



City of Gainesville  
 Department of Sustainable Development  
 Planning Division

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## CITY PLAN BOARD STAFF REPORT

**PUBLIC HEARING DATE:** May 25 2023

**PROJECT NAME AND NUMBER:** RSF-4 and Non-Conforming Text Amendment LD23-000054

**APPLICATION TYPE:** Text Change (Legislative)

**RECOMMENDATION:** Approve

**CITY PROJECT CONTACT:** Juan Castillo

### APPLICATION INFORMATION

**Applicant:** Andrew Coffey

### PURPOSE AND DESCRIPTION

This is a private initiated petition by applicant Andrew Coffey requesting a text amendment to the Land Development Code that proposes to reduce side setbacks for properties located within Single Family Residential zones 4 (RSF-4) from 7.5 feet to 5 feet. This proposal also adds provisions that would allow porches to encroach on the front setbacks of properties located in RSF-4 zones. Lastly, this proposal amends the land development code in Sec.30-10.3 Nonconforming lots by eliminating a requirement that prohibits legal lots from falling under the definition of substandard lots.

### STAFF ANALYSIS AND RECOMMENDATION

#### Reducing Side Setbacks for Lots Located in Single Family Residential Zone 4 (RSF-4)

A setback is defined as a line parallel to the property line which is determined by measurement from the lot line. This measurement creates an area between the lot line and the setback line in which all structures (unless otherwise exempted) may not be erected. For example, the structure



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of a house cannot impact the established setbacks by encroaching on the defined setback areas. However, there are times where some structures are permitted within principle established setbacks. Accessory structures for example have smaller setbacks that allows them to be erected closer to property lines thus encroaching on the principle and larger setback. For example, the RSF-4 zoning district has a rear principal setback of 10 feet meaning that a house cannot be constructed in the area between the rear lot line and 10 feet from that lot line. However, for accessory structures, the rear setback is established at 5 feet meaning that an accessory structure (think storage shed) can be erected right outside the area between the rear lot line and five feet from that lot line. This is an encroachment of five feet into the principal structure setback.

As mentioned above, the applicant is proposing to amend the Single-Family Residential Zone 4 (RSF-4) to amend the side setbacks for lots from 7.5 feet to 5 feet. This includes side setbacks for the property side located next to another property and side setbacks that are located next to a right of way.

## Setbacks for Residential Zones

	RSF-1	RSF-2	RSF-3	RSF-4	RC	MH	RMF-5	RMF-6	RMF-7	RMF-8
<b>MIN. SETBACKS (ft.)</b>										
Front	20 <sup>4</sup>	20 <sup>4</sup>	20 <sup>4</sup>	20 <sup>4</sup> <del>5</del>	10 <sup>5</sup>	15	10 min. 100 max.	10 min. 100 max.	10 min. 100 max.	10 min. 100 max.
Side (street)	10	10	7.5	<del>7.5</del> 5	NA	NA	15	10 <sup>3</sup> /15	10 <sup>3</sup> /15	10 <sup>3</sup> /15
Side (interior) <sup>6,7</sup>	7.5	7.5	7.5	<del>7.5</del> 5	5	5	10	5 <sup>3</sup> /10	5 <sup>3</sup> /10	5 <sup>3</sup> /10
Rear <sup>7,8</sup>	20	20	15	10	20	15	10	10	10	10
Rear, accessory	7.5	7.5	5	5	5	5	5	5	5	5

<sup>5</sup> = Attached stoops or porches meeting the standards in sections 30-4.13 and 30-4.14 are permitted to encroach up to five feet into the minimum front yard setback.

**\*Changes to RSF-4 denoted in red.**

It is not expected that the proposed would have an adverse impact to existing development. Moreover, it's not expected that the proposed text amendment would adversely impact the characteristics of existing single-family neighborhoods. A five feet side setback currently exists within Residential Conservation Zoning (RC). RSF-4 also contains the least size requirements



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out of all the single-family zones which helps to restrict the development of single-family homes. Five feet setbacks would help to provide development flexibility for single family homes.

### **Allowance of Porch Encroachment on front setback.**

In this request, the applicant is also requesting a text amendment to the RSF-4 zoning district that would allow the construction of front porches to encroach on the front setback. Currently, RSF-4 has a front setback of 20 feet and does not allow for any structure to encroach into the setback. The proposed would amend this limitation by allowing porch structures to encroach into the 20 feet front setback.

Staff has reviewed the request for the encroachment. The proposed is not expected to produce an adverse impact to single family homes or destroy the character of existing single-family neighborhoods.

### **Amendment to the text language for non-Conforming lots.**

Along with the amendment to side setbacks and the allowance of porch encroachment in the front setback area within the RSF-4 zoning district, the applicant is also asking for a text amendment to the Land Development Code concerning non-conforming lots. A non-conforming lot is defined as any lot that does not meet the requirements laid out in the respective zoning district for minimum lot area, lot depth or lot width, for any use. There are two types of non-conforming lots: non-conforming, and legal non-conforming lots. A non-conforming lot often occurs where an aspect of a lot failed to meet previous lot standards as well as current lot standards and was created outside of the legal process. Thus, the lot historically has never met applicable regulations both at the time of its creation and present time. On the other hand, a legal-nonconforming lot is a lot that at the time of its creation or at one point in time met city regulations, however at some point, city regulations or zoning designations may have changed, changing the once conforming lot to a status of non-conforming. However, due to the fact that the lot was once legal, the lot is allowed to continue its use as a legal-nonconforming lot. Nevertheless, if the legal non-conforming lot is ever re-developed, the lot is required to come into compliance with current city standards.

In certain instances, a lot that is deemed legal nonconforming can be considered conforming if it meets certain criteria. By meeting the criteria and consequently becoming a conforming lot, the lot would not need to meet additional standards at the time of re-development concerning lot size. Those criteria can be found in LDC Sec: 30-10.3.



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The criteria are as follows:

1. The lot is not a substandard lot
2. The lot is located within 500 feet of two or more lots that:
  - a. Are developed with a principal structure
  - b. The lot shares a substantially similar degree of the same nonconformity (lot area, or lot width).

One of the criteria for determining a legal nonconforming as a conforming lot is that the lot in question is not a substandard lot. This is the requirement this application requests to amend.

A substandard lot is defined as:

“...a nonconforming lot that meets any one of the following criteria:

- A. Has less than 5,000 square feet of lot area in a district where the minimum required lot area is 5,000 feet or greater;
- B. Has less than 80% of the minimum required lot area in a district where the minimum required lot area is less than 5,000 square feet; or
- C. Has a lot width or lot depth that is less than 50 percent of the minimum required lot width or lot depth in the specific district.”

The requested text amendment removes the substandard lot requirement from the conformity of Sec. 30-10.3 allowing for the construction of smaller homes in historically smaller lots. This would allow for the development of currently vacant parcels that have had difficulty in finding ways to develop due to lot size restrictions as well as their conformity status. The applicant provides more details in the accompanying report.

## **Consistency with the Comprehensive Plan**

The requests associated with this petition are consistent with the City of Gainesville’s currently adopted Comprehensive Plan. Below are some of the objectives and policies that speak to the request:

Policy 1.1.3 Neighborhoods should contain a diversity of housing types to enable citizens from a wide range of economic levels and age groups to live within its boundaries.

*The elimination of the nonconforming language and the reduction of setbacks will allow for smaller homes to be built which would promote a diversification of single family home types.*



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Policy 1.2.6 The City should encourage or require buildings to put “eyes on the street” with front facade windows and doors.

*Allowing for the encroachment of porches into the front setback promotes architectural opportunities for neighbors to put “eyes on the street”*

Objective 1.5 Discourage the proliferation of urban sprawl.

*Approving this request would allow for certain vacant lots to be developable and would promote infill development consequently reducing the need to build outside of urban areas.*

Policy 1.1.4 The City shall review and evaluate zoning and other regulations that pertain to housing to insure that requirements continue to be reasonable and do not unduly limit opportunities for lower income groups to secure housing in desirable locations.

*This proposal has the opportunity to facilitate single family development by removing barrier that have historically been prohibitive to smaller home developments. By approving the proposed text change, conditions would favor the redevelopment of certain smaller lots with smaller which may potentially be more affordable.*

Objective 1.2 Provide a variety of housing types and densities for moderate-income, low-income, very low-income, and extremely low-income people.

*Like Policy 1.1.4, this proposal would encourage the creation of a smaller single family home unit which may provide the opportunity to more effectively produce housing for a wide range of moderate to extremely low-income people.*

## **RECOMMENDATION**

Staff recommends

## **DRAFT MOTION FOR CONSIDERATION**

I move to approve petition LD23-000054 RSF-4 and Non-conforming text amendment



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## APPENDICES

### Appendix A. – Proposed Amendment and Applicant Report

**EXHIBIT A: PROPOSED AMENDMENT AND APPLICANT REPORT**

**PROPOSED TEXT AMENDMENTS  
PETITION LD23-000054**

**I. PROPOSED TEXT AMENDMENTS.**

Proposed text amendments to Sec. 30-4.17, Table V-5: Residential Districts Dimensional Standards and to Sec. 30-10.3(A) are indicated below in strikethrough (for deletion) and underline (for addition):

**Sec. 30-4.17. Dimensional standards.**

The following tables contain the dimensional standards for the various uses allowed in each district:

**Table V-5: Residential Districts Dimensional Standards.**

	RSF-1	RSF-2	RSF-3	RSF-4	NR	RC	MH	RMF-5	RMF-6	RMF-7	RMF-8
<b>DENSITY/INTENSITY</b>											
Residential density (units/acre)											
Min.	None	None	None	None	None	None	None	None	8 <sup>1</sup>	8 <sup>1</sup>	8 <sup>1</sup>
Max. by right	3.5	4.6	5.8	8	12	12	12	12	10	14	20
With density bonus points	-	-	-	-	-	-	-	-	See Table V-6	See Table V-6	See Table V-6
Nonresidential building coverage	35%	35%	40%	40%	40%	50%	50%	50%	50%	50%	50%
<b>LOT STANDARDS</b>											
Min. lot area (sq. ft.)	8,500	7,500	6,000	4,300	3,000	3,000	3,000	3,500	None	None	None
Min. lot width (ft.)											
Single-family	85	75	60	50	35	35	35	40	40	40	40
Two-family <sup>2</sup>	NA	NA	NA	NA	35	70	NA	75	40	40	40
Other uses	85	75	60	50	35	35	35	85	85	85	85
Min. lot depth (ft.)	90 <sup>4</sup>	90 <sup>4</sup>	90 <sup>4</sup>	80 <sup>4</sup>	None	None	None	90	90	90	90
<b>MIN. SETBACKS (ft.)</b>											
Front	20 <sup>4</sup>	20 <sup>4</sup>	20 <sup>4</sup>	20 <sup>4</sup> <del>5</del>	10 <sup>5</sup>	10 <sup>5</sup>	15	10 min. 100 max.	10 min. 100 max.	10 min. 100 max.	10 min. 100 max.
Side (street)	10	10	7.5	<del>7.5</del> <u>5</u>	5	NA	NA	15	10 <sup>3</sup> /15	10 <sup>3</sup> /15	10 <sup>3</sup> /15
Side (interior) <sup>6,7</sup>	7.5	7.5	7.5	<del>7.5</del> <u>5</u>	5	5	5	10	5 <sup>3</sup> /10	5 <sup>3</sup> /10	5 <sup>3</sup> /10
Rear <sup>7,8</sup>	20	20	15	10	10	20	15	10	10	10	10
Rear, accessory	7.5	7.5	5	5	5	5	5	5	5	5	5
<b>MAXIMUM BUILDING HEIGHT (stories)</b>											
By right	3	3	3	3	3	3	3	3	3	3	3
With building height bonus	N/A	NA	NA	NA	N/A	NA	NA	NA	5	5	5



# PROPOSED TEXT AMENDMENTS

## PETITION LD23-000054

### LEGEND:

1 = Parcels 0.5 acres or smaller existing on November 13, 1991, are exempt from minimum density requirements.

2 = Assumes both units on one lot. Lot may not be split, unless each individual lot meets minimum lot width requirement for single-family. Lot may not be split when the two-family dwelling is configured vertically.

3 = Applicable only for two-family dwellings.

4 = Lots abutting a collector or arterial street shall have a minimum depth of 150 feet and a minimum building setback of 50 feet along that street.

5 = Attached stoops or porches meeting the standards in sections 30-4.13 and 30-4.14 are permitted to encroach up to five feet into the minimum front yard setback.

6 = Except where the units are separated by a common wall on the property line of two adjoining lots. In such instances, only the side yard setback for the end unit is required.

7 = Accessory pre-engineered or pre-manufactured structures of 100 square feet or less and one story in height may be erected in the rear or side yard as long as the structure has a minimum yard setback of three feet from the rear or side property line, is properly anchored to the ground, and is separated from neighboring properties by a fence or wall that is at least 75 percent opaque.

8 = Accessory screened enclosure structures, whether or not attached to the principal structure, may be erected in the rear yard as long as the enclosure has a minimum yard setback of three feet from the rear property line. The maximum height of the enclosure at the setback line shall not exceed eight feet. The roof and all sides of the enclosure not attached to the principal structure shall be made of screening material.

### Sec. 30-10.3. - Nonconforming lots.

A. *Certain lots deemed conforming.* A legally nonconforming lot that meets the following criteria shall be deemed conforming:

~~1. The lot is not a substandard lot; and~~

~~2.~~ The lot is located within 500 feet of two or more lots that:

a. Are developed with a principal structure, and

b. Share a substantially similar degree of the same nonconformity (lot area, lot depth, or lot width).

**PROPOSED TEXT AMENDMENTS  
PETITION LD23-000054**

**II. EXPLANATION OF REQUEST.**

**A. RSF-4 SETBACKS.**

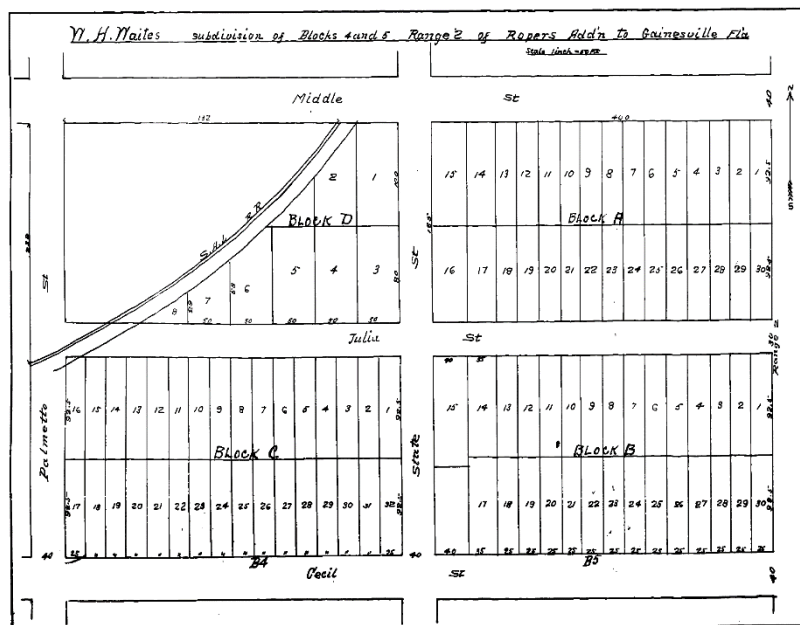
The current minimum setbacks in the RSF-4 zoning district are significantly larger than the minimum required under the Florida Residential Building Code. As a result, building placement on small lots within the RSF-4 district is restricted to a narrow area that inhibits site planning around existing trees. On some lots, the area within the setbacks is so limited that a single family home must be constructed with two stories rather than one, which adds cost and renders housing less affordable. On some narrow lots, the area within the setbacks is not wide enough to allow for a driveway adjacent to the house, and a driveway can only be situated in front of the house.

Reducing the side setback from 7.5 feet to 5 feet and allowing porches to encroach up to 5 feet within the front setback will allow for more affordable housing types, create more opportunities for tree preservation, and allow for better site planning with less prominent driveway and parking configurations.

**B. SUBSTANDARD LOTS.**

The proposed amendment to the restrictions on substandard lots will allow more affordable single family homes to be built on existing lots within the City, where consistent with the existing development pattern of the neighborhood.

In many neighborhoods, a plat delineating lot boundaries is the basis for the historic development pattern and transfers of land ownership. In older neighborhoods, a plat generally predates the current zoning standards. As a result, existing platted lots may be rendered not buildable because they are “substandard”.<sup>1</sup> For example, the W.H. Waite’s Subdivision (Plat Book A, Page 153) located in southeast Gainesville, was platted circa 1925 and created new lots, most being 25 feet wide.



<sup>1</sup> **Substandard lot** means a nonconforming lot that meets any one of the following criteria:

- A. Has less than 5,000 square feet of lot area in a district where the minimum required lot area is 5,000 feet or greater;
- B. Has less than 80% of the minimum required lot area in a district where the minimum required lot area is less than 5,000 square feet; or
- C. Has a lot width or lot depth that is less than 50 percent of the minimum required lot width or lot depth in the specific district.

**PROPOSED TEXT AMENDMENTS  
PETITION LD23-000054**

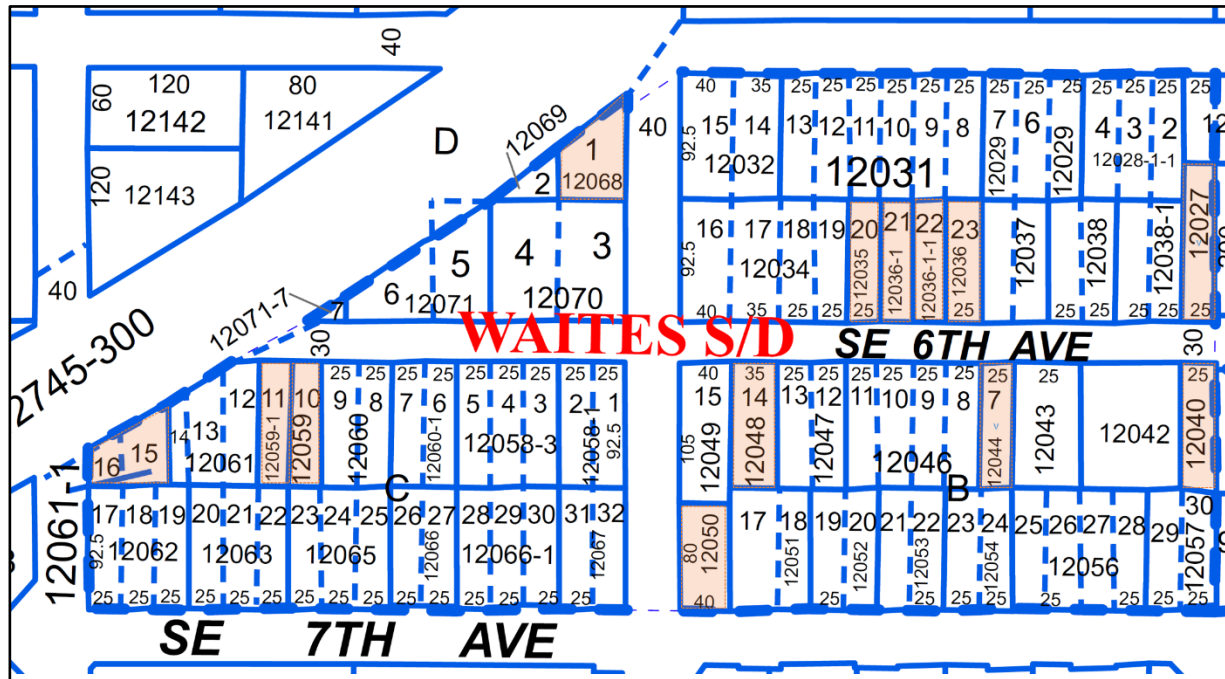
The small houses pictured below are representative of the historic development pattern that emerged on the narrow lots created by the W.H. Waite’s Subdivision plat.



Until it was removed from the code in 2017, the W.H. Waite’s Subdivision was subject to the Traditional City Overlay Zoning District, which allowed for minimum lot widths of 24’ with shared driveways. The area is now zoned RSF-4, which requires a minimum lot width of 50’ and minimum lot area of 4,300 square feet. As a result, many of the tax parcels within the W.H. Waite’s Subdivision are not buildable today because they are “substandard” – notwithstanding the traditional development pattern and existing houses on narrow lots.

There are now many unbuildable lots where derelict buildings have been demolished, property taxes have gone unpaid, and vegetation has become overgrown. There is no incentive for investment in upkeep of these vacant properties and redevelopment is not possible because the lots are deemed “substandard”. The parcel map below indicates the current tax parcels within the W.H. Waite’s Subdivision that are “substandard” and not buildable.

**PROPOSED TEXT AMENDMENTS  
 PETITION LD23-000054**



The proposed text amendment will allow nonconforming lots to be developed consistent with historic development patterns and development of more affordable housing. Consistency is ensured by the remaining code provisions that only allow for a house to be built on nonconforming lots that are located near two or more lots that were developed historically with similar nonconformities.

**C. EFFECT OF TEXT AMENDMENTS.**

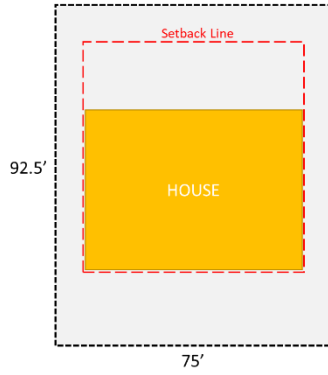
The proposed text amendments allows for construction of smaller single family homes on existing platted lots where consistent with the historic development pattern of the neighborhood. Allowing houses to be built on individual platted lots creates the opportunity for more affordable housing types to be built for sale.

The following three drawings illustrate possible development of a 75' wide parcel consisting of 3 platted lots on SE 6<sup>th</sup> Avenue under the current zoning and with the proposed amendments. The first drawing illustrates a large single family home that was recently built on a similarly sized infill lot. The second drawing illustrates a single family home with an attached and a detached accessory dwelling unit, which were also recently built on a similarly sized infill lot. The third drawing illustrates a small single family home constructed on each of the historically platted lots, each of which can be sold separately to individual homeowners at affordable prices. This third scenario is made possible by the proposed text amendments.

**PROPOSED TEXT AMENDMENTS  
PETITION LD23-000054**

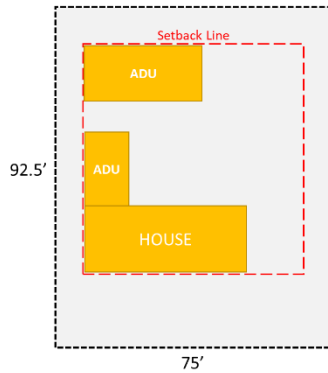
**DEVELOPMENT ALLOWED UNDER CURRENT ZONING:**

**1. Large Single Family Home**



Lot Size	75' x 92.5'
Total House Size	2,876 Sq. Ft.

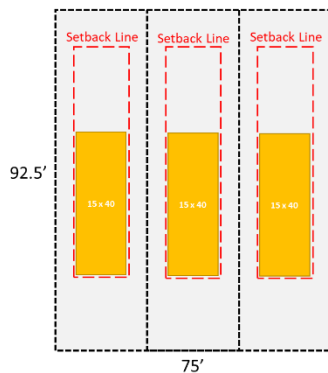
**2. Single Family Home with 2 ADU's**



Lot Size	75' x 92.5'
House Size	1,584
ADU Size	480
ADU Size	850
<b>TOTAL</b>	<b>2,914 Sq. Ft.</b>

**DEVELOPMENT ALLOWED WITH PROPOSED AMENDMENTS:**

**3. Three Small Single Family Homes**



Lot Size	75' x 92.5'
House Size	950
House Size	950
House Size	950
<b>TOTAL</b>	<b>2,850 Sq. Ft.</b>