



# Staff Report

**MEETING DATE:** April 27, 2023

**TITLE:**

Consider and act on amending Consider and act on amending SEC. 2.4.001 NONCONFORMING USES AND STRUCTURES Continuing Lawful Use of Property & Existence of Structures item (4) No nonconforming use or Structure may be expanded, reoccupied with another nonconforming use, or increased as of the effective date of this Code, unless authorized by the ZBA by adding an administrative relief component for residents.

**BACKGROUND/HISTORY**

At the March 30, 2023 meeting, staff presented the following information, “The B3 code, as adopted, requires all existing uses and structures who do not meet the B3 standard to be considered nonconforming, also known as “grandfathered”. Nonconforming uses are intended to move the community into current planning, building code, and design standards.

An unexpected consequence of the B3 code, was the disparate impact it would have on residents in predominantly low-income areas, or the large extent of the town that would be considered nonconforming and what that actually would mean to residents.

This agenda item seeks to provide administrative relief to residents and businesses in that section of the code.

An example of this impact is an applicant who wishes to add a concrete driveway in the first layer of the lot on Fayette Street. There is an existing gravel driveway that is narrow and has been used for parking for over 50 years. The existing code, as written, would not allow the driveway because it does not allow expansion of an existing nonconforming structure to occur. The applicant would need to request a variance to the Zoning Board of Adjustment at a significant cost in order to install the driveway.

If the intent of the code is to keep “authentic Bastrop”, a common nonconforming planning practice should be applied; that is a radius of 200 ft or less, is taken from the property in question. If more than 50% of the properties surrounding it have similar circumstances, then it would be allowed. The reasoning is that it allows the neighborhood to retain its character without major legislative approvals, instead an internal administrative approval can be obtained.”

At the subsequent city council meeting, Councilmember Kirkland discussed additions to the Planning and Zoning Commission recommendation. After discussion on the floor, it was recommended to remand this back to the Planning and Zoning Commission for further public dialogue.

The additions Councilmember Kirkland wished to add are as follows:

- The application is for a structure that does not directly increase or expand the characteristics that render the use or structure nonconforming.

- Routine repairs and nonstructural alterations shall be permitted if not extending or enlarging the characteristics that render the use or structure nonconforming.
- Nonconforming structures damaged by an unavoidable casualty may be replaced or repaired if the necessary permits are sought and repairs commence within 2 years of the damage.
- The act of real estate acquisition of the subject property or nearby property by a governmental agency shall not render a use or building nonconforming.

**AGENDA ITEM SUBMITTED BY:**

Submitted by: Sylvia Carrillo, City Manager

**RECOMMENDATION:**

Staff recommended amendment to amending Continuing Lawful Use of Property & Existence of Structures by adding an administrative relief component for residents. This also includes the additions Councilmember Kirkland seeks to add.

**ATTACHMENTS:**

Proposed code amendment documents.