



# City of Culver City

Mike Balkman  
Council Chambers  
9770 Culver Blvd.  
Culver City, CA 90232  
(310) 253-5851

## Staff Report

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**File #:** 19-139, **Version:** 1

**Item #:** PH-2.

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**PC: Consideration of Zoning Code Amendment P2018-0158-ZCA, Amending Culver City Municipal Code (CCMC) Title 17: Zoning Code; Chapters 17.550: Variances, Administrative Modifications, Reasonable Accommodations and 17.610 - Nonconforming Uses, Structures, and Parcels.**

**Meeting Date:** September 12, 2018

**Contact Person/Dept:** Jose Mendivil, Associate Planner / CDD  
Michael Allen, Current Planning Manager/CDD

**Phone Number:** (310) 253-5757/ (310) 253-5727

**Fiscal Impact:** Yes ☐ No ☒

**General Fund:** Yes ☐ No ☒

**Public Hearing:** ☒

**Action Item:** ☐

**Attachments:** ☒

**Public Notification:** (Email) Meetings and Agendas-Planning Commission (08/29/18); (Posted) City website (08/29/18); (Published) in Culver City News (08/23/18)

**Department Approval:** Sol Blumenfeld, Community Development Director (08/29/18)

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### **RECOMMENDATION**

Staff recommends the Planning Commission adopt Resolution No. 2018-P007 (Attachment No. 1) recommending to the City Council approval of Zoning Code Text Amendment P2018-0158-ZCA related to Administrative Modification requests for nonconforming parcels.

### **PROCEDURES**

1. Chair calls on staff for a brief staff report and the Planning Commission poses questions to staff as desired.
2. Chair opens the public hearing, and receives comments from the general public.
3. Chair seeks a motion to close the public hearing after all testimony has been presented.
4. Commission discusses the matter and arrives at its decision.

### **BACKGROUND**

The property owners of 5961 Smiley Drive located in the R2 Zone submitted building permit plans to demolish

an existing one-story, single family house and construct a new two-story, single family house. The lot, legally created on January 30, 1923, is substandard in area, depth, and width. It has a width of 45 feet instead of the required 50 feet, a depth varying between 54 feet to 61 feet instead of the required 100 feet; an area of 2,632 square feet instead of the required 5,000 square feet; and is considered a nonconforming parcel.

The property owners requested an Administrative Modification to reduce the driveway length and the rear setback. Staff determined that the Zoning Code did not provide clear direction on the ability to process an Administrative Modification for substandard lots. The property owners submitted a written request to the Board of Zoning Adjustment for an interpretation of the Zoning Code because the Administrative Modification provisions do not include modifications to nonconforming parcels. Specifically, the property owners requested a ten percent (10%) reduction in the length of the driveway, reducing it from 20 feet to 18 feet and a 10% reduction in the rear setback, reducing it from 10 feet to 9 feet. The request stated that due to the small size and irregular size dimensions of the lot, they believed that a 10% reduction was warranted. The Administrative Modification provisions allow up to a 10% modification of code standards such as setbacks and driveway dimensions if “The strict application of the applicable development standards creates an unnecessary, involuntarily created hardship or unreasonable regulation which makes it obviously impractical to require compliance with the development standards”.

At the March 28, 2018 Board of Zoning Adjustment (the “BZA”), the BZA confirmed that under Chapter 17.550: Variances, Administrative Modifications, Reasonable Accommodations, additions to existing structures and new or replacement structures on legally established nonconforming parcels can be built with a maximum 10% modification from applicable development standards upon approval of an Administrative Modification (Attachment No. 3). Further, in accordance with Zoning Code Section 17.120.015.B.2:

1. This Zoning Code Interpretation was distributed to the City Council, Planning Commission, City Attorney, City Clerk and all pertinent staff; and
2. The Zoning Code shall be amended as soon as practical to reflect the Director’s determination set forth in the BZA’s Zoning Code Interpretation.

### **ANALYSIS/DISCUSSION:**

Pursuant to Zoning Code Section 17.610.035 - Nonconforming Parcels, a nonconforming parcel is considered a legal building site if the site was legally created in the past. Reasons for a subdivision resulting in a nonconforming parcel include:

- Parcel creation based on previous development standards and subdivision processes that are no longer in place resulting in lots that do not comply with current standards;
- Lots approved through a variance;
- Previous conforming lots made nonconforming due to a government entity acquiring a portion of the parcel.

Nonconforming parcels are usually less than the current minimum lot area and/or lot depth and width. As a legal building site construction of a single family dwelling to current code standards is allowed, but for an approved Administrative Modification if findings can be made.. However, the Zoning Code does not specifically state that additional or replacement construction on such parcels can be built with a maximum 10% modification from applicable development standards upon approval of an Administrative Modification. Pursuant to Zoning Code Chapter 17.550: Variances, Administrative Modifications, Reasonable Accommodations, approval of an Administrative Modification allows a 10% modification from the following Zoning development standards:

1. Dwelling unit size - a decrease in the minimum dwelling unit square footage requirements;
2. Fence, walls, or retaining walls - up to eight feet maximum in the side or rear yards;
3. Distances between structures - a decrease in the minimum distance between a detached accessory structure and the main structure;
4. Open space - a decrease in the minimum open space requirements;
5. Parking - a decrease in the minimum number of parking spaces and parking lot and loading dimensions (e.g. aisle, driveway, and space widths);
6. Projections - an increase in the allowed projections into setbacks;
7. Setbacks - a decrease in the minimum required setbacks;
8. Structure height - an increase in the maximum allowable structure height.

The modification must be based on a finding that the strict application of the Zoning Code standards creates a hardship. If clear language is not included in the Zoning Code that stipulates development standards can be modified for nonconforming parcels, then such an allowance could be interpreted as expanding a legal nonconformity.

In their review of the matter, the BZA determined that strict application of the Zoning Code may lead to a hardship for nonconforming parcels. In order to address that concern, the Zoning Code amendments clarify that a nonconforming parcel may be granted a modification provided such a request complies with the established Administrative Modification review process. The amendments do not allow by-right modifications for nonconforming parcels and findings for an Administrative Modification must still be made.

#### CCMC Chapter 17.550: Variances, Administrative Modifications, Reasonable Accommodations.

Zoning Code Section 17.550.010 specifies the applicability for Variances, Administrative Modifications, and Reasonable Accommodations. Under this section language will be added that includes nonconforming parcels as qualified for an Administrative Modification request:

##### 17.550.010 - Applicability

A. Administrative Modification. The Director may grant an Administrative Modification for only the development standards identified in Table 5-2 (Administrative Modifications). An Administrative Modification may be granted only once for a specific type of request per parcel. A request which exceeds the limitations identified in Table 5-2 (Administrative Modifications) shall require the filing of an application for a Variance. Nonconforming Parcels that comply with the criteria for a legal building site pursuant to Zoning Code Section 17.610.035 shall be eligible for an Administrative Modification request and may be granted an Administrative Modification provided findings pursuant to CCMC Section 17.550.020.A can be made.

#### CCMC Section 17.610.035 - Nonconforming Parcels

Zoning Code Section 17.610.035 Sections A and B state applicability and prohibition of further division or reduction for nonconforming parcels. Section A establishes the applicability of nonconforming parcels which must have been created through an approved subdivision, a variance, or lot line adjustment; or must have been made legal nonconforming through partial government acquisition. Section B prohibits further subdivision of the parcel that would make the use of the parcel more nonconforming.

A new Section C will be added that specifically states Nonconforming parcels may be granted an Administrative Modification pursuant to CCMC Chapter 17.550:

##### 17.610.035 - Nonconforming Parcels (New Subsection C)

C. Administrative Modification. A nonconforming parcels may by granted an Administrative Modification pursuant to CCMC Chapter 17.550 provided Administrative Modification findings stipulated in CCMC Section 17.550.020.A can be made. An Administrative Modification approval shall not be considered an expansion of a legal nonconformity.

## **CONCLUSION**

In order to provide clarity in the Zoning Code that allows processing of Administrative Modifications for nonconforming parcels, staff recommends the proposed Text Amendments related to nonconforming parcels.

## **ENVIRONMENTAL DETERMINATION:**

Proposed Zoning Code Amendment, P2018-0158-ZCA is considered a project pursuant to the California Environmental Quality Act (CEQA). It is considered exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the project to amend Zoning Code; Chapters 17.550 - Variances, Administrative Modifications, Reasonable Accommodations and 17.610 - Nonconforming Uses, Structures, and Parcels will have a significant effect on the environment. The project by itself, does not result in any physical changes in the environment because it will only amend the code to extend an existing zoning standard modification process for nonconforming parcels that does not result in a density increase beyond what the zone designation allows.

## **ATTACHMENTS:**

1. Draft Planning Commission Resolution No. 2018-P007
2. Exhibit A: Proposed Zoning Code Text Changes in “strikethrough/underline” format
3. BZA March 28, 2018 Interpretation

## **MOTION**

That the Planning Commission:

Adopt Resolution No. 2018-P007 recommending to the City Council approval of Zoning Code Text Amendment P2018-0158-ZCA related to Administrative Modification requests for nonconforming parcels.