual Parcels		Unimproved Merged Parcels	
			Number of Substandard Parcels	Number of Parcels Meeting 2/3 Area	Number of Substandard Parcels	Number of Parcels Meeting 2/3 Area
A12	12,000	8,000	30	5	15	2
A20	20,000	13,333	52	10	33	7
A6	6,000	4,000	1183	398	619	262
A8	8,000	5,333	355	15	150	24
A80	80,000	53,333	69	7	44	3
B1	6,000	4,000	953	329	673	269
B2	6,000	4,000	110	38	92	32
C1	6,000	4,000	35	26	19	17
C2	6,000	4,000	67	18	39	14
C3	6,000	4,000	29	12	15	6
C4	12,000	8,000	117	2	67	6
C5	10,000	6,666	175	10	66	9
E1	10,000	6,666	1	0	1	0
M1	30,000	20,000	55	3	25	4
M2	60,000	50,000	348	14	129	11
S1	80,000	53,333	23	2	10	0
<b>Total</b>			<b>3,602</b>	<b>889</b>	<b>1,997</b>	<b>666</b>

This table demonstrates that the most impacted zones are A6 and B1 zones, the vast majority of which are located in Eastern Cranston. Due to time limitations, staff will not expound on the required findings regarding the "consideration of each of the applicable purposes of zoning" as stated under Section 17.04.010 *General Purposes*, but believe that the itemized sections below are self-evident and only bolster staff's recommendation to forward a positive recommendation on this ordinance.

### III. Findings

#### Cranston Comprehensive Plan 2010

Based on the reasons articulated in the Planning Analysis section above in regards to page 31, LU-25, LU-26, HA-2, and HA-6, staff finds that the proposed ordinance is **consistent** with the City's Comprehensive Plan.

#### Findings Under §17.04.010 City Code

Sec. 17.120.030 requires that the City Plan Commission as part of its recommendation to the City Council "Include a demonstration of recognition and consideration of each of the applicable purposes of zoning as presented in Section 17.04.010 of this title." Section 17.04.010 set forth the General Purpose for Title 17 (Zoning Ordinance) of the City Code.

Staff finds that the proposed rezone will adequately address the appropriate purposes detailed in §17.04.010. In particular, Ordinance #1-21-05 is consistent with:

*B. Providing for a range of uses and intensities of use appropriate to the character of the city and reflecting current and expected future needs;*

*C. Providing for orderly growth and development which recognizes (6). The need to shape and balance urban and rural development;*

*H. Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe and sanitary housing;*

*I. Providing opportunities for the establishment of low and moderate income housing;*

*L. Promoting implementation of the comprehensive plan of the city adopted pursuant to RIGL Section 45-22.2;*

*N. Providing for efficient review of development proposals, to clarify and expedite the zoning approval process.*

### IV. Recommendation

Based on the finding that Ordinance #1-21-05 is consistent with the City Comprehensive Plan, and Zoning Section 17.04.010, staff recommends that the Plan Commission send a **positive recommendation** on Ordinance #1-21-05 to the Ordinance Committee, with the minor amendments as suggested in the attached Mark-Up Ordinance.

## THE CITY OF CRANSTON

**ORDINANCE OF THE CITY COUNCIL**

IN AMENDMENT OF CHAPTER 17.84 OF THE CODE OF THE CITY OF  
CRANSTON, 2005, ENTITLED "ZONING"

(17.20.040 Conformance to District Regulations Required &  
17.88.010 Substandard Lots of Record)

No.

*Passed:*

Christopher G. Paplauskas, Council President

*Approved:*

Kenneth J. Hopkins, Mayor

*It is ordained by the City Council of the City of Cranston as follows:*

**Section 1:** Chapter 17.20.040 entitled "Conformance to District Regulations Required" is hereby amended as follows:

**Section 17.20 Permitted Uses****17.20.040 – Conformance to District Regulations Required**

~~No structure or land shall be hereafter used and no structure or part thereof shall be erected or moved nor shall the exterior be altered unless in conformity with the regulations for minimum lot area herein specified for the district in which it is located, except as provided for in Sections 17.04.070, 17.04.080, and Chapters 17.108 Zoning Board of Review, 17.88 Nonconforming Uses and Structures and 17.112 Industrial Performance Commission of this title.~~

**A. Subdivision of Land**

1. Minor and Major Subdivisions of land, as defined by the City of Cranston Subdivision Regulations, as amended, shall not be approved unless all buildable

lots are in conformity with the minimum lot area and minimum lot width & frontage as per Section 17.20.120 *Schedule of Intensity Regulations*.

2. Administrative Subdivisions of land, as defined by the City of Cranston Subdivision Regulations, as amended, shall not be approved unless all buildable lots are in conformity with the minimum lot area and minimum lot width & frontage as per Section 17.20.120 *Schedule of Intensity Regulations*, unless the proposal results in the reduction of existing nonconformities and/or does not create or intensify any nonconformity.

#### B. Development Proposals

1. Primary structures shall be permitted on substandard lots of record that have a minimum of two-thirds the lot area specified for the district which it is located unless said lot is merged to form a conforming lot per Section 17.88.010 *Substandard Lots of Records & Lot Mergers*, and provided that the lot has sufficient accommodations for vehicular access including that required for emergency vehicles as determined by the Fire Chief or his/her designee. Such proposals shall not require conformance with minimum lot area and lot width & frontage. This provision shall not apply to two-family or multi-family development which are subject to Section 17.20.090 *Specific Requirements* & 17.20.120 *Schedule of Intensity Regulations*.
2. Accessory structures may be permitted on substandard lots of record, in accordance with Chapter 17.60 *Accessory Uses*, and shall not require conformance with minimum lot area and lot width & frontage.
3. Additions, expansions or renovations to existing structures on substandard lots of record that do not result in a required increase of minimum lot area per Section 17.20.090 *Specific Requirements* & 17.20.120 *Schedule of Intensity Regulations* may be permitted and shall not require conformance with minimum lot area and lot width & frontage. Additions, expansions or renovations which result in a required increase in the minimum lot area per Section 17.20.090 *Specific Requirements* & 17.20.120 *Schedule of Intensity Regulations* shall require conformance with minimum lot area and lot width & frontage.

#### C. Changes of Use

1. Changes of use which result in a required increase in minimum lot area per Section 17.20.090 *Specific Requirements* & 17.20.120 *Schedule of Intensity*

Regulations shall require conformance with minimum lot area and lot width & frontage.

2. Changes of use which do not result in a required increase in minimum lot area per Section 17.20.090 Specific Requirements & 17.20.120 Schedule of Intensity Regulations shall not require conformance with minimum lot area and lot width & frontage.

No exemption in this Section shall be meant to provide relief from any other section of the Zoning Code.

**Section 2:** Chapter 17.88.010 entitled "Substandard lots of record" is hereby amended as follows:

## **Section 17.88 Nonconforming Uses and Structures**

### **17.88.010 – Substandard Lots of Record & Lot Mergers**

- A. "Substandard Lots of Record" Defined. ~~For the purposes of this chapter, A~~ "substandard lot of record" is a lot which does not satisfy one or more dimensional requirements set forth in Section 17.20.120, but which was shown on a plat or deed recorded prior to January 1, 1966 or an approved plat recorded after January 1, 1966 which has otherwise been legally created and which has not been altered to become more nonconforming since its creation, except by approval of the ~~planning board of review~~ City Plan Commission.

#### **B. ~~Contiguous Substandard Lots of Record~~ Lot Mergers**

1. If two or more contiguous substandard lots of record are owned by the same person or entity as of January 1, 1966, or if one of any two abutting lots under common ownership by the same person or entity as of the same date is less than 4,000 square feet, such lots shall be considered to be combined to form as many conforming lots as are permitted in the particular district for the purpose of this chapter, unless the lot meets the exemption as outlined in item (3) below;
2. In the event that there are multiple contiguous substandard lots of record with more than one way the lots could be merged, upon request of a Zoning Certificate, the Zoning Official shall determination which lots are merged. The determination shall be based upon factors including but not limited to the existing improvements on site, natural conditions, and/or the sum of the area and frontage of the substandard lots (those lots whose sum is closest to the minimum required in the underlying zoning district would be combined before lots with larger sums, all other conditions being equal).

3. In a block that is seventy-five (75) percent or more developed in A-6, B-1 and B-2 zones, lots having an area of at least four thousand (4,000) square feet and having an area and frontage equal to or greater than the average of those developed parcels within two hundred (200) feet of the lot which are on the same side of the street need not be so combined. Substandard lots of record that are merged shall be considered merged for the purposes of calculation of this provision. Non-buildable lots of record and lots with zoning designations other than the subject lot shall not be included in the calculation. Side corner lots and double frontage lots may qualify for this exemption by measuring from any of its available frontages, so long as that frontage becomes the primary front for the subsequent development of the lot.

C. Where two or more ~~No parcel, tract or~~ lots are combined in accordance with this section, they shall not be subdivided in a manner where the lot width, ~~depth~~ frontage or area of any resulting lot shall be less than the requirements fixed by this chapter.

D. Any substandard lot of record which is not merged to a contiguous substandard lot of record under common ownership to form a conforming lot shall be regulated in accordance with 17.20.040 Conformance to District Regulations Required.

**Section 2.** This Ordinance shall take effect upon its final adoption.

Positive Endorsement:

Negative Endorsement: (Attach reasons)

City Solicitor    Date                      City Solicitor    Date

Sponsored by \_\_\_\_\_

Referred to Ordinance Committee \_\_\_\_\_