



# Memorandum

**TO:** Knoxville-Knox County Planning Commission  
**FROM:** Amy Brooks, AICP, Planning Services Manager  
**DATE:** February 5, 2020  
**SUBJECT:** 2-D-20-OA

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## **STAFF RECOMMENDATION:**

Approve the requested amendment the City of Knoxville Zoning Code adding a new subsection 3 to Article 17 titled Nonconforming Lot of Record, regarding lots created by deed.

## **ATTACHMENT**

Attachment A: City of Knoxville Memorandum: Zoning Code Amendment (Article 17)

**MEMORANDUM**

**DATE:** February 6, 2020

**TO:** Planning Staff

**FROM:** Peter Ahrens  
Director of Plans Review & Building Inspections

**RE:** Zoning Code Amendment (Article 17)

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**Background** The Plans Review and Inspections Department requests an amendment to the newly-adopted Zoning Code of the City of Knoxville (formerly referred to as “Recode Knoxville”).

The prior Zoning Code, under Article V, Sec. 6.D.5, specified how lots could be divided and clarified that annexed lots of substandard size would be given the protection of a nonconformity. During the drafting phases prior to the adoption of the new Zoning Code, these provisions from the prior Zoning Code were included in Article 17 regarding Nonconformities. However, in a later draft, these provisions were inadvertently omitted due to a scrivener’s error. Adopting this amendment will continue to protect lots of substandard size just as the prior Zoning Code did.

The Department of Plans Review and Building Inspections recommends the adoption of an amendment which will integrate these prior Zoning Code provisions with minor changes into a third subsection of Article 17 of the new Zoning Code, as indicated in the attachments.

**Attachments**

- 1) Proposed language, Article 17.3
- 2) Prior Code language, Art. VI, Sec. 6.D.5 (Excerpt)

Sincerely,

Peter Ahrens  
Director of Plans Review & Building Inspections  
865-215-3938

### 17.3 NONCONFORMING LOT OF RECORD

A nonconforming lot of record is a lot of record that at one time conformed to the lot dimension requirements of the zoning district in which it is located, but because of this Code, or a subsequent amendment to this Code, does not conform. This includes nonconformities created by prior zoning codes or amendments to those codes.

#### A. Use

A nonconforming lot of record may be used for a permitted or special use allowed within the zoning district.

#### B. Development

Development of a nonconforming lot of record must meet all applicable dimensional and design regulations of the district in which it is located with the exception of the lot area and/or width requirement that renders it nonconforming.

#### C. Lot Division

No recorded lot may be divided into two or more lots unless such division results in the creation of lots each of which conform to all of the applicable regulations of the district where the property is located. No reduction in the size of a recorded lot below the minimum requirements of this Code is permitted except in the following situations:

1. When the dedication of right-of-way is required and approved under the provisions of the Knoxville-Knox County Minimum Subdivision Regulations, and this dedication makes a lot or structure nonconforming with requirements for setbacks, building coverage, lot area, or lot width, a final plat may be approved which results in no other new nonconformity and no other increase in the extent of a nonconformity.
2. When a legal, nonconforming structure exists on the property being subdivided and this structure is nonconforming with requirements for setbacks or height, a final plat may be approved which results in no new nonconformity and no increase in the extent of any existing nonconformity.
3. When a subdivision of property is proposed and each proposed new lot will contain a principal building categorized as contributing in an H or NC Overlay District. If each proposed new lot meets this criteria, and the existing principal buildings are nonconforming with requirements for setbacks and/or lot coverage, the property owner may seek a variance as prescribed by law.
4. Items 1, 2, and 3 above also apply to one lot subdivisions, as defined in the Knoxville-Knox County Minimum Subdivision Regulations, which combine two or more lots into one lot or where an adjustment is made to one lot line between two existing recorded lots.

#### D. Lot Consolidation

A nonconforming lot is permitted to consolidate with an adjacent lot, even if such consolidation still does not conform to the lot dimension requirements of the zoning district in which it is located. Such consolidation is seen as a reduction of the nonconformity.

#### E. Lot Created by Deed

In any residential district, a house may be constructed on a lot created by deed provided the lot is:

~~1. Located in the area within the City boundary resulting from an annexation in 1917; is described by a deed recorded prior to February 3, 1947; July 8, 1971 and has remained intact with the same boundary configuration since the recorded date; or~~

~~2. Located in the area within the City boundary resulting from a series of annexations in 1962 (Ordinances 3049, 3050, 3052, 3053 and 3054); is described by a deed recorded prior to February 3, 1947; and has remained intact with the same boundary configuration since the recorded date.~~

If a lot created by deed meets the criteria cited above, and is nonconforming with requirements for minimum yards, building setbacks, and/or lot coverage, the property owners may ~~seek a variance~~request a final plat. Upon application for a building permit, ~~the owner will be required to submit a survey completed by a registered land surveyor that has been recorded with the register of deeds; the property must be indexed on the City Ward Map as a Lot of Record. For inclusion on the City Ward Map, a map of the property, prepared by a TN licensed land surveyor, must be submitted and approved per the currently accepted subdivision process within the City of Knoxville and be subsequently recorded in the register of deeds office.~~

A "Lot of Record" shall refer to a property which currently is shown on the ward map, or to a property which is eligible to be shown on the ward map as determined by the Director of Engineering.

The "Ward Map" refers to the adopted official map of the City of Knoxville showing the wards blocks, lots, tracts, and right-of-way within the corporate limits of the City of Knoxville.



Sec. 6. - Yard, building setback and open space exceptions.

The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulations set forth in Article IV herein.

[. . .]

- D. The purpose here is to clarify certain conditions pertaining to the use of lots and access points.

[. . .]

5. Division of a lot. No recorded lot shall be divided into two or more lots unless such division results in the creation of lots each of which conforms to all of the applicable regulations of the district in which the property is located and no reduction in the size of a recorded lot below the minimum requirements of this ordinance shall be permitted, with the following exceptions:
  - a. When a dedication of right of way is required and approved under the provisions of the Knoxville-Knox County Minimum Subdivision Regulations, and this dedication makes a lot, building or structure nonconforming with requirements for minimum yards, building setbacks, building coverage, lot area, lot width or lot depth, a final plat may be approved which results in no other new non-conformity and no other increase in the extent of non-conformity.
  - b. When a legal, non-conforming structure exists on the property being subdivided and this structure is non-conforming with requirements for minimum yards, building setback or height, a final plat may be approved which results in no new non-conformity and no increase in the extent of any existing non-conformity.
  - c. When a subdivision of property is proposed and each proposed new lot will contain a principal building categorized as contributing in an H-1 or NC-1 overlay zone district. If each proposed new lot meets this criteria, and the existing principal buildings are non-conforming with requirements for minimum yards, building setbacks, and/or lot coverage, the property owner may seek a variance as prescribed by law.
  - d. Subsections "a," "b" and "c" above shall also apply to one lot subdivisions, as defined in the Knoxville-Knox County Minimum Subdivision Regulations, which combine two or more lots into one lot or where an adjustment is made to one lot line between two existing recorded lots.
  - e. In any residential district, a house may be constructed on a lot created by deed provided the lot is:
    - i. Located in the area within the city boundary resulting from an annexation in 1917; is described by a deed recorded prior to February 3, 1947; and has remained intact with the same boundary configuration since the recorded date; or
    - ii. Located in the area within the city boundary resulting from a series of annexations in 1962 (Ordinances 3049, 3050, 3052, 3053 and 3054); is described by a deed recorded prior to February 3, 1947; and has remained intact with the same boundary configuration since the recorded date.

If a lot created by deed meets the criteria cited above, and is non-conforming with requirements for minimum yards, building setbacks, and/or lot coverage, the property owners may seek a variance as prescribed by law. Upon application for a building permit, the owner will be required to submit a survey completed by a registered land surveyor that has been recorded with the register of deeds.

[. . .]