

**Community Planning and Economic Development Planning Division Report
Zoning Code Text Amendment**

Date: September 17th, 2007

Initiator Of Amendment: Council Member Schiff

Date of Introduction at City Council: August 17th, 2007

Specific Site (If Applicable): Citywide

Ward: Citywide **Neighborhood Organization: (If Applicable)** Citywide

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Intent of the Ordinance: The intent of this amendment is to allow structures accessory to nonconforming residential uses of one (1) to four (4) dwelling units.

Appropriate Section(s) of the Zoning Code:

Chapter 531: Nonconforming Uses and Structures

Background:

The 1963 Zoning Code exempted attached accessory structures from the enlargement limitations of section 531.50 provided that all other applicable regulations were met however detached accessory structures were not included. This meant that nonconforming uses and structures could build an attached garage by applying for a building permit; no public process was required. The attached garage exemption however was omitted from the 1999 Zoning Code revision and the new code upon adoption required that applicants of nonconforming uses and structures submit a Land Use Application for a Nonconforming Use Expansion and go before the City Planning Commission for approvals. From 1999 to 2004, the code was applied inconsistently by staff and many administrative approvals were given for detached accessory structures to nonconforming single and two family dwellings. Due to these inconsistencies in code interpretation by staff, the Zoning Administrator in 2004 drafted a policy to require all structures accessory to nonconforming uses and structures apply for the Nonconforming Use Expansion and go before the City Planning Commission for approvals. From 2004 to present, all nonconforming uses and structures proposing accessory structures have been required to go before the City Planning Commission.

Since 2004, approximately twenty-one (21) Land Use Applications have been submitted and approved by the City Planning Commission for Nonconforming Use Expansions to allow for structures accessory to nonconforming residential uses. Approximately twenty (20) of these applications were approved for detached accessory structures and one (1) such application was approved for an attached accessory structure. Due to the outcomes of these applications, staff believes that continuing to require a public hearing for accessory structure proposals to nonconforming residential structures of four (4) units or less is merely a formality. Staff believes residential structures of four (4) or fewer dwelling units should be allowed accessory structures regardless of the residing zoning district as long as all other applicable

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zoning regulations can be met. If amended as recommended, such proposals will be approved administratively, thus drastically streamlining the process and reducing fees incurred by the applicants. Any proposals however that can't meet all other applicable regulations will continue to be required to apply for a variance or other required applications.

Purpose For The Amendment:

What is the reason for the amendment?

What problem is the Amendment designed to solve?

What public purpose will be served by the amendment?

What problems might the amendment create?

The purpose of this zoning code text amendment to section 531.60 is to allow for nonconforming residential uses and structures of four (4) units or less to construct or rebuild detached accessory structures without submitting a Land Use Application for a Nonconforming Use Expansion. Currently, section 531.60 exempts additions, alterations, or enlargements of decks, open balconies, open porches, handicap ramps or entrance vestibules to any nonconforming residential use or structure with four (4) or fewer dwelling units from the application and public hearing requirement as specified in section 531.50 as long as the exemption conditions are met. Section 531.60 however, does not exempt accessory structures from the enlargement limitations and thus, an application for a Nonconforming Use Expansion is required to be reviewed by the City Planning Commission.

The problem that this amendment is designed to solve is that it will reduce the processing time, fees, and staff time required for detached accessory structures thus streamlining the process and promoting investment in residential properties within the City. If approved as recommended, the amendment will primarily affect nonconforming residential structures of one (1) to four (4) dwelling units located in the industrial districts as well as two-family dwellings and multiple family dwellings of four (4) units or less located in R1, R1A, R2, and R2B residentially zoned districts. The purpose for limiting the exemption for residential structures of four (4) or fewer dwelling units only and not other types of nonconforming uses and structures is for practicality and consistency reasons; the majority of Land Use Applications that have been submitted and approved since 2004 for Nonconforming Use Expansions to allow for accessory structures have been for residential structures of four (4) or fewer dwelling units. One such application was approved for a nonconforming five (5) unit building however staff believes that nonconforming multi-family buildings containing more than five (4) units should continue to be required to apply for a Nonconforming Use Expansion and go before the City Planning Commission. This amendment proposes to exempt detached accessory structures only from the enlargement limitations as specified in section 531.50 as long as all other applicable zoning regulations can be met. Attached accessory structures are not included in this amendment due to the possibility of increasing bulk with attached square footage. Applicants seeking to build an attached accessory structure to a nonconforming residential use or structure or a detached accessory structure to a nonconforming residential use or structure of more than four (4) units will continue to be required to submit a Land Use Application for a Nonconforming Use Expansion.

The public purpose that will be served by this amendment is the increased investment that will occur to nonconforming residential structures of one (1) to four (4) units. There are currently nonconforming residential structures with and without detached accessory structures within the neighborhoods. Since

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most homes within the City of Minneapolis have detached accessory structures such as garages and sheds, allowing them for nonconforming residential uses of four (4) units or less will be compatible with adjacent property within the neighborhoods. In addition, accessory garages will eliminate congestion by providing off-street parking spaces.

The amendment requires that all other applicable zoning requirements be met in order to administratively gain approval for a structure accessory to a nonconforming residential structure of one (1) to four (4) units and therefore staff does not foresee any problems or unintended consequences associated. Although chapter 531 of the City of Minneapolis Zoning Code regulates and controls the continued existence of legal nonconforming uses and structures for the primary purpose of gradual elimination, legal nonconforming uses can continue as long as they remain otherwise lawful. Additionally, state statute 462.357 allows nonconforming structures to be continued including through repair, replacement, restoration, maintenance, or improvement but not expanded; and if destroyed by more than 50 percent of its market value, a nonconformity can be rebuilt if a building permit is applied for within 180 days of the damage. As already stated, twenty-one (21) Nonconforming Use Expansions have been approved by the City Planning Commission in recent years for accessory structures. Staff believes that structures accessory to nonconforming residential uses of four (4) or fewer dwelling units are improvements and allowing them will not create adverse off-site impacts within the neighborhood, they will not result in any increase in the number of dwelling units on a property, nor will they in any way increase or create nonconformities. In contrast, approving this amendment as recommended could improve offsite impacts; see policy 1.9, 4.14, 9.8, and 9.21 of The Minneapolis Plan as specified below.

Timeliness:

Is the amendment timely?

Is the amendment consistent with practices in surrounding areas?

Are there consequences in denying this amendment?

Since 2004, twenty-one (21) applications have been approved for nonconforming use expansions for accessory structures; the amendment to allow these reviews to occur administratively is necessary to streamline the process and reduce fees to the applicants.

This amendment is consistent with practices of similar cities throughout the country. Research was conducted on the cities of St. Paul, Minnesota; Chicago, Illinois; Seattle, Washington; Austin, Texas; Portland, Oregon; and Milwaukee, Wisconsin. The results of the research concluded that all of the above referenced cities allow for at least some type of administrative review for accessory structure proposals to nonconforming uses and structures. St. Paul and Seattle require that the accessory structures comply with all other regulations; Milwaukee permits structural alteration, enlargement or reconstruction of nonconforming residential structures and uses; Chicago requires the approval of the Zoning Administrator; Austin implied that the approval process was administrative; and Portland limited any and all expansions to within the existing property lines as existed two years prior to the current proposal.

The consequences in denying this amendment is the continuous lengthy process and fees incurred by property owners proposing accessory structures that meet all other applicable zoning regulations to nonconforming residential structures of four (4) units or less.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

Policy 1.9 of The Minneapolis Plan states that “Minneapolis will work to enhance the appeal of city living by improving residents’ actual and perceived sense of safety and security.” This amendment aids the implementation of The Minneapolis Plan by providing enclosed parking spaces within detached accessory structures for residential uses. Parking vehicles within enclosed structures can help to minimize theft and thus strengthen residents’ sense of safety and security. This amendment will also allow other types of accessory structures such as sheds to be used for securing personal belongings of those residing in the principal residential uses served further increasing the sense of safety and security.

Policy 4.14 of The Minneapolis Plan states that “Minneapolis will maintain the quality and unique character of the city’s housing stock, thus maintaining the character of the vast majority of residential blocks in the city.” This amendment aids the implementation of The Minneapolis Plan by promoting investment in detached garden sheds and garages to residential structures within the neighborhoods. Nonconforming residential structures are most often within low density neighborhoods where accessory structures are typical. Permitting structures accessory to nonconforming residential uses only strengthens their compatibility with the character of the surrounding housing stock.

Policy 9.8 of The Minneapolis Plan states that “Minneapolis will maintain and strengthen the character of the city’s various residential areas.” This amendment aids the implementation of The Minneapolis Plan by allowing nonconforming residential uses of four (4) units or less off-street parking spaces within enclosed structures as well as allowing for other detached accessory structures that will enhance the appearance of the property while maintaining and strengthening the character of the surrounding neighborhood.

Policy 9.21 of The Minneapolis Plan states that “Minneapolis will preserve and enhance the quality of living in residential neighborhoods, regulate structures and uses which may affect the character of desirability of residential areas, encourage a variety of dwelling types and locations and a range of population densities, and ensure amenities, including light, privacy and open space. This amendment aids the implementation of The Minneapolis Plan by providing amenities such as private garages and sheds and thus increasing the quality of living with residential neighborhoods. The neighborhoods were established originally with a variety of housing types, some of these are now nonconforming however this factor should not hinder investment, character, or overall desirability.

Recommendation Of The Community Planning and Economic Development Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment.