



CITY OF CONCORD
New Hampshire's Main Street™
Community Development Department

REPORT TO THE MAYOR AND CITY COUNCIL

FROM: Heather Shank, City Planner
DATE: January 20, 2017
SUBJECT: Ordinance Amending the CODE OF ORDINANCES, Title IV, Zoning Code, Chapter 28, Zoning Ordinance, Article 28-8, Nonconforming Lots, Uses and Structures; Section 28-8-2, Determination of a Nonconformity

Recommendation

Accept this report and set the proposed amendment for a public hearing.

Background

The purpose of the amendment is to provide more flexibility to City Council to unmerge lots that may have been voluntarily merged prior to January 1, 1995.

The City of Concord Zoning Ordinance currently does not address the procedures and regulations pertaining to restoration of merged lots. The City has relied instead on RSA 674:39-aa, Restoration of Involuntarily Merged Lots, to govern this process. RSA 674:39-aa, II allows lots that have been involuntarily merged prior to September 18, 2010 to be unmerged at the request of the owner. It also states that lots that have been voluntarily merged by any owner in the chain of title may not be unmerged.

However, RSA 674:39-aa, IV states that any municipality may adopt local ordinances that are less restrictive than 674:39-aa, I and 674:39-aa, II to govern the requirements for restoration of merged lots. City Council has requested that the Planning review these procedures and propose an amendment to the Zoning Ordinance to allow less restrictive procedures for the restoration of merged lots.

After reviewing the procedures of RSA 674:39-aa, Staff recommends an amendment allowing a property owner the opportunity to request from City Council that his or her voluntarily merged lots be unmerged, provided that said lots were voluntarily merged prior to January 1, 1995. This date reflects the point at which formal procedures for voluntary mergers were put in place.

Discussion

The changes provide more flexibility to City Council to unmerge lots that may have been voluntarily merged prior to January 1, 1995, and may provide greater infill and development opportunities. Please note that the amendment proposes a deadline that any requests for restoration of merged lot must be made prior to December 31, 2021, which is consistent with the sunset date stipulated by the enabling RSA. In the event the enabling statute is extended, Staff recommends amending the ordinance at that time to extend the allowable time period.

It should be noted that unmerged lots would not be exempt from other zoning ordinance regulations, including dimensional standards. Thus un-merged lots would not gain the status of non-conforming lots and would still be required to get variances if they cannot comply with the zoning ordinance.

The Planning Board unanimously recommended approval of the amendment during the December 21, 2016 Planning Board meeting.

Since the Planning Board's review and approval, the proposed ordinance was revised to include language which prohibits the un-merger of a lot when the lot has unpaid real estate taxes or a real estate tax lien thereon.

Attached is a copy of the amendment for review.