



Metropolitan Nashville and Davidson County, TN

Legislation Details (With Text)

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File created: 11/15/2023 **In control:** Planning and Zoning Committee

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Title: An ordinance to amend Title 17 of the Metropolitan Code of Laws, the Zoning Ordinance of the Metropolitan Government of Nashville and Davidson County, to amend Chapters 17.04, 17.12, and 17.40 pertaining to lot averaging, all of which is described herein (Proposal No. 2023Z-007TX-001).

Sponsors: Jennifer Gamble, Burkley Allen, John Rutherford, Tonya Hancock

Indexes:

Code sections:

Attachments: 1. Amendment No. 1 to BL2023-120

Date	Ver.	Action By	Action	Result
3/15/2024	1	Metropolitan Council	effective	
3/8/2024	1	Mayor	approved	
3/7/2024	1	Metropolitan Council	passed on third reading as amended	
3/6/2024	1	Planning and Zoning Committee	approved with an amendment	
2/20/2024	1	Metropolitan Council	passed on second reading	
2/20/2024	1	Metropolitan Council	public hearing	
1/23/2024	1	Metropolitan Council	deferred	
12/22/2023	1	Metropolitan Council	advertised	
12/5/2023	1	Metropolitan Council	passed on first reading	
11/28/2023	1	Metropolitan Council	filed	
11/9/2023	1	Planning Commission	approved	Pass

An ordinance to amend Title 17 of the Metropolitan Code of Laws, the Zoning Ordinance of the Metropolitan Government of Nashville and Davidson County, to amend Chapters 17.04, 17.12, and 17.40 pertaining to lot averaging, all of which is described herein (Proposal No. 2023Z-007TX-001).

WHEREAS, NashvilleNext, Metro’s General Plan adopted in 2015, identifies the importance of providing residents with access to usable open space for recreation and leisure activities which fosters strong, diverse neighborhoods as the building blocks of our community; and

WHEREAS, Plan to Play, The Nashville Parks & Greenway Plan adopted in 2017, identifies open space as an important community asset that provides benefits including enhancing air and water quality, moderating temperature, providing wildlife habitat, and better quality of life for residents; and

WHEREAS, open space associated with residential development brings a number of benefits toward creating healthy and livable communities; and

WHEREAS, open space creates room for the filtering of impurities and nutrients from stormwater runoff and

recharging ground water; and

WHEREAS, the Metropolitan Nashville City Council approved the Conservation Development proposal to replace the Cluster Lot Option in MC 17.12.090 which created a need for a development standard allowing for flexibility in development patterns within existing zoning allowances to balance development with usable open space; and

WHEREAS, updating the standards of the zoning code pertaining to the Lot Averaging will help ensure that flexibility of lot size and development pattern are appropriately linked with the quantity and quality of open space achieved by the proposed development.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1: That Section 17.04.060 of the Metropolitan Code of Laws is amended by adding the following definitions in alphabetical order:

“Open space” means public or privately held land used for stormwater management, use that is not explicitly residential, mixed-use, commercial, or industrial, and active or passive recreation, including, but not limited to parks, plazas, courtyards, playing fields, trails, greenways, and golf courses.

“Useable open space” means public or privately held land used for active or passive recreation, including, but not limited to parks, plazas, courtyards, playing fields, trails, greenways, and golf courses.

Section 2: That Chapter 17.12 of the Metropolitan Code is hereby amended by deleting section 17.12.080 Lot Averaging in its entirety and replacing it with the following:
17.12.080 - Compact Development

A. Purpose and Intent. Compact Development is a set of alternative zoning standards that may be utilized in the design of residential subdivisions. It is the purpose of this section to provide for the health and welfare of residents by creating the opportunity for a diversity of housing and recreational opportunities by creating usable open space and allowing for a mixture of residential lot sizes.

Applicability. Subdivisions proposed in the R/RS and R/RS-A zoning districts where less than ten percent of the site contains any, or a combination of, the natural areas as defined in 17.12.090 and meet one of the following standards may utilize the provisions of this section.

1. Proximal Option Minimum Site Area. Property located within 0.25 miles of any MCSP classified arterial or collector street shall have a minimum site area of no less than five (5) times the minimum lot area for the base zoning district as established by Table 17.12.020A. For example, in the R10 district the minimum area for the subdivision would be fifty thousand square feet. (Ten thousand square feet minimum lot size times five.)
2. Distal Option Minimum Site Area. Property located more than 0.25 miles of any MCSP classified arterial or collector street shall have a minimum site area of no less than ten (10) times the minimum lot area for the base zoning district as established by Table 17.12.020A. For example, in the R10 district the minimum area for the subdivision would be one hundred thousand square feet. (Ten thousand square feet minimum lot size times ten.)

B. Maximum Lot Yield. 80% of the gross acreage shall be divided by the minimum lot size of the base zoning district to determine the maximum yield. For example, a one hundred thousand square foot RS5 zoned property shall only be permitted to have at most 16 lots.

C. Design Flexibility. In order to accomplish the purpose of this section, flexibility in lot sizes may be proposed in exchange for the creation of open space on the site according to the following standards:

1. Utilization of the Compact Development shall result in the creation of open space. A minimum of 15 percent of the site shall be placed in open space.
 2. Lot Size Flexibility.
 - a. Subdivisions may reduce lots in size from the minimum required by the base zoning district an equivalent of two smaller zoning districts. For example, a subdivision in the R15 district may utilize the compact development standard to create lots equivalent in size to the R8 and R8-A district. In a similar fashion, a subdivision in the RS15 district may create lots equivalent in size to the RS7.5 and RS7.5-A district.
 - b. If additional usable open space is provided, beyond the minimum requirement, a subdivision may reduce the minimum lot size by an equivalent percentage beyond the two-zoning district reduction.
 - i. Subdivisions proposed in all R/RS districts where there are at least two smaller zoning districts, excluding RS7.5/RS7.5-A, RS5/RS5-A, and RS3.75/RS3.75-A may reduce their lot size no more than 10% beyond the two-district district reduction with an additional dedication of 10% useable open space (at least 15% total useable open space), and shall be based on the reduced size zoning district. For example, if a subdivision in R10 utilizing the reduced lot size of the R6 district sets aside ten percent usable open space then the lot sizes may be reduced an additional five percent. The reduced lot size would be reduced from a minimum 6,000 square feet lot to a minimum 5,700 square feet.
 - ii. Subdivisions proposed in R8/R8-A districts may reduce lots in size from the minimum required by the base zoning district by an additional equivalent percentage of the site that is in usable open space, with a maximum additional reduction of 20 percent. For example, a subdivision in a R8 district utilizing the R6 lot standards that dedicates an additional 20% useable open space (at least 25% total useable open space) may reduce the lot size to 4,800 square feet.
 - iii. Subdivisions in the R6/R6-A districts that have no district lot size reduction available, lots may be reduced in size by the equivalent percentage of the site that is in the open space, with a max reduction of 30%. For example, a subdivision in an R6 district dedicating an additional 30% useable open space (at least 35% total useable open space) may reduce lot size to 4,200 square feet.
 - c. No lot shall be reduced to less than 3,750 square feet.
 3. Lots proposed for two-family dwellings shall meet the minimum lot size of the base zoning district (no reduction of lot area permitted) and shall comply with the standards of 17.16.030.D of this title.
 4. Development in hillside and floodplain areas shall follow those standards as set out in Chapter 17.40.
 5. Tree removal in a compact development shall follow the standards of Chapter 17.28.65 and 17.40.
 6. The standards for the review of critical lots as provided in the adopted Subdivision Regulations shall apply.
 7. The bulk standards and landscaping requirements of a comparable zoning district which most closely resembles the alternative lot sizes proposed for any given phase of development shall be employed for that phase of the subdivision, except for any standard that is addressed within this ordinance.
 8. Perimeter lots that are reduced in size from the minimum lot size requirements required by the base zoning district and are abutting a conventional R/RS subdivision shall be required to utilize a 20-foot standard B landscape buffer yard, unless located within the Urban Zoning Overlay, as per 17.24 Article IV Landscape Buffer Yard Requirements. If the perimeter lots meet the minimum size of the base zoning district, no landscape buffer yard is required.
 - a. Landscape buffer yards shall be permitted within an access easement on individual lots, provided the easement connects to common open space that is accessible from the public right-of-way.
- D. Open Space Standards. The required fifteen percent open space of a Compact Development may contain usable open space and stormwater features as required and described in this section.
1. Usable Open Space & Features. A minimum of five percent of a compact subdivision's total area shall be usable open space. One usable feature shall be installed for subdivisions containing between four and ninety-nine total residential units, plus an additional usable feature for every one-hundred residential units, or portion thereof, in excess of the first ninety-nine units. Usable features shall not be

located in regulatory no-disturb stormwater buffers or floodway as determined by Metro Water Services. Any usable feature proposed to be located in floodplain shall not be fenced or contain impervious surfaces. Usable features, as approved by the Planning Commission or their designee, may include but are not limited to:

- a. Paved greenway trails or trailhead facilities identified in the Metropolitan Parks and Greenways Master Plan and located within publicly accessible greenway conservation easements to the benefit of the Metropolitan Greenways Commission or Metro Parks;
 - b. Walking or bicycle trails;
 - c. Reflective, passive recreation areas such as picnic shelters, gazebos, or shared docks;
 - d. Playgrounds with benches and pedestrian scale lighting;
 - e. Dog parks with benches and pedestrian scale lighting;
 - f. Stormwater mitigation facilities such as bioretention, bioswale, or rain garden, designed as an amenity and provided in conjunction with other usable features mentioned in this section; a stormwater feature alone shall not count as usable open space;
 - g. Other active recreational or play facilities including but not limited to paved game courts such as tennis, basketball, or volleyball courts, swimming pools, baseball/softball diamonds or other facilities;
 - h. Historic or cultural sites with walkways and interpretive signage;
 - i. Unstructured open play areas for practice or pickup games;
 - j. Low impact recreation options (i.e. bocce ball, horseshoes, outdoor chess tables);
 - k. Conservation of natural features as defined in 17.12.090.
2. Stormwater Features. The following uses may count toward the open space stormwater feature component of this section:
- a. Required stormwater mitigation measures such as reforestation;
 - b. Stormwater control measures, such as retention and detention basins, and other conventional stormwater facilities as approved by the Planning Commission, or their designee, and by Metro Water Services.
3. If a property is located within 0.25 miles of local, state, or federal park a 5% reduction in useable open space is permitted, and Compact Development subdivision is required to have 10% total open space.
- a. For the purpose of this section greenways shall not be considered parks.
4. Compact Development subdivisions shall attain a tree density factor of at least twenty-two units per acre using retained or replacement trees, or a combination of both.
5. Regardless of whether sidewalks are installed, street trees shall be required on new and existing streets.
- a. If sidewalks are installed, street trees shall be planted within the grass strip/green zone for any sidewalk constructed, dependent on roadway classification and right-of way availability.
 - b. If no sidewalks are installed, street trees are required to be located within the right-of-way, dependent on roadway classification and right-of way availability.
 - c. Trees shall be installed according to the provisions of the Metro Nashville Street Tree Specifications prepared and maintained by Metro Water Services in conjunction with Nashville Department of Transportation, Planning, and Codes.
 - d. Street trees shall be chosen from the Urban Forestry Recommended Tree List. Canopy trees shall be installed, except where conflicts with overhead electrical powerlines exist. In those instances, understory trees may be substituted.
 - e. Required street trees shall be depicted on a landscape plan. The landscape plan and specifications shall be prepared by, or under the direction of, and bear the seal of a professional landscape architect registered in Tennessee.
 - f. Trees installed pursuant to this section shall be eligible for credit toward tree density required by Chapter 17.28 of this title.
6. Configuration and Access. To the maximum extent practicable given the configuration, the open space shall be in a contiguous tract. When possible, usable open space shall be centrally located, directly accessible to the largest practicable number of lots within the subdivision, have street frontage and each lot shall be no more than 1,320 feet from usable open space as measured from the perimeter of

the open space to individual lot lines. Non-adjacent lots shall be provided with pedestrian access to the usable open space via direct access or an access easement designated on the plat.

7. Ownership and Management.
 - a. Open space and street trees within a Compact Development shall be owned and maintained by an incorporated association for the mutual benefit of residents or property owners within the development and shall be adequately described on a recorded plat of subdivision approved by the planning commission. All property owners within a Compact Development subdivision shall be a member of the association which shall be responsible for the assessment of dues to cover the recurring costs of maintaining all open space areas and usable features. Articles of incorporation and bylaws shall be submitted and approved according to the subdivision regulations.
 - b. In limited circumstances where the open space is identified on the Greenways Master Plan or within the Parks Master Plan, the developer may offer the open space for dedication to Metro Parks subject to approval and acceptance by Metro Parks Board and Metro Council as appropriate.
 - c. Open Space Management Plan. With the concept plan applicants shall submit a plan for the management of the open space, common open space, and street trees which allocates responsibility and guidelines for maintenance and operation of the open space and any facilities located within the open space areas. If the open space is restricted via a conservation easement in the favor of a bona fide land trust or other permanently established organization legally able to accept such easements, a stewardship plan or other management plan associated with the conservation easement may be provided in lieu of the open space management plan.
 - d. Failure to maintain. When the failure of an association or other responsible party to properly maintain open space results in a public nuisance, the zoning administrator is empowered to initiate appropriate measures to eliminate the nuisance. If public funds are utilized to remove a nuisance and/or maintain open space, those costs shall be assessed proportionally against all property owners within the development in the form of a tax lien. This provision shall not apply to any open space that has been dedicated to and accepted by the metropolitan government.
- E. For the purpose of this section (17.12.080), a property shall be determined to be located within 0.25 miles of an Arterial Boulevard, Collector Avenue, or park when 50% or greater area of the subject site lies within a buffer when measured from the edge of right-of-way or site boundary.
- F. A property that is required to utilize Conservation Development, as stipulated by 17.12.090, that has since been modified to remove natural features after the adoption of this ordinance shall be prohibited from utilizing Compact Development as determined by Staff.
 1. All agricultural uses, including but not limited to commercial nurseries, botanical gardens, tree farms and grove operations shall be exempt, but only as to those trees and sites which were planted or managed for silvicultural or agricultural purposes or for the sale or intended sale in the ordinary course of business.
 2. Any applicant that contests Staff determination of the removal of natural features shall be required to provide an individual assessment that natural features disturbed or removed were done so prior to the adoption of this ordinance.
- G. Application Requirements.
 1. The subdivision concept plan (preliminary plat) shall clearly indicate that a compact development is proposed and shall be prepared in accordance with the procedures and requirements of the Metro Subdivision Regulations.
 2. All submittals shall clearly show and label the required open space and usable open space and features documenting that these requirements have been met.
 3. Concurrent with the submittal of the concept plan, the applicant shall prepare and submit a site analysis map that identifies the natural areas as defined in 17.12.090. Documentation of, or determinations regarding the areas from appropriate Metro, State or Federal agencies or official maps or resources, if applicable, shall also be provided.

Section 3: That Chapter 17.40 of the Metropolitan Code is hereby amended to modify the list of

Sections/Tables in subsection 17.40.340.A as follows:

Section 17.12.080 (Compact Development)

Section 4: That Chapter 17.40 of the Metropolitan Code is hereby amended by deleting the introductory paragraph of 17.40.380 and replacing it with the following:

Requests for exceptions from the hillside development standards of Chapter 17.28 shall be administered and decided in conformance with the requirements of this article. The board shall have no authority to vary lot areas within platted residential developments utilizing compact or conservation development provisions of Chapter 17.12.

Section 5: The Metropolitan Clerk is directed to publish a notice announcing such change in a newspaper of general circulation within five days following final passage.

Section 6: This Ordinance shall take effect upon publication of above said notice announcing such change in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance amends Sections 17.04.060, 17.12.080, 17.40.340, and 17.40.380 of the Metropolitan Code to replace the existing lot averaging provision in the code with new compact development provisions. In addition, the ordinance adds definitions for “Open space” and “Useable open space”, which are related to the proposed compact development standards. As proposed, the compact development provisions would provide alternative zoning standards for residential subdivisions that create open space and allow for a mixture of lot sizes, including lot sizes that are smaller than what would otherwise be allowed by the applicable residential zoning district.

The current lot averaging provision allows for the adjustment of the minimum required lot size between lots within a subdivision or phase of a subdivision to accommodate natural features and topographic changes. It does so by allowing lots to be 90% of the required minimum size, provided that the average size of all lots within the applicable subdivision or phase of a subdivision is equal to or greater than the minimum required lot size. The lot averaging provision has functionally been replaced by the conservation development provisions in Section 17.12.090 of the Metropolitan Code, which were adopted in 2022 pursuant to Ordinance No. BL2022-1121. These provisions also allow for reduced lot sizes to protect natural features.

The ordinance under consideration would enable the reduction of lot sizes to the equivalent of two zoning districts smaller than the applicable zoning district provided that the following conditions are met:

- The property being subdivided is at least five times the size of the minimum lot size required by the

applicable zoning district;

- At least 15% of the area of the subdivision will be reserved for open space; and
- At least 5% of the open space meets the definition of usable open space.

Lot sizes may be further reduced by an equivalent amount to additional usable open space provided beyond what is required. The ordinance defines “usable open space” as public or privately held land used for active or passive recreation, including, but not limited to, parks, plazas, courtyards, playing fields, trails, greenways, and golf courses. Additionally, lots along the perimeter of a subdivision utilizing the compact development provisions may be reduced in size with the dedication of a landscape buffer when adjacent to conventional subdivisions.

The total number of lots created on a property being subdivided using the compact development provisions cannot exceed what would be allowed within a conventional subdivision under the applicable zoning district. To account for the presence of roads and other required infrastructure within a conventional subdivision that reduces the potential number of lots, the compact development provisions base the maximum lot yield permitted on 80% of the site.

The Planning Commission recommended approval of this ordinance at their November 9, 2023, meeting.