

TITLE 21 COMMITTEE MEETING NOTES

11-8-07

Chapter 21.12, *Nonconformities*

The Committee came to order at 9:30 a.m. Debbie Ossiander was present on time. Dan Coffey arrived late. Sheila Selkregg did not attend the meeting.

The Committee began its work its discussion of the chapter 12, non-conformities, concentrating on the issue response document prepared by planning staff.

Issue #14: Damage or Destruction: After discussion the committee was satisfied with staff's response and recommendation.

Issue # 15: Abandonment or Cessation of Use. The staff's recommendation clarified the approving body.

Issue # 16: Overcoming Presumption of Abandonment: After discussion the committee was satisfied with staff's response and recommendation.

Issue # 17: Overcoming Presumption of Abandonment: The staff recommended clarifying amendment and the committee concurred.

Issue # 18: Continuation of Nonconforming Structures Generally: The staff recommended clarifying amendment and the committee concurred.

Issue # 19: Continuation of Nonconforming Structures Generally: After discussion the committee was satisfied with staff's response and recommendation.

Issue # 20 and 21 - moving a existing non-conforming structure requires conformity with the requirements of the code. The committee was concerned about the "bright line". Mr. Coffey suggested that this prohibition not apply if the square footage of the "structure" were greater and/or the presence or absence of a foundation relative to the size of any building. Variance allowance might be another solution.

Issue 22: The new code will provide for height limitations in all districts. This will allow structures built so that previously planned height additions could be accommodated by allowing an additional two stories whether or not the building either meets or exceeds the new height restrictions. The committee supports the staff proposed amendment.

Issue 23: conditional use approval-extends time period for construction. A public comment on this was that there may be external factors which delay application. The code should provide for an administrative extension in the one year application process, for good cause shown, the application process can be extended by the planning director and the building official (e.g. fire loss and litigation which prevents re-construction) The staff amendment in the Issue/Response for one year applies to the construction process commencement. The committee supports the staff proposed amendment and recommends an additional amendment relative to the application process.

Issue 24: A housekeeping amendment which brings code into conformity with other similar provisions.

Issue: 25: Moving Towards Conformity. After discussion, the committee is satisfied with the staffs comments and recommendation.

Issue 26: Approval Criteria same as issue 13. See minutes of 11-1-07.

Issue 27: Legalization of Non Conforming Dimensional Setback Encroachments. The airport commented that it does not recognize MOA jurisdiction over its land.

Issue 28: Legalization of Non Conforming Dimensional Setback Encroachments. Registration of non-conformities. The committee felt that the language (which is existing code) will be made clearer.

Issue 29: Towers and antennas. The public comment is correct and staff proposes to delete this provision. The committee concurs with the proposed staff amendment.

Issue 30: Non Conforming Lots of Record. TSAIA (airport) commented about its long standing practice of not platting its lease lots and its unwillingness to be governed by the MOA. This issue cannot be resolved.

Issue 31: Non Conforming Lots of Record. There are two issues here.

First, there a problem with a recent code amendment dealing with undersized lots and the construction of multi-family dwellings. Staff will bring an amendment in response.

Second, the staff has proposed an amendment dealing with non-residential zoned property. The committee supports the staff proposed amendment.

Issue 32: Legalization of Lots prior to 1975: Again, relates to TSAIA. This has not been an issue and cannot be resolved.

Issue 33: Legalization of Lots Created prior to 9-16-75. The issue here is the process. The committee reviewed the proposed amendment and suggested adding the word “federal” to the list of government entities which “created” lots. This will solve the problem of requiring BLM lots and other lots created by the federal government having to register to continue to be legal.

Issue 34: Legalization of Lots Created prior to 9-16-75 Deals with a footnote which is no longer in the public hearing draft.

Issues 35: Legalization of Lots Created prior to 9-16-75. After discussion, the Committee is satisfied with the staff response and recommendation.

Issues 36 and 37: Development Are Conforming: After discussion, the Committee is satisfied with the staff response and recommendation.

Issue 38 and 39: Parking: After discussion, the Committee is satisfied with the staff response and recommendation.

Issue 40, 41 & 42: Bringing Characteristics into Compliance. These provisions have been vetted many times during this process. The arguments pro and con still exist. These provisions have reduced the impact of code changes, while still requiring gradual movement towards conformity over time which reduces the financial impacts but still recognizes the need to get to code compliance over time.

Issue 43: UDC. UDC’s role is not defined. No change.

Issue 44: Bringing Characteristics into Compliance. This is the same issue as 40-42 which has been hashed out over time.

Issue 45: Non Conforming Signs. No footnotes in the public hearing draft. No longer an issue.