

ORDINANCE NO. _____

ORDINANCE AMENDING ARTICLES 2, 31, 32, 33 AND 36 RELATED TO NON-CONFORMING USES AND STRUCTURES; AND DELETING SECTIONS 5.11, 6.11, 8.12, 9.12, 10.12, 11.10, 12.10, 13.11, 15.11 RELATED TO LOT SIZE EXCEPTIONS; AND DELETING SECTION 31.8 RELATED TO FENCES AND WALLS; AND AMENDING SECTION 32.10 RELATED TO ACCESSORY BUILDINGS OF THE REDWOOD CITY ZONING CODE

The City Council of Redwood City does ordain as follows:

Section 1. That Article 2 (Definitions) of the Redwood City Zoning Code is hereby amended to add new Sections 2.4 (Abandonment of Use), 2.5.05 (Alteration), 2.35.3 (Enlargement of a Nonconforming Structure), 2.35.4 (Expansion of a Nonconforming Use), 2.69 (Nonconforming Lot), 2.69.5 (Nonconforming Parking), and 2.84 (Repair) to read as follows:

"2.4 Abandonment of Use.

To cease or discontinue a use or activity, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a structure, or during normal periods of vacation or seasonal closure."

"2.5.05 Alteration (see also Structural Alteration).

Any change, addition or modification in construction or occupancy."

"2.35.3 Enlargement of a Nonconforming Structure.

To increase the height, footprint, floor area, volume, or coverage of a nonconforming structure or any portion of the structure, or to decrease the distance from any portion of the structure to a property line."

"2.35.4 Expansion of a Nonconforming Use.

To enlarge a structure housing a nonconforming use, or to increase the floor area of a nonconforming use within a structure, or to occupy a larger area on the site, or to intensify the occupancy of the nonconforming use and associated activities such that additional impacts, such as noise, traffic, or parking, are likely to result."

"2.69 Nonconforming Lot.

Any lot having less area or dimensions than are required in the district in which the lot is located, and that was lawfully created prior to the adoption of the current zoning requirements for lot area or dimensions. Lots not legally established shall be deemed to be illegal lots."

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"2.69.5 Nonconforming Parking.

Parking for any use, structure or site for which current parking standards are not met due to the number, size and/or location of parking spaces, or related design criteria for driveway access or parking backup area, but that complied with applicable parking requirements at the time the use, structure or site development was established. Parking that does not comply with applicable parking requirements in effect at the time the development was established shall be deemed to be illegal."

"2.84 Repair(s).

The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The term "repair" or "repairs" shall not apply to any other change in a structure such as would be required by additions to or structural alterations to such structure."

Section 2. That, Sections 2.70 (Nonconforming Structure), 2.71 (Nonconforming Use), 2.98 (Structural Alterations), and 2.107 (Use, Change of) of Article 2 of the Redwood City Zoning Code are hereby amended in their entirety to read as follows:

"2.70. Nonconforming Structure.

Any structure legally constructed or established which fails to conform to the regulations of this ordinance, other than use regulations, for the district in which it is located by reason of adoption of this ordinance, or any amendment thereto, or by reason of annexation of territory to the City. Structures not legally established, which fail to conform to the provisions of this ordinance, shall be deemed to be illegal structures."

"2.71. Nonconforming Use.

A use legally established and existing which fails to conform with the use regulations, including residential density limitations, of the district in which it is located by reason of adoption of this ordinance, or any amendment thereto, or by reason of annexation of territory to the City. Uses not legally established, which fail to conform to the provisions of this ordinance, shall be deemed to be illegal uses."

"2.98. Structural Alteration.

Any change in the supporting members of a structure, such as foundations, bearing walls, columns, or girders."

"2.107. Use, Change of.

The replacement of an existing use by a new use, or a change in the nature of an existing use, but not including: a change of ownership, tenancy, or management where the previous nature of the use, line of business, or other function is not substantially changed. A change in the existing nature of the use may include, but is not limited to, changes in the characteristics of the use or associated activities that are likely to result in increased impacts, such as noise, traffic or parking."

Section 3. That Section 4.11 (Lot Size Exception) of Article 4 (RH (Residential – Hillside) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 4. That Section 5.11 (Lot Size Exception) of Article 5 (R-1 (Residential – Single-Family) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 5. That Section 6.11 (Lot Size Exception) of Article 6 (R-2 (Residential – Duplex) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 6. That Section 8.12 (Lot Size Exception) of Article 8 (R-3 (Multi-Family – Low Density) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 7. That Section 9.12 (Lot Size Exception) of Article 9 (R-4 (Multi-Family – Medium Density) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 8. That Section 10.12 (Lot Size Exception) of Article 10 (R-5 (Multi-Family – High Density) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 9. That Section 11.10 (Lot Size Exception) of Article 11 (PO (Professional Office) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 10. That Section 12.10 (Lot Size Exception) of Article 12 (CA (Central Administrative) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 11. That Section 13.11 (Lot Size Exception) of Article 13 (CN (Neighborhood Commercial) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 12. That Section 15.11 (Lot Size Exception) of Article 15 (CG (General Commercial) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 13. That Section 17.11 (Lot Size Exception) of Article 17 (IR (Industrial – Restricted) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 14. That Section 18.15 (Lot Size Exception) of Article 18 (IP (Industrial Park) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 15. That Section 29.10 (Lot Size Exception) of Article 29 (CO (Commercial Office) District), of the Redwood City Zoning Code is hereby deleted in its entirety.

Section 16. That Section 31.8 (Fences and Walls) of Article 31 (Special Provisions), of the Redwood City Zoning Code is hereby deleted in its entirety.

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Section 17. That Section 32.10 (Accessory Buildings), subsection C, of Article 32 (Special Provisions), of the Redwood City Zoning Code is hereby amended in its entirety to read as follows:

“C. Existing nonconforming accessory structures may be repaired or reconstructed, provided that there is no increase in the nonconformity caused or created by such structure.”

Section 18. That Article 33 (Nonconforming Uses and Structures) of the Redwood City Zoning Code is hereby amended in its entirety to read as follows:

“Article 33 Nonconforming Lots, Uses, Structures and Parking.

33.1 Purpose.

To permit the continued operation of existing uses and structures which do not otherwise conform to the provisions of this ordinance; to allow for limited repair, maintenance and alterations of nonconforming structures; to guard against such uses becoming a threat to more appropriate development; and to provide for the eventual elimination of those uses likely to be most objectionable to their neighbors.

33.2 Development of Nonconforming Lots.

A nonconforming lot or parcel may be used for development subject to compliance with all other provisions of this ordinance and other applicable codes. A nonconforming lot may not be further reduced in area or dimension, except by variance.

33.3 Continuation of Nonconforming Uses.

Except as otherwise provided in this article, any nonconforming use may be continued even though such use does not conform to the provisions of this ordinance for the district in which it is located. No use established in violation of any zoning ordinance previously in effect shall be continued unless such use subsequently comes into conformity with the provisions of this ordinance.

33.4 Conditional Uses.

Any nonconforming use which is listed as a conditional use in the district in which it is located, shall be and remain a nonconforming use until a Use Permit is obtained, except as provided in Section 42.10.

33.5 Expansion of Nonconforming Use.

A nonconforming use shall not be expanded unless a Use Permit is granted for such expansion. A nonconforming use shall not be expanded to displace a conforming use. To grant such a Use Permit, the Zoning Administrator must first find, in addition to the findings required by Section 42.3, that at least one of the following three circumstances exist:

- a) The resultant use and/or project design will reduce current adverse impacts on adjacent properties and/or on the general public; or
- b) The resultant use and/or project design will help preserve an historic resource; or
- c) The expansion of the use or the enlargement of a structure housing a nonconforming use is necessary to comply with a requirement imposed by law for the operation of the particular use, including but not limited to regulations for disabled access or seismic retrofit.

33.6 Change of Nonconforming Use.

A nonconforming use shall not be changed to, or substituted for, another nonconforming use unless a Use Permit is granted for such change or substitution. To grant such a Use Permit the Zoning Administrator must first find, in addition to the findings required by Section 42.3, that the resultant use will be more consistent with the uses permitted in the district than the former use.

33.7 Change to a Conforming Use.

When a nonconforming use has been changed to a conforming use, the nonconforming use shall not be re-established thereafter.

33.8 Abandonment of Use.

- a) A nonconforming use shall not be re-established in any structure in a residential zoning district if such nonconforming use has ceased for a six (6) consecutive month period.
- b) A nonconforming use shall not be re-established in any structure in a nonresidential zoning district if such nonconforming use has ceased for a twelve (12) consecutive month period.
- c) In the event of a nonconforming use of land not involving any structure other than fences and structures or buildings of less than four hundred (400) square feet in area, the nonconforming use shall not be re-established if such nonconforming use has ceased for a period of ninety (90) consecutive days.

33.9 Continuation of Existing Structures.

Except as otherwise provided in this article, any structure lawfully existing at the time of enactment of this ordinance or any amendment thereto, or at the time of inclusion of such structure within the City, may be continued even though such structure does not conform to the provisions of this ordinance for the district in which it is located. Any structure which was constructed in violation of any zoning ordinance previously in effect shall be removed or modified to conform to the provisions of this ordinance.

33.10 Enlargement of Nonconforming Structures.

- a) A nonconforming structure being used for a nonconforming use shall not be enlarged or altered unless a Use Permit is granted for such changes and the new portion conforms to the regulations of the district in which it is

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located and if the permitted lot coverage is not exceeded by the combined structure(s) on the site. To grant such a Use Permit, the Zoning Administrator must first find, in addition to the findings required by Section 42.3, that at least one of the following three circumstances exist:

- 1) The resultant use and/or project design will reduce current adverse impacts on adjacent properties and/or on the general public; or
 - 2) The resultant use and/or project design will help preserve an historic resource; or
 - 3) The expansion of the use or the enlargement of a structure housing a nonconforming use is necessary to comply with a requirement imposed by law for the operation of the particular use, including but not limited to regulations for disabled access or seismic retrofit.
- b) A nonconforming structure being used for a conforming use may be enlarged or structurally altered if the new portion conforms to the regulations of the district in which it is located and if the permitted lot coverage is not exceeded by the combined structure(s) on the site.

33.11 Repair of Nonconforming Structures.

Notwithstanding the provisions of Section 33.10, any nonconforming structure may be repaired and/or altered, provided that:

- a) for single-family, two-family (duplex), and three-family (triplex) residential structures, no more than seventy percent (70%) of the floor area per residential unit may be structurally altered and at least two habitable rooms (e.g., living room, family room, kitchen or bedroom) per residential unit must remain without alterations, unless the entire structure is brought into compliance with zoning requirements. Calculations shall not include garage floor area, but shall include all cumulative repair, maintenance and alterations over any five (5) year period.
- b) for all other structures, no more than seventy percent (70%) of the floor area may be altered unless the entire structure is brought into compliance with zoning requirements. Calculations shall not include garage floor area, but shall include all cumulative repair, maintenance and alterations over any five (5) year period.
- c) The foregoing limitations may be exceeded with respect to repairs or alterations to single-family, two-family (duplex) and three-family (triplex) structures which are nonconforming only as to parking requirements, subject to the provisions of Sections 33.16 and 33.17 of this article.
- d) Existing nonconforming accessory structures may be repaired or reconstructed, provided that there is no increase in the nonconformity caused or created by such structure.

33.12 Replacement of Destroyed or Damaged Nonconforming Structures.

Notwithstanding the foregoing, any nonconforming structure destroyed or damaged by fire, flood, explosion, wind, earthquake, war, riot, or other public calamity or act of nature, shall not be reconstructed except upon complying with all provisions of this ordinance applicable to the district where the structure is located, except as follows:

- a) If occupied by a conforming use, the structure may be replaced or reconstructed to the same size and extent as before the damage occurred, provided that rebuilding commences not later than one (1) year after destruction, and so long thereafter as the building permit remains valid.
- b) If occupied by a nonconforming residential use, the structure may be replaced or reconstructed to the same size and extent as before the damage occurred, provided that rebuilding commences not later than one (1) year after destruction and so long thereafter as the building permit remains valid.
- c) If occupied by a nonconforming nonresidential use, a nonconforming structure damaged to the extent of one-half (1/2) of its current replacement cost or less may be replaced or reconstructed to the same size and extent as before the damage occurred, provided that rebuilding commences not later than one (1) year after destruction and so long thereafter as the building permit remains valid. In the event damage occurs to the extent of more than one-half (1/2) the current replacement cost, the structure shall not be reconstructed except upon complying with all the provisions of this ordinance applicable to the district in which the structure is located. Current replacement cost means the present day cost to rebuild the entire structure, and shall be determined by the Zoning Administrator.
- d) For purposes of this section, "same size and extent" means with respect to floor area, setbacks, coverage, height, and residential density of the original structure.

33.13 Replacement of Voluntarily Demolished, Destroyed or Damaged Nonconforming Structures.

Any nonconforming structure demolished, destroyed or damaged by means other than those listed in the prior Section 33.12 shall not be reconstructed except upon complying with all provisions of this ordinance applicable to the district in which the structure is located, except where all of the following circumstances exist:

- a) The structure houses a conforming use; and
- b) The structure is replaced or reconstructed to the same or a lesser size and extent as the original structure; and
- c) A Use Permit is granted, and the Zoning Administrator finds, in addition to the findings required by Section 42.3, that compliance with current

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standards is impractical and that the proposed reconstruction will conform to current standards to the greatest extent practical.

33.14 Repair of Unsafe Structures.

The provisions of this article shall not be construed to preclude the repair or alteration of any part of any structure declared to be unsafe by the Building Official when such repairs or alterations are for the purpose of restoring the structure to a safe condition.

33.15 Completion of Structures.

The provisions of this ordinance shall not be construed to preclude the completion of any structure upon which lawful construction has begun prior to the time of enactment of this ordinance or any amendment thereto, or prior to the time of inclusion in the City.

33.16 Nonconforming Parking – Single-Family Residential.

- a) A single-family use or structure that is nonconforming due to the number of parking spaces, may be enlarged, provided:
 - 1) the addition does not occupy existing available parking area;
 - 2) the structure is located in the RH, R-1, R-2, R-3, R-4, or R-5 Zoning Districts;
 - 3) the structure will have no more than three (3) bedrooms after the enlargement is completed;
 - 4) the structure will not exceed two thousand (2,000) square feet in total living area after the enlargement is completed, except as provided in provision 7) below;
 - 5) existing parking spaces on the site are covered, and were legally established at their current dimensions; and
 - 6) a minimum driveway width of ten feet (10') is provided, or a lesser width is provided where existing and legally established at that width; and parking access and backup constraints do not prohibit use of the existing space(s); and
 - 7) The square footage limitation of 2,000 square feet may be exceeded where a Use Permit is approved, subject to meeting the following criteria:
 - (i) That the Single Family Dwelling property will have no more than three (3) bedrooms after the enlargement.
 - (ii) That the enlargement not be intended for use as or conversion to a bedroom or used for sleeping purposes.
 - (iii) That acceptable enlargements be limited to kitchen enlargements, bathroom additions and appurtenant utility/service areas and storage.
 - (iv) That the total net enlargement will not exceed 200 square feet (gross) over the life of the subject property.
 - (v) That the enlargement not require a variance or other additional special exception other than for the existing nonconforming parking condition.

- (vi) That the property is equal to or exceeds the minimum site area requirement for a single family dwelling.
 - (vii) That the property does not contain an accessory dwelling.
- b) A single-family use or structure that is nonconforming due only to the size or location of parking spaces (but has an adequate number of spaces), and/or the size and location of its garage or carport (or related design criteria for driveway access or parking backup area), may be enlarged, provided:
- 1) the addition does not occupy existing available parking area;
 - 2) existing parking spaces on the site are covered and were legally established at their current dimensions;
 - 3) a minimum driveway width of ten feet (10') is provided, or a lesser width is provided where existing and legally established at that width; and
 - 4) access and backup constraints do not prohibit use of existing spaces.

33.17 Nonconforming Parking – Two-Family (Duplex) and Three-Family (Triplex) Residential.

- a) A two-family (duplex) or three-family (triplex) use or structure that is nonconforming due to the number of parking spaces, may be enlarged, provided:
- 1) the addition does not occupy existing available parking area;
 - 2) the structure is located in the R-2, R-3, R-4, or R-5 Zoning Districts;
 - 3) at least one additional covered parking space is provided per unit to be enlarged, that reduces or eliminates the parking nonconformity;
 - 4) additional square footage does not exceed 250 square feet, and not more than one additional bedroom is added, per living unit;
 - 5) existing parking spaces on the site are covered and were legally established at their current dimensions; and
 - 6) a minimum driveway width of ten feet (10') is provided, or a lesser width is provided where existing and legally established at that width; and access and backup constraints do not restrict use of the existing spaces.
- b) A two-family (duplex) or three-family (triplex) use or structure that is nonconforming due only to the size or location of parking spaces (but has an adequate number of spaces), and/or the size and location of its garage or carport (or related design criteria for driveway access or parking backup area), may be enlarged, provided:
- 1) the addition does not occupy existing available parking area;

- 2) existing parking spaces on the site are covered and were legally established at their current dimensions;
- 3) a minimum driveway width of ten feet (10') is provided, or a lesser width is provided where existing and legally established at that width; and
- 4) access and backup constraints do not restrict use of existing spaces.

33.18 Nonconforming Parking – Multi-Family Residential.

A multi-family residential use or structure that is nonconforming due to the number, size or location of parking spaces, (or related design criteria for driveway access or parking backup area), may not be enlarged unless parking for the entire project is brought into compliance with the provisions of this Ordinance.

33.19 Nonconforming Parking – Nonresidential.

Any nonresidential use or structure that is nonconforming due to the number, size or location of parking spaces (or related design criteria for driveway access or parking backup area) may be changed to another use, expanded or enlarged only upon approval of a Use Permit. To grant such a Use Permit, the Zoning Administrator must find the following, in addition to the findings required by Section 42.3:

- a) Additional floor area or other site development does not occupy existing available parking area;
- b) Adverse parking impacts on adjacent properties will not result; and
- c) Parking is provided for any additional floor area or other expansion in compliance with this ordinance.

33.20 Multiple Nonconformities.

In the event that more than one nonconforming provision is applicable to a site, all relevant provisions in combination shall be applied, unless otherwise specified.

33.21 Interpretation.

In the event that the provisions above are unclear as to whether a particular change, repair, alteration, expansion, enlargement, or reconstruction of a nonconforming use or structure or parking may be permitted, the Zoning Administrator may require a Use Permit, including such additional findings as outlined above that may be applicable to the proposed use or construction.

33.22 Illegal Uses and Structures.

Nothing in this article shall be deemed to allow the use, change in use, repair, alteration, expansion, enlargement, or reconstruction of an illegal use or structure. Any such illegal use shall be discontinued and any such illegal structure shall be removed.

33.23 Compliance with Building and Fire Requirements.

In addition to the requirements specified in this article, any change in use, repair, alteration, expansion, enlargement, or reconstruction of a nonconforming use or a nonconforming structure shall comply with any applicable regulations of the Building Department and the Fire Department.

33.24 Not Applicable to Signs.

The provisions of this Article do not apply to signs. Signs are regulated by Chapter 3 of the City of Redwood City's Municipal Code.

Section 19. That a new Section 36.3, subsection D, of Article 36 (Streetscape Provisions), of the Redwood City Zoning Code be added to read as follows:

"D. Fences and walls exceeding six (6) feet in height require a Building Permit. Fees and regulations pertaining to the Building Permit are included in Chapter 9 of the Redwood City Code."

Section 20. That this Ordinance will take effect thirty (30) days after its adoption.

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**TABLE 1
NONCONFORMING USES AND STRUCTURES
SUMMARY OF PROPOSED REGULATIONS
(NOT INTENDED FOR INCLUSION IN CODE)***

	Nonconforming Uses	Nonconforming Structures
Continuation	May continue indefinitely	May continue indefinitely
Changes in Uses	Requires Use Permit and findings re: increased conformity and special circumstances	Not applicable
Expansion or Enlargement	Requires Use Permit and findings re: increased conformity and special circumstances	a) If nonconforming use: Requires Use Permit and findings b) If conforming use: New or altered portion must conform to current regulations
Cessation of Use	12 months, except 6 months for nonresidential use in residential zone, 3 months for use of land	Not applicable
Repair and maintenance	Allowed, but limited such that no more than 70% of the floor area may be structurally altered over any 5 year period, and at least two habitable rooms for each residential unit must remain unaltered.	Allowed, but limited such that no more than 70% of the floor area may be structurally altered over any 5 year period, and at least two habitable rooms for each residential unit must remain unaltered.
Replacement and reconstruction - damaged	<u>Nonresidential</u> - Allowed to rebuild to "same size and extent" if damaged 50% of value or less; otherwise conform; must commence rebuilding within one year. <u>Residential</u> - Allowed to rebuild to "same size and extent" (including density); must commence rebuilding within one year.	Allowed to rebuild to "same size and extent" if housing conforming use; must commence rebuilding within one year.
Replacement and reconstruction - voluntary	Must conform to current use requirements	If conforming use, may rebuild to "same size and extent" with Use Permit and findings that compliance is impractical; must commence rebuilding within one year.
Removal and Amortization	Delete current provisions.	Delete current provisions.

*Any change in use, repair, alteration, expansion, enlargement, or reconstruction of a nonconforming use or a nonconforming structure shall also comply with any applicable regulations of the Building Department and the Fire Department.

**TABLE 2
NONCONFORMING PARKING
SUMMARY OF PROPOSED REGULATIONS
(NOT INTENDED FOR INCLUSION IN CODE)**

Nonconforming Parking	Nonconforming Uses	Nonconforming Structures
Nonresidential	Change or expansion of use with nonconforming parking requires Use Permit, finding that a) expansion will not occupy existing available parking area, b) no adverse parking impacts on neighboring properties will result, and c) parking standards are met for any increase in floor area or intensity.	Enlargement of structure with nonconforming parking requires Use Permit, finding that a) expansion will not occupy existing available parking area, b) no adverse parking impacts on neighboring properties will result, and c) parking standards are met for any increase in floor area or intensity.
Multi-Family Residential	Expansion of multi-family residential use requires compliance with parking standards for the entire project.	Expansion of multi-family residential use requires compliance with parking standards for the entire project.
Single-Family Residential w/ Inadequate Number of Parking Spaces	May be enlarged, so long as addition will not occupy existing available parking area and: a) located in R zones; b) nonconforming only as to parking requirements; c) no more than 3 bedrooms; d) no more than 2,000 sq. ft. in total living area; and e) existing dimensions for parking width were legally established and access does not restrict use of spaces.	May be enlarged, so long as addition will not occupy existing available parking area and: a) located in R zones; b) nonconforming only as to parking requirements; c) no more than 3 bedrooms; d) no more than 2,000 sq. ft. in total living area; and e) existing dimensions for parking width were legally established and access does not restrict use of spaces.
Single-Family Residential w/Adequate # of Spaces	May be enlarged, so long as addition will not occupy existing available parking area, and minimum dimensions (above) are met.	May be enlarged, so long as addition will not occupy existing available parking area, and minimum dimensions (above) are met.
Duplex or Triplex Residential	Similar to single-family residential, with requirement to provide at least one additional parking space per residential unit to be enlarged and limit of 250 square feet maximum addition per residential unit, if number of parking spaces is nonconforming.	Similar to single-family residential, with requirement to provide at least one additional parking space per residential unit to be enlarged and limit of 250 square feet maximum addition per residential unit, if number of parking spaces is nonconforming.