

Staff Report

REQUEST TO INITIATE ZONING TEXT AMENDMENT RELATING TO MINIMUM FLOOR AREA RATIOS FOR NON-CONFORMING BUILDINGS

January 24, 2023

BACKGROUND:

On December 20, City Council referred to staff a letter from Jerry Nelson regarding a property he owns at 412 Burnett Avenue. Mr. Nelson's property was three parcels before it was merged into one parcel with a plat of survey on September 6, 2022 (recorded on September 6). The lot combination was done to facilitate a building addition and remodel the buildings on the site as a single building 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 floor-area-ratio (FAR) of 1.0 for the Downtown Service Center Zoning District (DSC). FAR is the ratio of floor area to lot area. 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 requirement in DSC. The building plans could not 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.

Staff has met with and been in communication with Mr. Nelson since early December. All the actions leading up to December were predicated on the original plan for an addition. Staff outlined the following three options regarding how to proceed with remodeling the existing building:

1. Keeping the single-parcel and constructing the addition as approved within the 3-year timeframe allowed by the Zoning Ordinance.

The owner described to staff his concerns with this option as the potential liability of code enforcement if he did not complete the addition on time. He desires to do an addition, but is unsure of its timing at this time.

2. Replatting the property into two parcels: one for the vacant lot and one for the existing structures. The existing buildings could then be remodeled to cross their joint property line, but no improvements (utilities & access) serving the existing building could rely upon the vacant lot to serve the building.

The owner described to staff his concerns with this option as potentially increasing costs of creating utility services for his remodeling with sewer service to Burnett compared to using 5th Street. It would also require modification to the planned floor plan for remodeling of the existing building space to meet ingress and egress requirements.

3. Vacate the plat and return the property to its original configuration. The buildings could not be remodeled to cross the property lines.

This option did not accomplish the goals of the owner to remodel the building into one building.

At this time the Mr. Nelson does not want to undo the lot merger and return to multiple parcels. Mr. Nelson is also concerned that completing the addition within the next three years too great to proceed at this time. Therefore, **Mr. Nelson requests the City Council consider an amendment to the Zoning Ordinance that allows for the large, combined parcel without compliance with the Zoning Ordinance and for remodeling a nonconforming building.**

If this request were to be granted with the approval of a text amendment, it would allow Mr. Nelson to keep his merged lot with the vacant portion of land, remodel the building, add an exit to the east side to the vacant area, and bring a sewer service connection through the vacant area to meet the needs of prospective tenants.

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 not to remove 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.

OPTIONS:

If City Council wants to pursue an amendment to facilitate Mr. Nelson's maintaining the merger of lots and continuing to remodel their existing building, staff has identified two options to minimize potential undesirable outcomes while addressing this customer's issues:

Option 1: Add an exception to Section 29.303(2) – Lots that exclude conformity with minimum FAR for boundary line adjustments and lot mergers.

29.303 (2) Lots.

(a) *Change in Lot Size or Shape Regulated.*

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, however this does not exclude use of a lot from meeting all development standards and nonconformity requirements related to buildings and site improvements. 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.

This option would be the likely be the preference of the applicant because it would allow the current configuration of one parcel to remain, and they could use the vacant land area as they desire for the sewer service and exiting. **Since the building itself would still be nonconforming due to FAR and height, it could be remodeled, but not structurally changed as limited by the Zoning Ordinance. Any future changes or addition would be required to fully conform to zoning standards, including minimum FAR and height. If this change were to be approved, it may be prudent to add a plat requirement for a notice of limitations regarding future use if the lot mergers are approved to provide notice to future property owners.**

This type of text amendment could impact other properties in Downtown and potentially Campustown. These are currently the only two areas with minimum FAR requirements. The issue would arise again when a property owner owns multiple properties and it would be beneficial to merge properties for convenience of parking, building renovations, or other site changes where they do not want to do an addition and bring the site into conformance with zoning standards.

Option B: Modify Zoning Ordinance Procedures and Enforcement requirements related to finishing construction of a building within three (3) years by removing the financial penalty for noncompliance and only withhold future permits until the project is complete.

The City does not currently have a phasing option for Site Development Plan approvals. Completion of a project is required within two years with an option for a one-year extension. In this case, the applicant could proceed with their approved plan, but they are concerned that they would not complete their addition within the three-year allowance and then be subject to enforcement actions by the City.

This option would not remove any development standards, but would eliminate the most onerous enforcement language of a daily financial penalty for delaying completion of a project. This would mean that the applicant could proceed with remodeling of the site in manner consistent with their approved Site Development Plan and if they do not complete the addition, they would not be able to get other permits in the future until the addition is complete.

This choice would ensure that lot mergers only occur with the approval of a conforming Site Development Plan vs. allowing for a merger of lots for the convenience of using existing sites. This option is in the spirit of allowing for phased implementation and provides very limited flexibility to a property owner related to the phasing of their project.

STAFF COMMENTS:

The DSC standards for minimum FAR and the minimum height are designed to increase the density of development within Downtown. Staff does not advise changing those requirements. Supporting remodeling is of older buildings is also a goal of the City, within the limits of the related standards. Many buildings are remodeled downtown on existing lots, the issue of the lot merger really the unique issue for this property owner.


If City Council is interested in addressing the issue of the lot merger and remodeling, the two options described by staff limit potential negative outcomes in relation to loosening development requirements.

Attachment A Request to Council

Dear Honorable Mayor and City Council Members:

Our project at 5th 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