

**Assembly Title 21 Committee Meeting Notes
Wednesday, February 15, 2006**

Chapter 21.11 NONCONFORMITIES

Pg. ii General Provisions

L 3-10 Purpose

Public: Are school buildings and city buildings exempt from this?

Planning: No, they must move towards conformity with the rest of the area.

Public: This could cause a lot of problems since there are so many schools that will not conform to these new rules and the money isn't there now to maintain them.

Committee: These provisions only kick in when there is a remodel, right?

Planning: Yes

Public: They could be caught up in minor details required to come into compliance with even a small interior remodel. There will be a cost to the city and school district for this.

Pg. ii L 25-30

Committee: Would an existing business in R8 or R9 that doesn't have a conditional use permit have to go through this process to acquire a determination of nonconformity?

Planning: Some banks and lenders want to see that the business has taken this step or is conforming.

Committee: There is a real fear that this will cause economic hardships.

Planning: They are a nonconforming business even if they don't go through the process. They have grandfather rights. If the lender is comfortable with having the Title people explain that to them then they wouldn't have to go through the entire process.

Public: What if a person in a rural community wants a building permit. Don't they have to go through this process?

Planning: Yes

Public: It's a big expense when an owner wants a building permit and then has to go to the municipality to get a conditional use permit ahead of time.

Committee: In the Girdwood Plan didn't we allow the non-conforming setbacks and buildings to continue as long as they weren't made bigger? For the builder or property owner I'm worried about the breadth of this.

Planning: We allowed it for nonconforming setbacks, but we said the structures were nonconforming. We don't know how many properties will become non-conformities.

Pg. ii L 40-41

Public: The words "solely upon" puts a huge economic burden on the property owner.

Planning: Not all structures are legal. MOA shouldn't bear the cost.

Committee: If a property becomes nonconforming at the time of the adoption of this code then the presumption should be that it can continue to be nonconforming unless there is a problem. Otherwise, it's unfair.

Public: This paragraph needs to be toned down.

Pg. iii Section D L 1-7

Committee: Does this exclude leased property? The Calais Buildings are on leased land and it sounds like they would escape all this.

Public: It should be clarified.

Committee: Don't define land to mean fee simple.

Public: How can we find out how many commercial buildings in Anchorage would become non-conforming?

Planning: The things in 010 determine what is nonconforming. In 040 you have a right to repair a nonconformity as long as it doesn't get bigger.

Committee: Is single family residential excluded from 040 (nonconforming structures)?

Planning: Yes

Pg. iii L 33

Public: We think that replacement cost should be defined here.

Planning: We didn't think that since it's defined in Title 23 that we needed to duplicate it here.

Pg. iii L 39

Public: I think that "repair of uses" should be "repair a structure".

Pg. iv 21.11.020 Single and Two Family Structures L 2-13

Committee: Does the applicability section require a single family home to have to go through this process?

Planning: Yes, if they sell or remodel. You can't increase non-conformity.

Pg. iv L 30-33

Public: What if you had a car dealership that included use of the land.

Planning: If you have a nonconforming use then it can continue, but not grow into the surrounding property.

Public: So if there is a car dealership on one part of a lot and a snow machine dealership on another part, then if the snow machines go then the cars can move in?

Planning: If everything for the dealerships was inside, then it can't move outside. But the cars could move inside the building.

Public: That's open to interpretation.

Pg. v L 20

Public: For the Title 21 User Guide, we're not sure what's required and we're concerned.

Planning: We'll have a draft of that available before public hearings.

Section C is all new language.

Pg. v L 27-28

Public: It's quite a burden to post the application in the newspaper. (about \$2500).

Planning: What's required for notice hasn't been determined.

Public: Why do we need this if we are lessening the impact?

Committee: What is required now?

Planning: Now if you alter use no hearing is required. This is a more intensive requirement.

Committee: We may want to do some work on this. We want to keep the cost in mind.

Pg. v L 29-31

Public: It seems like a change to a less intense use is not permitted here.

Planning: We're allowing possible expansion of nonconforming use in this section. With current practice you have to go to the zoning board to increase use.

Public: We don't think you need the public process here. It's a burden.

Pg. vii Abandonment or Cessation of Use.

Section D 1 f L8

Committee: 12 months of shut off public utility service means a use is abandoned?

Public: If the water and sewer are turned off during remodel to conserve energy, but the heat is still on-- you're presumed guilty.

Planning: We added the utility service for one year.

Committee: This is too strict.

Pg. vii L15-16

Public: Change "all" to "most". You have to have equity in this document. This is all subjective.

Committee: It's an inappropriate emphasis when you have to meet all 6 items (Section D 1, a through f) to be deemed abandoned.

Pg. viii Nonconforming Structures L 22-25

Committee: I'm not sure what maximum setback means.

Planning: Maximum setbacks are required only in mixed use districts.

Committee: I'm concerned about the impact of this on mixed commercial areas in rural districts (Peters Creek and Chugiak).

Pg. x L 8-11

Public: Mobile Homes are not defined.

Committee: The definition used to include axles.

Planning: We are trying to work with the HAND Commission. We are actually being less restrictive in our definition here.

**Pg. x Legalization of Nonconforming Dimensional Setback Encroachments
L 12-15**

Committee: If a house is legal now and then we rezone and the dimensional setback is now nonconforming, how do we handle that?

Planning: You don't have to go through the process described in this chapter because 020 says single and two family residential are exempt.

Committee: What it doesn't say is that nonconformity is not as good a legal or economic status as conformity for residential.

Pg. x L 15-16

Public: I'm not clear about "may continue in existence".

Planning: This was carried forward and changed a bit not too long ago. Many buildings were nonconforming before 1986 because these requirements were not in place until then.

Committee: We passed an ordinance 10 years ago or so about this. Is it still a problem?

Planning: It was passed in 1998

Committee: You might want to tweak this.

Pg. x L 24-25

Public: You call for an as-built drawing by a surveyor here. That's really expensive.

Committee: What if there is an as-built already existing?

Planning: We could say "current as-built", but if it doesn't reflect all current structures, then it's not current.

Pg. xi L8

Public: Why must a permit be obtained in 180 days to rebuild an abandoned tower?

Planning: This was negotiated with the telecommunications folks.

Pg. xi L 37-43

Public: Why get nonconformity determination for platted lots?

Planning: Even if the city signed off on it it's the only way to make it conform.

Public: If it says it was platted before this date, then why not just accept it.

Committee: We passed an ordinance about nonconforming lots recently. Is it in here?

Planning: This does reflect what was passed. It's in 21.55.020 B

Public: There is a concern here. These could be considered nonconforming to the law.

Planning: We'd rather not have to register them all

Committee: We need to talk about registration to see if it's necessary.
Planning: We'll check to see if this reflects current ordinance.

Pg.xiii L 1-9

Public: We think 2.5% is ridiculously low.

Planning: The building official determines the specific amount. We talked about needing to define development project cost more clearly.

Committee: Why does it say "at least 10%"?

Public: It should be the owner who decides where to spend his money.

Planning: We wanted that to be the max we required, but if they wanted to do more then they could.

Public: Is landscaping the top priority here?

Planning: Yes

Public: How is that determined? Can we add accessibility?

Committee: Accessibility is already required under federal law.

Public: This is a big issue. This rewrite will create nonconformity that has to be brought into compliance. You might want to consider not labeling a building nonconforming.

Committee: This issue should be discussed thoroughly by the entire Assembly. We believe that the 2.5% on L2 should be looked at.

Pg. xiii Section 3 L 18

Public: Could you change the word "shall" to "may"?

Planning: If we changed it to may then it would all be voluntary.

Public: How about spend "up to" 10%?

Pg. xiii L 22-25

Public: On L 23 coming into compliance with "all" applicable provisions done before getting a permit could be hard.

Committee: What does this mean?

Planning: It means that you have to keep moving forward with a project.

Committee: Maybe you could clarify the language a bit.

Next meeting: Wednesday February 22nd, 2006

Planning Dept. 1st floor Conference Room
Finish chapters 12 and 13

