

City of Jacksonville, Florida

Lenny Curry, Mayor

City Hall at St. James
117 W. Duval St.
Jacksonville, FL 32202
(904) 630-CITY
www.coj.net

April 22, 2021

The Honorable Tommy Hazouri, President
The Honorable Michael Boylan, LUZ Chair
And Members of the City Council
City Hall
117 West Duval Street
Jacksonville, Florida 32202

RE: Planning Commission Advisory Report
Ordinance No.: 2021-175

Dear Honorable Council President Hazouri, Honorable Council Member and LUZ Chairperson Boylan and Honorable Members of the City Council:

Pursuant to the provisions of Section 30.204 and Section 656.129, *Ordinance Code*, the Planning Commission respectfully offers this report for consideration by the Land Use and Zoning Committee.

Planning and Development Department Recommendation: **Approve**

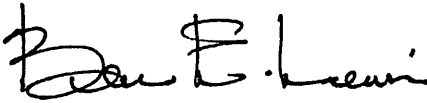
Planning Commission Recommendation: **Approve**

Planning Commission Commentary: There were no speakers in opposition and little discussion among the Commissioners.

Planning Commission Vote:	6-0
Joshua Garrison, Chair	Aye
Dawn Motes, Vice Chair	Absent
David Hacker, Secretary	Aye
Marshall Adkison	Absent
Daniel Blanchard	Aye
Ian Brown	Aye
Alex Moldovan	Aye
Jason Porter	Aye

If you have any questions or concerns, please do not hesitate to contact me at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Bruce E. Lewis". The signature is written in a cursive style with a large, stylized initial "B".

Bruce E. Lewis
City Planner Supervisor – Current Planning Division
City of Jacksonville - Planning and Development Department
214 North Hogan Street, Suite 300
Jacksonville, FL 32202
(904) 255-7820
blewis@coj.net

REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

The Planning and Development Department hereby forwards to the Planning Commission, Land Use and Zoning Committee, and City Council its comments and recommendations on:

ORDINANCE 2021-175

AN ORDINANCE REGARDING CHAPTER 656 (ZONING CODE), ORDINANCE CODE; CREATING A NEW SECTION 656.720 (NONCONFORMING USE ADMINISTRATIVE DEVIATION), PART 7 (NONCONFORMING LOTS, USES AND STRUCTURES), CHAPTER 656 (ZONING CODE), ORDINANCE CODE, TO PROVIDE FOR ADMINISTRATIVE DEVIATIONS FOR CERTAIN NONCONFORMING USES; PROVIDING AN EFFECTIVE DATE.

I. GENERAL INFORMATION

The bill amends Chapter 656 (Zoning Code), Ordinance Code, to create a process that allows a nonconforming use to be resumed subject to certain standards.

II. EVALUATION

A. The need and justification for the change

The Zoning Code defines a nonconforming use or lot as “a use or activity on a lot which lawfully existed prior to the adoption, revision or amendment of this ordinance, but which fails by reason of such adoption, revision or amendment to conform to the zoning district in which the same is located.” While Part 7 of the Zoning Code addresses the issue of nonconforming uses, the ability to take advantage of these provisions goes away if the use ceases for a period of twelve consecutive months. In the case of nonresidential uses in residential zoning districts, this time can be as short as six consecutive months.

Once the legal nonconforming status is lost, the only way to restore the prior use is to rezone the property to a zoning district that permits the prior use. This leads to spot zonings and can interrupt the cohesion of the zoning for a given area.

This bill creates a process by which the Zoning Administrator can restore the legal nonconforming status to a property under certain circumstances. Should the Zoning Administrator deny the request, the property owner still has the right to ask the City Council to rezone the property.

B. The relationship of the proposed amendment to the Comprehensive Plan and the work of the Department with appropriate consideration as to whether the proposed amendment will further the purposes of the Zoning Code and Comprehensive Plan.

This bill is consistent with the spirit and intent of both the Comprehensive Plan and the Zoning Code in that it is the intent of the legislation to protect and preserve the public health, safety and welfare of the people of the City of Jacksonville by promoting and sustaining the viability of existing and emerging residential and commercial areas. Restoring the legal nonconforming status to a lot can have a positive effect by allowing the reuse of a vacant structure which could otherwise have a blighting impact on the surrounding area. It also would reduce the frequency of rezoning requests that would be considered spot zoning.

III. RECOMMENDATION

The Planning and Development Department recommends that **Ordinance 2021-175** be approved.

1 Introduced by Council Members Bowman, Boylan, Diamond, Ferraro,
2 Freeman, Gaffney and White:
3
4

5 **ORDINANCE 2021-175**

6 AN ORDINANCE REGARDING CHAPTER 656 (ZONING
7 CODE), *ORDINANCE CODE*; CREATING A NEW SECTION
8 656.720 (NONCONFORMING USE ADMINISTRATIVE
9 DEVIATION), PART 7 (NONCONFORMING LOTS, USES AND
10 STRUCTURES), CHAPTER 656 (ZONING CODE),
11 *ORDINANCE CODE*, TO PROVIDE FOR ADMINISTRATIVE
12 DEVIATIONS FOR CERTAIN NONCONFORMING USES;
13 PROVIDING AN EFFECTIVE DATE.
14

15 **WHEREAS**, certain nonconforming uses serve the public interest
16 by providing services that are not readily available, or serving a
17 cultural, historic, or artistic purpose in a neighborhood; and

18 **WHEREAS**, rezoning these properties could lead to spot zoning
19 and result in greater impacts to a neighborhood than the impacts from
20 such nonconforming uses; and

21 **WHEREAS**, providing a process to review and permit such
22 nonconforming uses to continue serves a public purpose while also
23 protecting surrounding properties by limiting such nonconforming uses
24 through the administrative deviation process, as described herein;
25 now, therefore

26 **BE IT ORDAINED** by the Council of the City of Jacksonville:

27 **Section 1. Creating a new Section 656.720 (Nonconforming**
28 **Use Administrative Deviation), Part 7 (Nonconforming Lots, Uses and**
29 **Structures), Chapter 656 (Zoning Code), Ordinance Code. Part 7**
30 **(Nonconforming Lots, Uses and Structures), Chapter 656 (Zoning Code),**
31 **Ordinance Code, is hereby amended to create a new Section 656.720**

1 (Nonconforming Use Administrative Deviation) as follows:

2 **Chapter 656 - ZONING CODE**

3 * * *

4 **PART 7. - NONCONFORMING LOTS, USES AND STRUCTURES**

5 * * *

6 **Sec. 656.720. - Nonconforming Use Administrative Deviation.**

7 (a) The Zoning Administrator, or if absent, as designated by
8 the Director, is authorized to grant nonconforming use administrative
9 deviations in areas outside of the Downtown Overlay Zone as defined
10 in Section 55.105, pursuant to this Section, notwithstanding any
11 other provision of this Chapter. The procedures for administrative
12 deviations in Part 1 of this Chapter shall apply to nonconforming use
13 administrative deviations pursuant to this Section, except as
14 modified by this Section.

15 (b) The property and use shall meet the following application
16 requirements:

17 (1) The property shall be less than one acre.

18 (2) Development on the property shall not exceed the
19 impervious surface limits in this Chapter for the Zoning District
20 with similar uses. An applicant may propose modifications to the
21 property in the application to meet this requirement.

22 (3) The property shall have been used for the
23 nonconforming use at some point prior to April 25, 1991.

24 (4) The nonconforming use requested shall be the same
25 nonconforming use that existed at some point prior to April 25, 1991.

26 (5) The nonconforming use shall not be an industrial use
27 or any use for the sale or service of alcoholic beverages, including
28 liquor, beer or wine.

29 (6) The nonconforming use shall be an authorized use in
30 the property's current future land use category pursuant to the
31 comprehensive plan.

1 (c) In order to authorize a nonconforming use administrative
2 deviation, the Zoning Administrator shall first determine whether the
3 application meets the application requirements in subsection (b).
4 The Zoning Administrator shall not grant a nonconforming use
5 administrative deviation unless the Zoning Administrator makes a
6 positive finding, based on the substantial competent evidence, on
7 each of the following criteria. The Zoning Administrator may impose
8 conditions or restrictions to mitigate impacts of the nonconforming
9 use.

10 (1) The request is not based exclusively upon a desire to
11 reduce the cost of developing the site, but would accomplish some
12 result that is in the public interest, such as, for example, providing
13 services that are not readily available (food desert, medical
14 services, social services), or serving a cultural, historic, or
15 artistic purpose in the neighborhood.

16 (2) The nonconforming use will not substantially diminish
17 property values in, nor alter the essential character of, the area
18 surrounding the site and will not substantially interfere with or
19 injure the rights of others whose property would be affected by the
20 deviation.

21 (3) The nonconforming use will not be detrimental to the
22 public health, safety or welfare, result in additional public expense,
23 the creation of nuisances, or conflict with any other applicable law.

24 (4) The nonconforming use can be made personal to the
25 applicant (non-transferable).

26 **Secs. 656.7201-656.724. - Reserved.**

27 * * *

28 **Section 2. Effective Date.** This Ordinance shall become
29 effective upon signature by the Mayor or upon becoming effective
30 without the Mayor's signature.

1 Form Approved:

2

3 /s/ Shannon K. Eller

4 Office of General Counsel

5 Legislation Prepared By: Shannon K. Eller

6 GC-#1422100-v1-Nonconforming_Uses_Legislation