



CITY OF SANTA FE SPRINGS
SPECIAL MEETING OF THE PLANNING COMMISSION
MONDAY, OCTOBER 9, 2023
AT 5:00 P.M.

CITY HALL COUNCIL CHAMBERS
11710 TELEGRAPH ROAD
SANTA FE SPRINGS, CA 90670

PLANNING COMMISSION

Francis Carbajal, Chairperson
David Ayala, Vice Chairperson
Joseph Flores, Commissioner
Gabriel Jimenez, Commissioner
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CITY STAFF

Assistant Director of Planning
Associate Planner
Associate Planner
Assistant Planner
Planning Intern
Planning Intern
Planning Consultant
Planning Consultant
Planning Secretary

Cuong Nguyen
Vince Velasco
Jimmy Wong
Claudia Jimenez
Rudy Lopez
Pablo Castilla
Laurel Reimer
Alejandro De Loera
Teresa Cavallo

NOTICES

Public Comment: The public is encouraged to address Planning Commission on any matter listed on the agenda or on any other matter within its jurisdiction. If you wish to address the Planning Commission, please use the "Raise Hand" function via Zoom once the Chairperson opens Public Comment during the meeting. You may also submit comments in writing by sending them to the Planning Secretary's Office at teresacavallo@santafesprings.org. All written comments received by 12:00 p.m. the day of the Planning Commission Meeting will be distributed to the Planning Commission and made a part of the official record of the meeting. Written comments will not be read at the meeting, only the name of the person submitting the comment will be announced.

Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The Planning Commission may direct staff to investigate and/or schedule certain matters for consideration at a future Planning Commission meeting.

Americans with Disabilities Act: In compliance with the ADA, if you need special assistance to participate in a City meeting or other services offered by this City, please contact the Planning Secretary's Office. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

SB 1439: Effective January 1, 2023 Planning Commission Members are subject to SB 1439 and cannot participate in certain decisions for a year after accepting campaign contributions of more than \$250 from an interested person. The Planning Commission would need to disclose the donation and abstain from voting.

Please Note: Staff reports, and supplemental attachments, are available for inspection at the office of the Planning Secretary, City Hall, 11710 E. Telegraph Road during regular business hours 7:30 a.m.-5:30 p.m., Monday-Thursday and every other Friday. Telephone: (562) 868-0511.

You may attend the Planning Commission meeting telephonically or electronically using the following means:

Electronically using Zoom: Go to [Zoom.us](https://zoom.us) and click on "Join A Meeting" or use the following link:

<https://zoom.us/j/558333944?pwd=b0FqbKv2aDZneVRnQ3BjYU12SmJlQT09>

Zoom Meeting ID: 558 333 944

Password: 554545

Telephonically: Dial: 888-475-4499

Meeting ID: 558 333 944

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

EX PARTE COMMUNICATIONS

PUBLIC COMMENTS ON NON-AGENDA AND AGENDA ITEMS

At this time, the general public may address the Planning Commission on both non-agenda and agenda items. Please be aware that the maximum time allotted for members of the public to speak shall not exceed three (3) minutes per speaker. State Law prohibits the Planning Commission from taking action or entertaining extended discussion on a topic not listed on the agenda. Please show courtesy to others and direct all of your comments to the Chairperson.

PLANNING COMMISSION AGENDA

STUDY SESSION

1. Targeted Zoning Ordinance Update: Nonconforming Situations Presentation

RECOMMENDATION: That the Planning Commission:

- 1) That the Planning Commission receive the presentation and provide feedback for incorporation into the final draft Nonconforming Situations Ordinance, anticipated to be presented to the Planning Commission at the next regularly scheduled meeting on Monday, November 13, 2023.**

ADJOURNMENT

I, Teresa Cavallo, Planning Secretary Clerk for the City of Santa Fe Springs hereby certify that a copy of this agenda has been posted no less than 72 hours at the following locations; City's website at www.santafesprings.org; Santa Fe Springs City Hall, 11710 Telegraph Road; Santa Fe Springs City Library, 11700 Telegraph Road; and the Town Center Plaza (Kiosk), 11740 Telegraph Road.



Teresa Cavallo
Planning Secretary



CITY OF SANTA FE SPRINGS

PLANNING COMMISSION AGENDA STAFF REPORT

TO: Members of the Planning Commission

FROM: Wayne M. Morrell, Director of Planning

BY: Laurel Reimer, Planning Consultant

SUBJECT: **STUDY SESSION FOR A TARGETED ZONING ORDINANCE UPDATE - NONCONFORMING SITUATIONS**

DATE: October 9, 2023

RECOMMENDATION(S):

It is recommended that the Planning Commission:

- 1) Receive the staff presentation on the Nonconforming Situations portion of the Targeted Zoning Ordinance Update project and provide feedback for incorporation into the final draft prior to the public hearing(s). Since this is a study session, no action is required.

FISCAL IMPACT:

N/A

BACKGROUND/DISCUSSION:

The City Council adopted the 2040 General Plan on February 8, 2022, which was the City's first comprehensive General Plan update since 1993. To ensure consistency between the newly updated General Plan and the Zoning Code, a Targeted Zoning Ordinance update was adopted on August 15, 2023. The Targeted Zoning Ordinance Update included various amendments to ensure consistency with State Law and implementation of the overall character and vision outlined in the 2040 General Plan. Key components include:

- Establishment of standards for the three new Mixed-Use Zone Districts (MU, MU-TOD, and MU-DT);
- Establishment of standards for the new Multiple-Family/High Density Residential Zone District (R-4);

- Modification of existing standards for the Multiple-Family/Medium Density Residential Zone District (R-3), allowing for a maximum of 25 dwelling units per acre;
- Incorporation of Objective Development Standards into the newly established zones;
- Assessment and revision of multiple-family parking standards and policies to accurately reflect the parking needs of different types of affordable housing, transit-oriented projects, and downtown developments;
- Ensuring compliance with AB 2162 (Supportive Housing Streamlining Act) and AB 101 (Low-Barrier Navigation Centers); and
- Updating the Zoning Map to ensure consistency with the General Plan land use map.

In addition to the components mentioned above, the City has undertaken a comprehensive revision of the nonconforming situations section of the Zoning Code. Extensive feedback was received during the review of both the initial and subsequent drafts of the nonconforming situations ordinance. Consequently, it was decided to separate the nonconforming situations update from the broader Targeted Zoning Ordinance Updates project to allow sufficient time for further discussion and necessary revisions.

PROJECT ENGAGEMENT EFFORTS

The Targeted Zoning Ordinance Update project has implemented a comparable approach to community involvement as the one used during the Comprehensive General Plan Update. Similar to the engagement efforts for the General Plan, the objective was to ensure effective communication of the project's details and to gather input from community members and stakeholders. As outlined below, the engagement process included four Zoning Advisory Group (ZAG) meetings, two joint study sessions involving the City Council and Planning Commission, a Community Meeting involving affected property owners, a meeting with the Santa Fe Springs Chamber of Commerce (Chamber) and Industrial Business Group, and three revisions to the nonconforming situations draft.

Zoning Advisory Group (ZAG)

A Zoning Advisory Group (ZAG) was formed to support the Targeted Zoning Ordinance Update project and was comprised of individuals representing various community interests, including residents, property owners, and other stakeholders. A total of four ZAG meetings were conducted as follows:

- *Meeting #1: June 29, 2022*
 - ZAG members were given a general overview of the Targeted Zoning Ordinance Update project. They received information about the three new mixed-use zone districts and a brief overview of the forthcoming decisions concerning development standards and allowable uses for such zones. ZAG members also received a brief overview of the revision process for addressing nonconforming situations and the concurrent efforts of the Objective Development Standards project.

- *Meeting #2: July 27, 2022*
 - ZAG members were presented with a more in-depth presentation on nonconforming situations. The presentation covered the city's existing standards, the General Plan policy guiding the proposed changes, and the entirely new approach that will replace the current nonconforming section.
- *Meeting #3: August 31, 2022*
 - ZAG members were presented with a more in-depth presentation on the three new mixed-use zone districts. They were provided with information on the location of these districts within the city and received a walkthrough of the draft regulations associated with them.
- *Meeting #4: February 1, 2023*
 - ZAG members received an update on the progress of the Targeted Zoning Ordinance Update project. They were informed about the latest key changes made to the nonconforming situations and were given a walkthrough of corresponding draft regulations. Additionally, ZAG members received a more comprehensive presentation on the multiple-family zone districts, along with a walkthrough of the draft regulations. Lastly, the group was updated on the City's compliance with State Law regarding the Housing Element.

Joint Study Sessions - City Council and Planning Commission

Two joint study sessions were held before the City Council and Planning Commission.

The first study session, which took place on August 2, 2022, had the primary objective of providing a comprehensive overview of the project to the City Council and Planning Commission. It also aimed to emphasize the significance of maintaining internal consistency between the General Plan and Zoning Code. During this session, attendees were also provided with preliminary draft land uses and development standards for the new mixed-used zone districts (MU, MU-TOD, and MU-DT), along with a general framework of the nonconforming situations sections.

The second study session, held on February 21, 2023, provided an update on the Targeted Zoning Ordinance Update project to the City Council and Planning Commission. This update included the revised drafts for the mixed-use zones and the nonconforming situations sections. Additionally, the session introduced preliminary draft land uses and development standards for the multiple-family zone districts (R-3 and R-4). While staff acknowledged receiving comments from the Industrial Business Group and a Zoning Advisory Group (ZAG) member, there was no discussion regarding the non-conforming situations sections during this second study session.

Community Meeting - Affected Property Owners

On August 24, 2022, the City invited all property owners affected by the proposed zoning code changes to attend a public meeting. The main objective of the meeting was to

enhance their understanding of the City's Zoning Ordinance, with a specific emphasis on the proposed mixed-used standards and nonconforming situations. Attendees had the opportunity to delve into the specifics of the proposed changes and actively engage by asking questions and seeking clarification.

Meeting with Chamber and Industrial Business Group

On September 15, 2022, the City held a meeting with the Chamber and Industrial Business Group to engage in a comprehensive discussion concerning the proposed modifications to the Zoning Ordinance. The focal point of the discussion revolved around the initial draft sections addressing nonconforming situations, which had garnered notable interest from the Chamber and Industrial Business Group.

Nonconforming Situations Drafts

The first draft of the updated nonconforming situations code section was posted to the Reimagine Santa Fe Springs website and shared with the Zoning Advisory Committee on July 26, 2022. After receiving considerable interest from the business community, the first draft was also shared with the Chamber and Industrial Business Group on August 30, 2022. The Industrial Business Group provided staff with their collective first draft comments on September 14, 2022.

After thorough review and consideration, many of the business community's comments were accepted and incorporated into the second draft of the nonconforming situation code, which was shared with the Industrial Business Group on December 15, 2022. The group provided staff with their collective second draft comments on February 13, 2023.

The third draft of the nonconforming situations code was distributed to the business working group and posted on the Reimagine Santa Fe Springs website on August 15, 2023. It was also sent to additional business owners who participated in public hearings for the adoption of the Targeted Zoning Ordinance. The business community submitted comments on August 18, 23, 28, 30, and 31 and September 21, 2023.

ANALYSIS:

The latest round of comments received on the third draft nonconforming situations code focused on the following:

- Incorporating the term “material” or “materially” throughout the draft
- Clarifying the approach to addressing nonconforming parking.
- Determining valuation and timing for repairing damage or destruction of nonconforming developments.
- Providing clarity on the expansion of nonconforming situations.
- Addressing concerns about applying the nonconforming situations code to multi-tenant properties

A fourth draft of the nonconforming situations code is provided as Attachment 1. A matrix containing a compilation of the comments received and the City's response to each comment is provided as Attachment 2.

ENVIRONMENTAL:

N/A

SUMMARY:

The purpose of this study session is to provide the Planning Commission with an overview of the fourth draft nonconforming situations code. It also serves as an opportunity to gather input on any additional consideration or inclusions that should be made in the final document. Staff therefore recommends that the Planning Commission receive the presentation and provide feedback, as desired, which can be incorporated into the final draft of the nonconforming situations ordinance.

The Planning Department anticipates presenting the final draft nonconforming situations code to the Planning Commission on November 13th. Following this, the Commission's review and recommendation will be presented to the City Council in either December or otherwise in January of next year.

ATTACHMENT(S):

1. Attachment A – Fourth Draft Nonconforming Situations
2. Attachment B – Response to Comments Matrix
3. Attachment C – Brady McShane – Emailed Comments
4. Attachment D – Buchalter Nemer – Industrial Business Group – Redline Comments
5. Attachment E – Dan Haskins – Franklin Family Partnership – Redline Comments
6. Attachment F – Elizabeth Watson – GM Properties – Comment Letter

ITEM STATUS:

APPROVED: ☐

DENIED: ☐

TABLED: ☐

DIRECTION GIVEN: ☐

ATTACHMENT A – FOURTH DRAFT NONCONFORMING SITUATIONS

PUBLIC REVIEW DRAFT (AUGUST/OCTOBER 2023)
NONCONFORMING SITUATIONS

§ 155.385 PURPOSE OF CHAPTER.

This chapter establishes uniform provisions for the regulation of nonconforming land uses, development (including structures and improvements), and lots that were lawfully established but do not comply with the current requirements of this chapter (“nonconforming situations”). The overall intent of this chapter is to protect public health, safety, and general welfare while allowing reasonable use of private property by:

- (A) Limiting the number and extent of specific nonconforming uses and development that conflict with the provisions of this chapter by prohibiting their reestablishment after discontinuation;
- (B) Limiting the extent to which nonconforming uses and development that are involuntarily damaged or destroyed can be restored;
- (C) Allowing for the continuation and maintenance of nonconforming uses and development until ~~a use is expanded or changed or a structure is improved or a site is~~ they are redeveloped;
- (D) Establishing procedures and criteria for evaluating the allowable enlargement of specific nonconforming uses and development; and
- (E) Limiting the alteration, enlargement, or relocation of nonconforming uses and development in a manner that would further increase the difference between existing nonconforming conditions and the current provisions of this Zoning Ordinance.
- (F) Complying with the nonconforming use provision of the General Plan.

§ 155.386 NONCONFORMING SITUATIONS, APPLICABLE PROVISIONS.

- (A) So long as a nonconforming situation exists upon a ~~lot~~ site, such situation may continue without any time limitation on its continued presence, provided that such nonconforming situation complies with all applicable provisions of this chapter.
- (B) No new use or structure may be constructed, established, or installed on a ~~lot~~ site with a nonconforming situation except as allowed by this chapter.
- (C) In addition to the general requirements in §§ 155.387 through 155.390, properties with nonconforming situations are subject to the standards and procedures for each type of nonconforming situation that is applicable to that property.

- 1) Nonconforming lots are subject to § 155.391.
- 2) Nonconforming developments (except nonconforming signs) are subject to § 155.392 and § 155.395.
- 3) Nonconforming uses are subject to §§ 155.393 through 155.396.
- 4) Nonconforming signs are subject to § 155.398.

§ 155.387 EXCEPTIONS TO THIS CHAPTER.

- (A) Public Utilities. The Director of Planning or designee, by written findings, may determine that a particular public utility facility or installation, nonconforming to the requirements of this chapter, is necessary to serve the areas in which it is located. Said public utility facility may then be expanded or altered, provided:
 - (1) The facility does not extend beyond the boundaries of the existing site or of the site approved by the city for such use; and
 - (2) The addition, extension, or alteration complies with all other performance standards provisions of §§ 155.415 through 155.433.
- (B) Uses Requiring Conditional Use Permits. Notwithstanding the other provisions of this chapter, no use identified in this Zoning Code as a "conditional use" that was lawfully in existence as of the effective date of these regulations shall be deemed nonconforming solely by reason of the application of the Conditional Use Permit procedural requirements, in compliance with §§ 155.710 through 155.724; provided that:
 - (1) Use allowed with Conditional Use Permit approval. A land use that was legally established without a Conditional Use Permit, but which would be required under the current Zoning Ordinance provisions to have Conditional Use Permit approval, shall not be altered or enlarged in any way unless a Conditional Use Permit is first obtained as per ~~Section~~ § 155.395.
 - (2) Use no longer allowed with Conditional Use Permit approval. A land use that was established with Conditional Use Permit approval, but which is no longer allowed with Conditional Use Permit approval by current Zoning Code regulations, may continue in compliance with the original Conditional Use Permit. Such use may be expanded or altered only in conformance with ~~Section~~ § 155.395 with approval of a new Conditional Use Permit.

§ 155.388 NONCONFORMING SITUATIONS, DEFINED.

- (A) Uses or developments that were not lawfully established do not have a legal right to continue as nonconforming situations as defined by this chapter and must be removed immediately.

- (B) Nonconforming situations shall have the following meanings:
- (1) A nonconforming lot means a lot that was lawfully established but does not meet the requirements of the zone in which it is located.
 - (2) A nonconforming development means a structure, building, or site improvement, such as an off-street parking facility, that was lawfully established in compliance with the applicable zoning regulations in effect at the time of construction but which no longer complies with the applicable development standards of the zone in which it is located, such as setbacks, buffers or yards, area, bulk, height, density, or parking. A structure, building, or site improvement shall be considered legally conforming, and not subject to this chapter, if the nonconformance was previously approved through a Variance, Modification, Conditional Use Permit or Development Plan Approval procedure, or is subsequently approved through a Conditional Use Permit procedure as per Section § 155.395.
 - (3) A nonconforming use means a use of land or a structure that was lawfully established in compliance with the applicable zoning regulations in effect at the time it was established but which no longer complies with the applicable regulations of the zone in which it is located. A use shall be considered legally conforming, and not subject to this chapter, if the nonconformance is subsequently approved through a Conditional Use Permit procedure as per ~~Section § 155.395~~ and such use has not ceased operation for a continuous period of one year.
- (C) When submitting a development application to alter or expand a nonconforming situation or otherwise establish that a lot, use, or development is a legal nonconforming situation, the property owner or applicant must document that a nonconforming situation was legally established on its present site. The City, at the request of the property owner or applicant, will provide the property owner or applicant with all records to the extent they are in the City's possession. Evidence that the situation was legally established shall depend upon the type of nonconforming situation, as follows.
- (1) For nonconforming lots, the property owner or applicant must document when the lot was lawfully created in accordance with § 155.391.
 - (2) For nonconforming development or nonconforming uses, the property owner or applicant must provide building, land use, or development permits. For development or uses ~~which~~ that did not require a permit when lawfully established, the property owner or applicant must provide other evidence ~~which~~ that clearly shows the date the development or use was established such as dated aerial photographs.

- (3) In addition, for nonconforming uses, the property owner or applicant must document that the use has been continually maintained the prior one (1) year; however, an extension of time to demonstrate that the use has not ceased may be granted by Planning Commission action or, upon appeal, City Council action. Evidence that a use has been maintained over time shall consist of building permits, functioning utility hookups, tax records, business licenses, lease agreements, business receipts, and/or similar documentation.

§ 155.389 INTENTIONAL DEMOLITION OR DESTRUCTION.

Any nonconforming use or development dependent upon a building or structure that has been declared a “public nuisance” and ordered demolished pursuant to Santa Fe Springs Municipal Code § 95.07 will lose its nonconforming status upon that notice unless the nuisance is abated in accordance with that section. Nonconforming uses or nonconforming developments that have been intentionally destroyed by the owner shall lose their legal nonconforming status.

§ 155.390 PROVISIONS APPLICABLE TO ALL NONCONFORMING SITUATIONS.

The following provisions shall apply to all nonconforming uses, structures, and lots existing as of the effective date of this chapter:

- (A) The nonconforming status of a lot, development, or use shall not be affected by changes in ownership or tenancy; and
- (B) Except as specified herein, a nonconforming situation must maintain compliance with any and all conditions of approval previously established through prior land use reviews.

§ 155.391 NONCONFORMING LOTS.

- (A) Determination of nonconforming status. A nonconforming lot of record that does not comply with the current access, area, or dimensional requirements for the zoning district in which it is located shall be considered to be a legal building site if it meets one of the criteria specified by this section. The applicant shall be responsible for providing sufficient evidence to establish the applicability of one or more of the following to the satisfaction of the city.
 - (1) Approved subdivision. The lot was created through a subdivision approved by the city or the County, before incorporation.
 - (2) Variance, modification permit, or lot line adjustment. The lot was approved through the variance procedure (§§ 155.670 through 155.682), the modification procedure (§§ 155.690 through 155.702), or its current configuration resulted from a lot line adjustment.

- (3) Partial government acquisition. The lot was created in conformity with the provisions of the Zoning Code but was made nonconforming when a portion of the lot was acquired by a governmental entity.
- (4) Individual lot otherwise legally created. The lot was legally created before the effective date of the chapter ~~which~~ that made the lot nonconforming.
- (B) Further subdivision prohibited. Where structures have been erected on a nonconforming lot, the lot may not be later subdivided, nor can lot lines be altered through a lot line adjustment.

§ 155.392 NONCONFORMING DEVELOPMENT.

- (A) Nonconforming Development, Generally. A nonconforming development may be maintained, repaired, improved, altered, internally remodeled and continued, provided there is no physical ~~change~~ expansion in floor area except as allowed by Section § 155.392(B) and § 155.395(D). A nonconforming development ~~which~~ that houses one or more nonconforming uses shall also be subject to the provision of this chapter applicable to nonconforming uses.
- (B) Alterations of a Nonconforming Development.
 - (1) Except as specified in §§ 155.392(B)(2) through (B)(5), a nonconforming development or portion thereof may be enlarged or altered if the proposed addition or alteration:
 - (a) Satisfies all of the current requirements of the Zoning Code; and
 - (b) Causes the existing development to better comply with the applicable standards of the Zoning Code for which it is nonconforming (i.e., to move in the direction of conformity) and does not increase its nonconformity with the applicable standards of the Zoning Code, unless a Conditional Use Permit is granted in accordance with §155.395.
 - (2) Developments ~~which~~ that are nonconforming only in regard to required distances between buildings may be added to or enlarged in accordance with the following:
 - (a) Provided that any additions or enlargements must not encroach into the required distances between buildings to a greater extent than the existing structure;
 - (b) The encroachment of said additions or enlargements must not exceed one-half of the width of the required distances between buildings; and
 - (c) Complies with all applicable requirements of the California Fire Code and Building Code.

- (3) Structures ~~which~~ that are nonconforming only in regard to height may be added to or enlarged, provided that any additions or enlargements must conform to the height regulations and to all other provisions of the Zoning Code.
- (4) For ~~industrial and commercial~~ developments ~~which~~ that are nonconforming only as to the regulations relating to off-street parking and loading facilities, such uses may be continued in the same manner as if the parking and loading facilities were conforming, except as needed to comply with Americans with Disabilities Act (ADA) and any applicable state or local disability access statute. However, such parking and loading facilities as do exist may not be further reduced with respect to number provided, dimensions, and any other relevant requirement. No increase in the intensity of use of any building, structure, or premises through the addition of dwelling units, floor area, seating capacity, or other units of measurement specified in the Zoning Code shall be permitted except in accordance with the following requirements:
- (a) Suitable substitutions are made that would meet the requirements of the Zoning Code.
 - (b) For residential dwellings with one parking space in a garage or carport, the intensity of use may be increased up to 60% in floor area without requiring a second parking space in a garage or carport.
 - ~~(a) The intensity of use may be increased up to 60% in terms of either floor area or truck traffic generation, as determined by the Director of Planning, provided that the required parking and loading facilities for such increase are installed and that such parking and loading facilities as presently exist may not be reduced unless suitable substitutions are made which would meet the requirements of the Zoning Code.~~
 - ~~(b) The intensity of use may be increased by more than 60% in terms of floor area or traffic generation, as determined by the Director of Planning, provided that parking and loading facilities for the entire developed portion of the property are provided in conformance with all requirements of the Zoning Code.~~
- (5) Sheet-metal buildings that are nonconforming only in regard to sheet-metal siding or Quonset-type construction may be altered, added to, or enlarged, provided that any alterations, additions, or enlargements must conform to all of the provisions and regulations of the Zoning Code.
- (6) A nonconforming development may be altered or enlarged so as to further decrease the difference between existing conditions and the current

applicable development standards in this chapter ~~if a Conditional Use Permit is obtained in compliance with Section § 155.710 et seq.~~

- (C) **Damage or Partial Destruction of a Nonconforming Development.** When a nonconforming development is damaged or partially destroyed by fire or other causes not caused by an act or deliberate omission of a property owner or person acting on the owner's behalf, it may be rebuilt in-kind within the footprint of the damaged or destroyed improvement and any existing nonconforming use of the development may continue, provided:
- (1) The cost of repair or reconstruction does not exceed 75% of the replacement value of the building or structure. If the cost of repair or reconstruction exceeds 75% of the replacement value, the development may not be rebuilt, except in full conformance with the current provisions of the Zoning Code.
 - (2) **Replacement Value Calculation.** The extent of damage or partial destruction shall be determined by comparing the estimated cost of restoring the structure to its condition before the damage or partial destruction based on current building and fire code requirements to the estimated cost of duplicating the entire structure, also based on current building and fire code standards, as it existed before the damage or destruction occurred. Estimates for this purpose shall be reviewed and approved by the Building Official.
 - (3) Any reconstruction, restoration, or rebuilding undertaken pursuant to this section shall conform to all applicable building and fire code requirements, provided that a building permit is obtained within two years after the date of the damage or destruction, and the construction is diligently pursued to completion. This time period may be extended if the property owner can provide evidence, to the satisfaction of the Building Official, that delays due to insurance requirements or other circumstances beyond the control of the property owner, as verified by the Building Official, prevent meeting the two-year time frame.
 - (4) The replacement improvements shall not increase the degree of nonconformity beyond that of the previously existing improvements, as determined by the Building Official.
- (D) **Roadway Access.** The owner of a nonconforming driveway approach or access to a public street or highway, upon receiving land use or development plan approval, may be required as a condition of approval to bring the nonconforming access into conformance with city standards.

§ 155.393 NONCONFORMING USES

- (A) Except as specified in § 155.393(B), a nonconforming use may be maintained and continued, provided there is no increase or enlargement of the area, space, or volume occupied by or devoted to the nonconforming use, except as allowed by this chapter.
- (B) Whenever any of the following facts are found to exist with reference to a nonconforming use, the nonconforming protection/benefits provided by this chapter shall cease except as otherwise allowed by this chapter:
 - (1) The license or permit that is required to operate the nonconforming use has been revoked or terminated; or
 - (2) There has been a violation of the provisions of this chapter regarding change of use, alteration, or expansion of the nonconforming use.
- (C) A nonconforming use may be changed to a conforming use, provided that any part of a structure or land occupied by a nonconforming use ~~which~~ that is changed to or replaced by a conforming use shall not again be used or occupied by a nonconforming use.
- (D) The area, space, or volume occupied by or devoted to a nonconforming use may be increased with the approval of a Conditional Use Permit pursuant to § 155.395.
- (E) Multi-tenant buildings with three (3) or more tenant spaces shall comply with the following:
 - (1) If a building has vacancies of 50 percent or less of the total gross square footage of the multi-tenant building, then the vacant tenant space may be occupied by the most recently occupied use, or a similar use as determined by the Director of Planning.
 - (2) If a building has vacancies greater than 50 percent of the total gross square footage of the multi-tenant building, then the vacant tenant space shall be occupied by a conforming use.

§ 155.394 DISCONTINUATION OF NONCONFORMING USE.

- (A) Discontinuation. Except as provided in §§ 155.394(C) through ~~(F)~~ (E) a nonconforming use that is discontinued for a period of more than 365 consecutive days shall be deemed abandoned and shall no longer be allowed as a legal nonconforming use. For purposes of calculating the 365-day time period, a use is discontinued on a site when any one of the following conditions occur:
 - (1) The use no longer physically occupies the site;

- (2) The use ceases operation. For example, the site is no longer actively in use for the sale of merchandise, the manufacture or warehousing of products, or the provision of services, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service or similar indications;
 - (3) A request for final reading of water and power meters is made to the applicable utility or the utility bill account indicates inactivity;
 - (4) ~~The business has failed to make a required payment of a required business license and has failed to maintain a valid business license;~~
 - (54) The use ceases operation as a result of damage or destruction by fire or other causes and a building permit for the reconstruction or repair has not been obtained within 24 months after the date of destruction; and/or
 - (65) An event occurs similar to those listed in § 155.394(A)(1) – (65), above, as determined by the Director of Planning or designee.
- (B) Application of Criteria and Standards to Nonconforming Use. Once the Director of Planning or designee deems a nonconforming use discontinued pursuant to § 155.394(A) and issues such determination in writing, any subsequent use of the subject lot must conform to the current standards and criteria of the Zoning Code applicable to the use. After the city has deemed a nonconforming use discontinued, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this chapter and subject to enforcement proceedings.
- (C) Adult Businesses. Nonconforming adult businesses are subject to the provisions in § 155.603.
- (D) Oil and gas wells. Idle wells as defined by the California Geologic Energy Management Division (CalGEM) are subject to the provisions of the State of California's idle well regulations.
- (E) Appeal. Any party that has been administratively ordered by the city to terminate a nonconforming use shall have the right of to appeal the decision to the Planning Commission ~~if the party believes that such order is unreasonable or would cause undue hardship~~. Appeals shall be filed with the Planning Commission Secretary, including a statement and evidence provided by the appellant ~~as to why the termination of a nonconforming use is not justified supporting the appeal~~. The appeal shall be considered in accordance with the following:
- 1) The Planning Commission Secretary shall set the matter for hearing before the Planning Commission within 60 days of receiving the appeal. Notice of

said hearing shall be given in accordance with applicable provisions of § 155.860 et seq.

- 2) Based on evidence provided by the appellant, the Planning Commission may overturn or confirm the termination order or may extend the date upon which said nonconforming use must be terminated. Such decision shall be issued in writing.
- 3) The decision of the Planning Commission may be appealed to the City Council in accordance with § 155.866.
- 4) The nonconforming use may continue while it is being appealed until a final decision is made by the Planning Commission or City Council, as applicable, confirming the termination order.

§ 155.395 NONCONFORMING SITUATIONS REVIEW - PROCEDURES FOR EXPANDING OR CHANGING A NONCONFORMING SITUATION ON A SITE.

Except for adult businesses, which are subject to § 155.396, expansion or change of nonconforming use situations will be processed as a conditional use as established in §§ 155.710 through 155.724 and subject to the applicable review criteria in this section. The Planning Commission shall also consider the following in connection with request for such a Conditional Use Permit:

- (A) The nonconforming use or development was not created unlawfully.
- (B) If the request involves a change of use, the proposed nonconforming use is within the same use category as the existing legally nonconforming use, whether by right or subject to a Conditional Use Permit.
- (C) With mitigation measures through conditions of approval, the new use or expansion will comply with the performance standards in §§ 155.415 through 155.433 and will not result in a net increase in overall adverse impacts (over the impacts of the existing use) on the surrounding area, taking into account factors such as:
 - (1) Noise, vibration, dust, odor, fumes, glare, and smoke;
 - (2) Potential for increased litter;
 - (3) The amount, location, and nature of any outside displays, storage, or activities;
 - (4) The appearance of the new or expanded use will not detract from the desired function and character of the zoning district;
 - (5) The operating characteristics of the new or expanded use are compatible with the existing and anticipated uses in the immediate vicinity. The hours of

operation of nonresidential uses in residential zoning districts cannot be extended into the period of 10 p.m. to 7 a.m.;

- (6) If the proposed change to the nonconforming use situation will result in an increase in vehicular trips, the street system shall have adequate capacity to accommodate the use, as determined by the Director of Public Works and/or Traffic Engineer following completion of a traffic study by the applicant;
 - (7) If the proposed change to the nonconforming use situation will result in an increase in vehicle parking demand, the site shall have adequate on-site parking to accommodate the development, or adequate parking will be provided in accordance with § 155.480;
 - (8) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion; and
 - (9) Public services for water, sanitary sewer, stormwater, water management, and fire and police protection can serve the proposed use, as determined by the responsible city authorities.
- (D) Expansions in floor area shall be limited as follows:
- (1) Expansions in floor area to provide space for nonconforming uses situations shall not exceed the following thresholds and shall require a Conditional Use Permit:

Existing Gross Floor Area	Maximum Percentage of Expansion of Floor Area
Buildings under 3,999 sq. ft.	25%
Buildings between 4,000 sq. ft. and 9,999 sq. ft	20%
Buildings between 10,000 sq. ft. and 24,999 sq. ft.	15%
Buildings between 25,000 sq. ft. and 49,999 sq. ft.	10%
Buildings over 50,000 sq. ft.	5%

- (2) Expansions in floor area for nonconforming uses or structures may occur one time only, and the expansion must comply with current development standards for the zoning district in which the use or structure is located.

- (3) Expansion of a nonconforming use onto another site shall be prohibited. In the event an abutting parcel is under the same ownership as the parcel supporting the nonconforming use, the nonconforming use may be expanded with approval of a Conditional Use Permit.
- (4) Addition of new residential units to nonconforming residential use is prohibited unless otherwise permitted under state law.
- (E) Nonconforming Use Expansions in Residential Areas. If the nonconforming use is in a residential zoning district or in a mixed-use zoning district with residential uses adjacent to the site, the proposed expansion shall be designed and constructed to minimize the impact on the established residential character of the area, as determined by the Director of Planning. This determination shall be based on, but not limited to, the following factors:
 - (1) Building scale and placement;
 - (2) Exterior building treatments;
 - (3) Parking area placement;
 - (3) Buffering and the potential loss of privacy to abutting residential uses;
 - (4) Location of loading and refuse storage/collection areas;
 - (5) Outdoor storage (where permitted); and
 - (6) Lighting and signs.

§ 155.396 NONCONFORMING ADULT BUSINESSES.

Nonconforming adult businesses may not be enlarged or reconstructed and are subject to the amortization and termination provisions in § 155.603.

§ 155.397 NONCONFORMING SIGNS.

- (A) Nonconforming signs may not be enlarged or reconstructed and are subject to the termination provisions of State law.
- (B) In accordance with § 155.535, a sign permit may be required to maintain a nonconforming sign.

ATTACHMENT B – RESPONSE TO COMMENTS MATRIX

Commenter	Section	Suggested Revision	City Response
Buchalter Nemer, Industrial Business Group	155.385 (C) Purpose of Chapter	Allowing for the continuation and maintenance of nonconforming uses and development until a use is expanded or changed or a structure is improved or a site is they are redeveloped;	Accepted
Buchalter Nemer, Industrial Business Group	155.385 (F) Purpose of Chapter	Add (F) Implement the General Plan's Nonconforming Use Provision that states: "Existing legally established land uses or structures that are made nonconforming by this General Plan or related zoning amendments may continue operating until a site is redeveloped; however, any material expansion in square footage of a nonconforming building or use shall require a conditional use permit. Repairs and maintenance may be made to keep nonconforming buildings or structures in a safe condition."	Partially accepted - see revisions
Elizabeth Watson, GM Properties	155.386 (A) and (B) Nonconforming Situations, Applicable Provisions	Subsection (B)(3) defines a "nonconforming use" as "use of land or a structure..." Zoning is generally applied to lots as a whole, and uses are established on land within lot lines and other established boundaries. Adding the word "lot" to the definition of "nonconforming use" would provide flexibility and clarity as to certain circumstances. Consistent with that, Section 155.386 regarding Nonconforming Situations, Applicable Provisions, uses the word "lot" in both Subsections (A) and (B).	"Lot" has been changed to "site" since "site" is the appropriate term when discussing the whole of the property.
Buchalter Nemer, Industrial Business Group	155.387 (B)(1) Exceptions to this Chapter	Use allowed with Conditional Use Permit approval. A land use that was legally established without a Conditional Use Permit, but which would be required under the current Zoning Ordinance provisions to have Conditional Use Permit approval, shall not be altered or materially enlarged in any way unless a Conditional Use Permit is first obtained as per Section 155.395.	We have not included the insertion of "materially" or "material" throughout. The zoning code must be as objective as possible and terms like "materially" and "material" are too subjective to be enforceable.
Buchalter Nemer, Industrial Business Group	155.387 (B)(2) Exceptions to this Chapter	Use no longer allowed with Conditional Use Permit approval. A land use that was established with Conditional Use Permit approval, but which is no longer allowed with Conditional Use Permit approval by current Zoning Code regulations, may continue in <u>substantial</u> compliance with the original Conditional Use Permit. Such use may be <u>materially</u> expanded or altered only in conformance with Section 155.395 with approval of a new Conditional Use Permit.	Not accepted - Full adherence with conditional use permit conditions is required at all times.
Brady McShane, Staley Point Capital	155.388 (B)(2) Nonconforming Situations, Defined	A nonconforming development means a structure, building, or site improvement, such as an off-street parking facility, that was lawfully established in compliance with the applicable zoning regulations in effect at the time of construction but which no longer complies with the applicable development standards of the zone in which it is located, such as setbacks, buffers or yards, area, bulk, height, density, or parking. A structure, building, or site improvement shall be considered legally conforming, and not subject to this chapter, if the nonconformance <u>was previously or</u> is subsequently approved through a <u>variance, modification, conditional use permit, or development plan procedure</u> . the nonconformance is subsequently approved through a Conditional Use Permit procedure as per Section 155.395.	Partially accepted - see revisions
Buchalter Nemer, Industrial Business Group	155.388 (B)(2) Nonconforming Situations, Defined	A nonconforming development means a structure, building, or site improvement, such as an off-street parking facility, that was lawfully established in compliance with the applicable zoning regulations in effect at the time of construction but which no longer complies with the applicable development standards of the zone in which it is located, such as setbacks, buffers or yards, area, bulk, height, density, or parking. A structure, building, or site improvement shall be considered legally conforming, and not subject to this chapter, if the nonconformance <u>was previously or</u> is subsequently approved through a <u>variance, modification, conditional use permit, or development plan procedure</u> . Conditional Use Permit procedure as per Section 155.395.	Partially accepted - see revisions
Elizabeth Watson, GM Properties	155.388 (B)(2) Nonconforming Situations, Defined	Subsection (B)(1) (sic - it should be (2)) defines a "nonconforming development" as a "structure, building or site improvement..." The language suggests that, if the legal nonconforming industrial use of an individual building or unit were deemed terminated, it could trigger a requirement to convert that single structure or unit on a piecemeal basis to conform with commercial development standards, such as parking or setbacks, which would be impossible to meet. Specifically, as to the GM Properties, in that event, neither lot has lot area available to accommodate increased setbacks or the higher parking ratios of the C-4 commercial zone. Such commercial uses would also be incompatible with the overall established industrial use. The result would be unleaseable vacant space.	If the property owner desires to maintain industrial uses indefinitely, units should not be rented to commercial users. Section 155.393 (E) has been added to address vacancies in multi-tenant buildings.

Commenter	Section	Suggested Revision	City Response
Buchalter Nemer, Industrial Business Group	155.388 (B)(3) Nonconforming Situations, Defined	A nonconforming use means a use of land or a structure that was lawfully established in compliance with the applicable zoning regulations in effect at the time it was established but which no longer complies with the applicable regulations of the zone in which it is located. A use shall be considered legally conforming, and not subject to this chapter, if the nonconformance is subsequently approved through a <u>modification, Conditional Use Permit, Development Plan, or other procedure, as applicable in accordance with the Zoning Code.</u> Conditional Use Permit procedure as per Section 155.395 and such use has not ceased operation for a continuous period of one year.	Refer to section 155.387(B) for exceptions for existing uses with and without CUPs. Subsequent approvals for nonconforming uses would require the CUP process described in 155.395. A use would not be approved through a Modification, DPA or other procedure.
Dan Haskins, Franklin Family Partnership	155.388 (B)(3) Nonconforming Situations, Defined	12 months is too short. Suggest a proposed language change that tolls the time periods. For example, government shutdowns (Covid), time to settle insurances, planning and rebuilding from property damage, etc. Another example is the State of California provides for extensions of time for entitlements due to economic downturns.	Not accepted - 12 months is consistent with other jurisdictions.
Buchalter Nemer, Industrial Business Group	155.391 (B) Nonconforming Lots	Further subdivision prohibited. Where structures have been erected on a nonconforming lot, the lot may not be later subdivided, nor can lot lines be altered through a lot line adjustment <u>so as to reduce the building site area or frontage below the requirements of the applicable zoning district or other applicable provisions of this Zoning Ordinance, or in any way that makes the use of the lot more nonconforming, unless a Variance is obtained in compliance with Section 155.670 et seq.</u>	Not accepted - the City's goal is to avoid exacerbating nonconforming situations. The additional text is not necessary since it describes situations which would make a lot nonconforming (reduce building site area or frontage below code standards). The variance process is available for situations where a lot has a unique circumstance.
Brady McShane, Staley Point Capital	155.392 (A) Nonconforming Development, Generally	A. Nonconforming Development, Generally. A nonconforming development may be maintained, repaired, improved, <u>altered, internally remodeled</u> and continued, provided there is no <u>physical material change expansion in floor area</u> except as allowed by Section 155.395(D) <u>155.392(B)</u> . A nonconforming development which houses one or more nonconforming uses shall also be subject to the provision of this chapter applicable to <u>nonconforming</u> uses.	Partially accepted - see revisions
Buchalter Nemer, Industrial Business Group	155.392 (A) Nonconforming Development, Generally	Nonconforming Development, Generally. A nonconforming development may be maintained, repaired, improved, <u>altered, internally remodeled</u> and continued, provided there is no <u>physical material change expansion in floor area</u> except as allowed by Section 155.3925(BD). A nonconforming development which houses one or more nonconforming uses shall also be subject to the provision of this chapter applicable to nonconforming uses	Partially accepted - see revisions
Brady McShane, Staley Point Capital	155.392 (B)(1) Alterations of a Nonconforming Development	B. Alterations of a Nonconforming Development. 1. Except as specified in §§ 155.392(B)(2) through (B)(5), a nonconforming development or portion thereof may be <u>materially</u> enlarged if the proposed addition or alteration: a. Satisfies all of the current requirements of the Zoning Code; and b. Causes the existing development to better comply with the applicable standards of the Zoning Code for which it is nonconforming (i.e., to move in the direction of conformity) and d Does not <u>materially</u> increase its nonconformity with the applicable standards of the Zoning Code, unless a <u>variance, modification, conditional use permit, or development plan is granted in accordance with the applicable provisions of the Zoning Code</u> Conditional Use Permit is granted in accordance with § 155.395.	Not accepted - see above for discussion on "materially." The code details instances where alterations/expansions would be allowed and creates a CUP process in § 155.395 for certain expansions. This proposed language conflicts with that process.
Buchalter Nemer, Industrial Business Group	155.392 (B)(1) Alterations of a Nonconforming Development	(B) Alterations of a Nonconforming Development. (1) Except as specified in §§ 155.392(B)(2) through (B)(5), a nonconforming development or portion thereof may be <u>materially</u> enlarged or altered if the proposed addition or alteration: (a) Satisfies all of the current requirements of the Zoning Code; and (b) Causes the existing development to better comply with the applicable standards of the Zoning Code for which it is nonconforming (i.e., to move in the direction of conformity) and d Does not <u>materially</u> increase its nonconformity with the applicable standards of the Zoning Code, unless a <u>variance, modification, conditional use permit, or development plan is granted in accordance with the applicable provisions of the Zoning Code</u> Conditional Use Permit is granted in accordance with § 155.395.	Not accepted - see above for discussion on "materially." The code details instances where alterations/expansions would be allowed and creates a CUP process in § 155.395 for certain expansions. This proposed language conflicts with that process.
Buchalter Nemer, Industrial Business Group	155.392 (B)(2) Alterations of a Nonconforming Development	(2) Developments which are nonconforming only in regard to required distances between buildings may be added to or enlarged in accordance with the following: (a) Provided that any additions or enlargements must not encroach into the required distances between buildings to a greater extent than the existing structure; and (b) The encroachment of said additions or enlargements must not exceed one-half of the width of the required distances between buildings; and (be) Complies with all applicable requirements of the California Fire Code.	Not accepted - zoning code already includes the strikeout language. (C) is revised to add "and building code."

Commenter	Section	Suggested Revision	City Response
Buchalter Nemer, Industrial Business Group	155.392 (B)(4) Alterations of a Nonconforming Development	(4) For industrial and commercial developments which that are nonconforming only as to the regulations relating to off-street parking and loading facilities, such uses may be continued in the same manner as if the parking and loading facilities were conforming, except as needed to comply with Americans with Disabilities Act (ADA) and any applicable state or local disability access statute. However, such parking and loading facilities as do exist may not be further <u>materially</u> reduced with respect to number provided, dimensions, and any other relevant requirement. No <u>material</u> increase in the intensity of use of any building, structure, or premises through the addition of floor area, seating capacity, or other units of measurement specified in the Zoning Code shall be permitted except in accordance with the following requirements: (a) The intensity of use may be increased up to 60% in terms of either floor area, or truck traffic generation, as determined by the Director of Planning, provided that the required parking and loading facilities for such increase are installed and that such parking and loading facilities as presently exist may not be reduced unless suitable substitutions are made which would meet the requirements of the Zoning Code, or as otherwise permitted by approval of a variance, modification, conditional use permit, or development plan. (b) The intensity of use may be increased by more than 60% in terms of floor area or traffic generation, as determined by the Director of Planning, provided that parking and loading facilities for the entire developed portion of the property are provided in conformance with all requirements of the Zoning Code.	This section is a slightly modified version of our existing Code Section for Parking and Loading Areas (Section 155.478 (B)(1)). Historically, it has only been applicable for residential expansions when the property has a current 1-car garage. With this section, they may add up to 60% before triggering a 2-car garage. This section has been revised to clarify the intent of the 60% rule.
Buchalter Nemer, Industrial Business Group	155.392 (B)(6) Alterations of a Nonconforming Development	(6) A nonconforming development may be altered or enlarged so as to further decrease <u>materially increase</u> the difference between existing conditions and the current applicable development standards in this chapter if a <u>Variance or</u> Conditional Use Permit is obtained in compliance with Section 155.710 et seq. the Zoning Code.	See revisions
Brady McShane, Staley Point Capital	155.392 (B)(6) Nonconforming Development – Alterations and Enlargements	(6) A nonconforming development may be altered or enlarged so as to further decrease <u>materially increase</u> the difference between existing conditions and the current applicable development standards in this chapter if a <u>Variance or</u> Conditional Use Permit is obtained in compliance with Section 155.710 et seq. the Zoning Code.	See revisions
Buchalter Nemer, Industrial Business Group	155.392 (C)(1) Damage or Partial Destruction of a Nonconforming Development	The cost of repair or reconstruction does not exceed 75% of the replacement value or appraised value of the building or structure, whichever is higher. The determination of the appraised value shall be made by a professional appraiser selected by the owner and approved by the City, whose fee shall be paid by the owner. If the cost of repair or reconstruction exceeds 75% of the replacement value or appraised value, as applicable , the development may not be rebuilt, except in full conformance with the current provisions of the Zoning Code.	Not accepted - The City already made this section more lenient by changing from "assessed value" to "replacement value" based on previous requests from the business community. Most jurisdictions use "assessed value" or "replacement value" in their nonconforming uses codes.
Buchalter Nemer, Industrial Business Group	155.392 (C)(3) Damage or Partial Destruction of a Nonconforming Development	Any reconstruction, restoration, or rebuilding undertaken pursuant to this section shall conform to all applicable building and fire code requirements, provided that a building permit is obtained <u>submitted</u> for within two years after the date of the damage or destruction, and the construction is diligently pursued to completion. This time period may be extended if the property owner can provide evidence, to the <u>reasonable</u> satisfaction of the Building Official, that delays due to insurance requirements or other circumstances beyond the control of the property owner, as <u>reasonably</u> verified by the Building Official, prevent meeting the two- year time frame.	Not accepted - 2 years is in line with the time period allowed in other jurisdictions, with many jurisdictions only allowing 1 year to rebuild. "Reasonable" and "reasonably" are too subjective and cannot be included in the zoning code.
Buchalter Nemer, Industrial Business Group	155.392 (C)(4) Damage or Partial Destruction of a Nonconforming Development	The replacement improvements shall not <u>materially</u> increase the degree of nonconformity beyond that of the previously existing improvements, as determined by the Building Official.	Not accepted - see above for discussion on "materially"
Buchalter Nemer, Industrial Business Group	155.393 (A), (D) Nonconforming Uses	(A) Except as specified in § 155.393(B), a nonconforming use may be maintained and continued, provided there is no <u>material</u> increase or enlargement of the area, space, or volume occupied by or devoted to the nonconforming use, except as allowed by this chapter. (D) The area, space, or volume occupied by or devoted to a nonconforming use may be <u>materially</u> increased with the approval of a Conditional Use Permit pursuant to § 155.395.	Not accepted - see above for discussion on "material"
Dan Haskins, Franklin Family Partnership	155.394 (A) Discontinuation of Nonconforming Use	Again, 12 months is too short, based on our redline indicated above in 155.388 (B)	Not accepted - 12 months is consistent with other jurisdictions

Commenter	Section	Suggested Revision	City Response
Elizabeth Watson, GM Properties	155.394 (A) Discontinuation of Nonconforming Use	As provided in Section 155.394(A), a discontinuation that exceeds 365 days is deemed an abandonment, whereupon the legally-established use is disallowed. If any of the listed criteria were to be applied to individual buildings or units within a portion of either of the GM Properties, despite the legal nonconforming use and development of the remainder of the GM Property, it would result in requiring incompatible commercial use of the individual unit or building and the imposition of infeasible commercial development standards to the unit or building on a piecemeal basis.	If the property owner desires to maintain industrial uses indefinitely, units should not be leased to commercial users. Section 155.393 (E) has been added to address vacancies in multi-tenant buildings.
Elizabeth Watson, GM Properties	155.394 (A) Discontinuation of Nonconforming Use	As noted, the text references a "site", which is ambiguous. The whole of the lot is appropriate in the context of properties similar to the GM Properties. Utility meter accounts and business licenses are applicable to individual units rather than the whole of a lot. Similarly, a catastrophic occurrence, such as a fire, resulting in damage or destruction to a single building or portion of a building could jeopardize the continuation of the nonconforming use of the entirety of the lot.	Not accepted - some properties are comprised of more than one lot, therefore "site" is the appropriate term when discussing the whole of the property. Section 155.394 (A)(4) has been removed ("The business has failed to make a required payment of a required business license and has failed to maintain a valid business license"); and Section 155.393 (E) has been added to address vacancies in multi-tenant buildings.
Elizabeth Watson, GM Properties	155.394 (A)(4) Discontinuation of Nonconforming Use	Except as provided in [Subsections] (C) through (F) (sic—it should be (E)), a nonconforming use that is discontinued for a period of 365 consecutive days shall be deemed abandoned and shall no longer be allowed as a nonconforming use. For purposes of calculating the 365-day period, a use is discontinued on a site when any of the following conditions occur:	Revision from (F) to (E) accepted
Buchalter Nemer, Industrial Business Group	155.394 (A)(5) Discontinuation of Nonconforming Use	The use ceases operation as a result of damage or destruction by fire or other causes and a building permit for the reconstruction or repair has not been obtained submitted for within 24 months after the date of destruction; and/or	Not accepted - 2 years is in line with the time period allowed in other jurisdictions, with many jurisdictions only allowing 1 year to obtain permits.
Elizabeth Watson, GM Properties	155.394 (A)(6) Discontinuation of Nonconforming Use	6. An event occurs similar to those listed in [Subsections] (1)-(6) (sic—it should be (5)) above, as determined by the Director of Planning..."	Accepted - numbering revised from 6 to 5
Buchalter Nemer, Industrial Business Group	155.394 (E) Discontinuation of Nonconforming Use	(E) Appeal. Any party that has been administratively ordered by the city to terminate a nonconforming use shall have the right of to <u>to appeal the decision</u> to the Planning Commission if the party believes that such order is unreasonable or would cause undue hardship for any reason, <u>including the party believes the decision is unreasonable or would cause undue hardship</u> . Appeals shall be filed with the Planning Commission Secretary, including a statement and evidence provided by the appellant as to why the termination of a nonconforming use is not justified supporting the appeal, however, the appellant may submit supporting evidence at any time prior to the Planning Commission or City Council, as applicable, makes its decision. The appeal shall be considered in accordance with the following: (1) The Planning Commission Secretary shall set the matter for hearing before the Planning Commission within 60 days of at the next regularly scheduled Planning Commission hearing after receiving the appeal. Notice of said hearing shall be given in accordance with applicable provisions of § 155.860 et seq. (2) Based on evidence provided by the appellant, the Planning Commission may overturn or confirm the termination order or may extend the date upon which said nonconforming use must be terminated. Such decision shall be issued in writing. (3) <u>The decision of the Planning Commission may be appealed to the City Council in accordance with the Zoning Code.</u> (4) <u>The nonconforming use may continue while it is being appealed until a final decision is made by the Planning Commission or City Council, as applicable, confirming the termination order.</u>	Partially accepted - Current code § 155.861 states a hearing "shall be held as soon as practical" without providing a timeframe. The proposed code section provides a clear and measurable time frame of 60 days. It is not practical to present an appeal at the next Planning Commission meeting since an appeal requires a staff report and a public hearing notice. Additionally, Santa Fe Springs only holds one PC meeting a month and if a meeting is cancelled, the city cannot bring the item before the PC sooner than 60 days. Evidence supporting the appeal must also be submitted when filing the initial appeal so staff can draft a report.
Buchalter Nemer, Industrial Business Group	155.395 Nonconforming Situations Review - Procedures for Expanding or Changing a Nonconforming Situation on a Site	Except for adult businesses, which are subject to § 155.396, <u>material</u> expansion or change of nonconforming use <u>to another nonconforming use</u> will be processed as a conditional use as established in §§ 155.710 through 155.724 and subject to the applicable review criteria in this section. The Planning Commission shall also consider the following in connection with request for such a Conditional Use Permit:	Not accepted - this is essentially saying that one can do whatever they want as long as they go through a CUP. A change of use needs to be in the same use category, it cannot be a totally separate type of use.
Buchalter Nemer, Industrial Business Group	155.395 (B) Nonconforming Situations Review - Procedures for Expanding or Changing a Nonconforming Situation on a Site	(B) If the request involves a change of <u>nonconforming use to another nonconforming use</u> , the proposed nonconforming use is within the same use category as the existing legally nonconforming use, whether by right or subject to a Conditional Use Permit.	Not accepted - this is essentially saying that one can do whatever they want so long as they go through a CUP. A change of use needs to be in the same use category, it cannot be in a totally separate type of use. For example, a shoe manufacturing business could become a paper manufacturing business. It could not become a warehouse since warehouse is a different use category.

Commenter	Section	Suggested Revision	City Response
Buchalter Nemer, Industrial Business Group	155.395 (C) Nonconforming Situations Review - Procedures for Expanding or Changing a Nonconforming Situation on a Site	(C) With mitigation measures through conditions of approval, the new use or expansion will comply with the performance standards in §§ 155.415 through 155.433 and will not result in a <u>substantial</u> net increase (4) The appearance of the new or expanded use will not substantially detract from the desired function and character of the zoning district;	Not accepted - The zoning code must be as objective as possible and terms like "substantial" and "substantially" are too subjective to be enforceable.
Buchalter Nemer, Industrial Business Group	155.395 (D)(1) Nonconforming Situations Review - Procedures for Expanding or Changing a Nonconforming Situation on a Site	(1) Expansions in floor area to provide space for nonconforming uses shall not exceed the following thresholds and shall be considered material and require a Conditional Use Permit	Not accepted - Most jurisdictions do not allow for any expansion whatsoever of nonconforming uses or buildings. Santa Fe Springs is very generous to allow limited expansions. The General Plan policy says uses can continue indefinitely until a site is redeveloped, and "any material expansion in square footage of a nonconforming building or use shall require a conditional use permit." That's it. The policy does not say a use or development can expand indefinitely. Allowing for one limited expansion satisfies the General Plan policy.
Dan Haskins, Franklin Family Partnership	155.395 (D)(1) Nonconforming Situations Review - Procedures for Expanding or Changing a Nonconforming Situation on a Site	Section 155.392 (B)(4)(a) and (b) state "the nonconforming uses can be expanded up to 60% of their existing floor areas." The table should be updated to reflect 60%.	This section is a slightly modified version of the existing code section for nonconforming parking and loading facilities (Section 155.478). Historically, this section has only been applicable for residential expansions when the property has a 1-car garage. With this section, they may add up to 60% before triggering a 2-car garage. The draft language has been modified to clarify the intent of the 60% expansion rule.
Buchalter Nemer, Industrial Business Group	155.395 (D)(2) Nonconforming Situations Review - Procedures for Expanding or Changing a Nonconforming Situation on a Site	(2) Expansions in floor area for nonconforming uses or structures may occur one time only, and t The expansion must comply with current development standards for the zoning district in which the use or structure is located.	Not accepted - Most jurisdictions do not allow for any expansion whatsoever of nonconforming uses or buildings. Santa Fe Springs is very generous to allow limited expansions. The GP policy says uses can continue indefinitely until a site is redeveloped, and "any material expansion in square footage of a nonconforming building or use shall require a conditional use permit." That's it. The policy does not say a use or development can expand indefinitely. Allowing for one limited expansion satisfies the GP policy.
Dan Haskins, Franklin Family Partnership	155.395 (D)(2) Nonconforming Situations Review - Procedures for Expanding or Changing a Nonconforming Situation on a Site	Why restrict expansions in floor area for nonconforming uses or structures one time only? Remove the restriction.	Without a restriction on the number of times a nonconforming situation can be expanded, the City would essentially allow nonconforming situations to become incrementally worse and worse. The city does not want to exacerbate nonconforming situations. Most codes do not allow for any expansion of a nonconforming situation, so allowing for one expansion is already quite generous.
Buchalter Nemer, Industrial Business Group	155.395 (D)(3) Nonconforming Situations Review - Procedures for Expanding or Changing a Nonconforming Situation on a Site	(3) Expansion of a nonconforming use onto another site, except for an adjacent parcel under the same ownership, shall be prohibited. In the event an abutting parcel is under the same ownership as the parcel supporting the nonconforming use, the nonconforming use may be expanded without the approval of a Conditional Use Permit.	Not accepted - the existing proposed text is already more generous than most jurisdictions.

ATTACHMENT C – BRADY MCSHANE – EMAILED COMMENTS

From: mcsaneb@gtlaw.com
To: [Wayne M. Morrell](#); [Cuong H. Nguyen](#); [Laurel Reimer](#); joser@migcom.com; lstetson@migcom.com
Cc: kevin@staleypoint.com; echo@staleypoint.com; eric@staleypoint.com
Subject: FW: City of Santa Fe Springs - Updated Nonconforming Situations Code Section
Date: Wednesday, August 30, 2023 5:39:25 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image007.png](#)
Importance: High

Dear Wayne, Cuong, Laurel, Jose & Laura,

This firm represents Staley Point Capital (“SPC”), owner of three properties in the City of Santa Fe Springs (“City”), one of which is located at 13767 Freeway Drive. On behalf of SPC, please see our comments below on the City’s updates to the draft nonconforming situations code section (the “Draft Nonconforming Provisions”). These comments focus on the nonconforming development portion of the Draft Nonconforming Provisions. They are consistent with the business group comments submitted on August 28th, but also provide additional context for your consideration relative to SPC.

As always, thank you again for your continued commitment to working with the business community on this.

1. **Section 155.388 (B)(2) – Definition of a “Nonconforming Development”**

The City’s definition of a “nonconforming development” should confirm that a structure, building or site improvement is considered legally conforming if the nonconformance is subsequently approved through the City’s Variance process. Specifically, the City’s updated definition recognizes that a subsequent approval of a nonconformance can render a development legally conforming but appears to have limited the subsequent approval type to Conditional Use Permits as per Section 155.395. This fails to acknowledge, however, projects that have obtained City approval of nonconformances pursuant to the City’s Variance or other discretionary procedure. Accordingly, in order to avoid confusion in the future, the definition should be further clarified to recognize that projects/buildings/improvements, which obtained a Variance (or other similar discretionary approval) permitting deviations from City development standards, are considered legally conforming and not subject to the nonconforming chapter.

SPC’s recent building renovation project at 13767 Freeway Drive is a good example. At one point, a corner of the existing building was considered nonconforming with respect to a building setback along Freeway Drive. After discussions with City staff, SPC (i) obtained discretionary approvals for the renovation project, including a Variance to specifically allow a proposed 9.5-foot setback area along Freeway Drive (in lieu of 30-feet otherwise required by Code), and (ii) consistent with the Variance approval, improved the nonconformity by demolishing a portion of the existing building to increase the setback area to 9.5 feet.

Here, the City’s subsequently approved Variance allowing the new 9.5-foot setback area

rendered the building's setback legally conforming with the current Code, and therefore, not further subject to the City's nonconforming development provisions. In particular, the current Code authorizes the issuance of a Variance approval to allow a project/development to "vary" from otherwise required development standards, like setbacks. In accordance with the Code, the City granted a Variance specifically allowing for the 9.5-foot setback area. Accordingly, the subject building's setback now complies with the Code/applicable setback standard by virtue of the City's Variance approval and is thus deemed legally conforming. To this end, the City determined in its findings: "the applicant is seeking a Zone Variance approval to allow for the subject project to deviate from Section 155.380(B)(1) of the City's Zoning Ordinance by providing a minimum 9.5 foot setback along Freeway Drive. ***Therefore, with the approval of the proposed Zone Variance Case No. 90, the subject project meets all development standards set for in the City's zoning regulations.***" (DPA Approval Resolution No. 186-2021, Finding II.D.)

Accordingly, please revise the definition of a "nonconforming development" as follows:

A nonconforming development means a structure, building, or site improvement, such as an off-street parking facility, that was lawfully established in compliance with the applicable zoning regulations in effect at the time of construction but which no longer complies with the applicable development standards of the zone in which it is located, such as setbacks, buffers or yards, area, bulk, height, density, or parking. A structure, building, or site improvement shall be considered legally conforming, and not subject to this chapter, if the nonconformance was previously or is subsequently approved through a variance, modification, conditional use permit, or development plan procedure. ~~the nonconformance is subsequently approved through a Conditional Use Permit procedure as per Section 155.395.~~

2. **Sections 155.392 (A-B) Nonconforming Development – Alterations and Enlargements**

Section 155.392 in the City's Draft Nonconforming Provisions states that a nonconforming development may be maintained, repaired, improved, and continued "**provided there is no physical change except as allowed by Section 155.395(D).**"

Referenced Section 155.395(D), however, pertains to nonconforming **uses** (not nonconforming **development**), and otherwise internally conflicts with Section 155.392(B), which permits enlargements and alterations to nonconforming developments provided the proposed addition/alteration (i) complies with Code, and (ii) causes the nonconformance to "better comply" with applicable development standards.

Additionally, exterior alterations and/or enlargements to nonconforming buildings that comply with the current Code and do not otherwise increase the nonconformity should not be required to obtain a Conditional Use Permit. Rather, the Conditional Use Permit (or Variance) process for nonconforming development should be limited to reviewing proposed projects that do not comply with the Code and/or otherwise will materially increase an existing nonconformity. This protects an owner's vested property rights and is entirely consistent with the treatment of nonconforming structures in other jurisdictions, allowing enlargements/alterations to occur but

only in compliance with the current Code and provided that such work does not worsen the nonconformance. (See e.g., [City of Los Angeles Code Section 12.23](#) and [City of Pasadena Code Section 17.71.080.D.](#))

Accordingly, please revise Sections 155.392(A) and (B) as follows:

A. Nonconforming Development, Generally. A nonconforming development may be maintained, repaired, improved, ~~altered, internally remodeled~~ and continued, provided there is no ~~physical material change-expansion in floor area~~ except as allowed by Section ~~155.395(D)~~ 155.392(B). A nonconforming development which houses one or more nonconforming uses shall also be subject to the provision of this chapter applicable to nonconforming uses.

B. Alterations of a Nonconforming Development.

1. Except as specified in §§ 155.392(B)(2) through (B)(5), a nonconforming development or portion thereof may be materially enlarged if the proposed addition or alteration:

a. Satisfies all of the current requirements of the Zoning Code; and

b. ~~Causes the existing development to better comply with the applicable standards of the Zoning Code for which it is nonconforming (i.e., to move in the direction of conformity) and~~ ~~d~~ Does not materially increase its nonconformity with the applicable standards of the Zoning Code, unless a variance, modification, conditional use permit, or development plan is granted in accordance with the applicable provisions of the Zoning Code. ~~Conditional Use Permit is granted in accordance with § 155.395.~~

3. **Section 155.392 (B)(6) Nonconforming Development – Alterations and Enlargements**

Section 155.392 (B)(6) in the City's Draft Nonconforming Provisions states: "A nonconforming development may be altered or enlarged so as to further **decrease** the difference between existing conditions and the current applicable development standards in this chapter if a Conditional Use Permit is obtained in compliance with Section 155.710 et seq."

The language previously proposed by the business group described that a nonconforming development could be altered/enlarged so as to further materially **increase** the nonconformance only with approval of a Variance. The City's revised draft language generally does not make sense; a CUP should not be required to better a nonconforming condition. Moreover, it suggests that a CUP is required for any enlargement/alteration of a nonconforming development, even if such alteration/enlargement complies with the Code and does not worsen the nonconformance. This internally contradicts Section 155.392(B)(2), and again, is contrary to the treatment in other cities like Los Angeles. Accordingly, please reinstate the language that was previously proposed by the business group:

(6) A nonconforming development may be altered or enlarged so as to further ~~decrease~~ materially increase the difference between existing conditions and the current applicable development standards in this chapter if a Variance or Conditional Use Permit is obtained in compliance with ~~Section 155.710 et seq.~~ the Zoning Code.

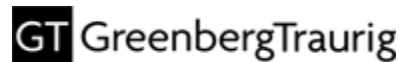
Thank you again for your time and attention dedicated to this matter.

Brady McShane

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Shareholder

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From: Laurel Reimer <LaurelReimer@santafesprings.org>

Sent: Tuesday, August 15, 2023 4:53 PM

To: Cuong H. Nguyen <CuongNguyen@santafesprings.org>; Wayne M. Morrell <WayneMorrell@santafesprings.org>; Jose M. Rodriguez <joser@migcom.com>; Laura Stetson <lstetson@migcom.com>

Subject: City of Santa Fe Springs - Updated Nonconforming Situations Code Section

Dear Stakeholders,

Thank you for your previous review of the nonconforming situations draft code section. We carefully considered all comments received and incorporated many of them into the revised draft. The revised draft satisfies the policy direction of the General Plan and clarifies the process for continuing and altering nonconforming situations. The nonconforming situations code section is **scheduled to be presented to the Planning Commission on Monday, October 9th**. Please provide any additional written comments you may have before August 31st so staff will have time to review and address them.

Thank you,

Laurel Reimer, AICP | Planning Consultant (Contract)
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ATTACHMENT D – BUCHALTER NEMAR – INDUSTRIAL BUSINESS GROUP –
REDLINE COMMENTS

PUBLIC REVIEW DRAFT (AUGUST 2023)
NONCONFORMING SITUATIONS

§ 155.385 PURPOSE OF CHAPTER.

This chapter establishes uniform provisions for the regulation of nonconforming land uses, development (including structures and improvements), and lots that were lawfully established but do not comply with the current requirements of this chapter ("nonconforming situations"). The overall intent of this chapter is to protect public health, safety, and general welfare while allowing reasonable use of private property by:

- (A) Limiting the number and extent of specific nonconforming uses and development that conflict with the provisions of this chapter by prohibiting their reestablishment after discontinuation;
- (B) Limiting the extent to which nonconforming uses and development that are involuntarily damaged or destroyed can be restored;
- (C) Allowing for the continuation and maintenance of nonconforming uses and development until a they are redeveloped;
- (D) Establishing procedures and criteria for evaluating the allowable enlargement of specific nonconforming uses and development; and
- (E) Limiting the alteration, enlargement, or relocation of nonconforming uses and development in a manner that would further increase the difference between existing nonconforming conditions and the current provisions of this Zoning Ordinance.
- (F) Implement the General Plan's Nonconforming Use Provision that states: "Existing legally established land uses or structures that are made nonconforming by this General Plan or related zoning amendments may continue operating until a site is redeveloped; however, any material expansion in square footage of a nonconforming building or use shall require a conditional use permit. Repairs and maintenance may be made to keep nonconforming buildings or structures in a safe condition."

§ 155.386 NONCONFORMING SITUATIONS, APPLICABLE PROVISIONS.

- (A) So long as a nonconforming situation exists upon a lot, such situation may continue without any time limitation on its continued presence, provided that such nonconforming situation complies with all applicable provisions of this chapter.
- (B) No new use or structure may be constructed, established, or installed on a lot with a nonconforming situation except as allowed by this chapter.
- (C) In addition to the general requirements in §§ 155.387 through 155.390, properties with nonconforming situations are subject to the standards and procedures for each type of nonconforming situation that is applicable to that property.
 - (1) Nonconforming lots are subject to § 155.391.
 - (2) Nonconforming developments (except nonconforming signs) are subject to § 155.392.

- (3) Nonconforming uses are subject to §§ 155.393 through 155.396.
- (4) Nonconforming signs are subject to § 155.398.

§ 155.387 EXCEPTIONS TO THIS CHAPTER.

- (A) Santa Fe Springs Zoning Revisions: Nonconforming Situations Public Review Draft (August 2023)Public Utilities. The Director of Planning or designee, by written findings, may determine that a particular public utility facility or installation, nonconforming to the requirements of this chapter, is necessary to serve the areas in which it is located. Said public utility facility may then be expanded or altered, provided:
 - (1) The facility does not extend beyond the boundaries of the existing site or of the site approved by the city for such use; and
 - (2) The addition, extension, or alteration complies with all other performance standards provisions of §§ 155.415 through 155.433.
- (B) Uses Requiring Conditional Use Permits. Notwithstanding the other provisions of this chapter, no use identified in this Zoning Code as a "conditional use" that was lawfully in existence as of the effective date of these regulations shall be deemed nonconforming solely by reason of the application of the Conditional Use Permit procedural requirements, in compliance with §§ 155.710 through 155.724; provided that:
 - (1) Use allowed with Conditional Use Permit approval. A land use that was legally established without a Conditional Use Permit, but which would be required under the current Zoning Ordinance provisions to have Conditional Use Permit approval, shall not be materially enlarged unless a Conditional Use Permit is first obtained as per Section 155.395.
 - (2) Use no longer allowed with Conditional Use Permit approval. A land use that was established with Conditional Use Permit approval, but which is no longer allowed with Conditional Use Permit approval by current Zoning Code regulations, may continue in substantial compliance with the original Conditional Use Permit. Such use may be materially expanded or altered only in conformance with Section 155.395 with approval of a new Conditional Use Permit.

§ 155.388 NONCONFORMING SITUATIONS, DEFINED.

- (A) Uses or developments that were not lawfully established do not have a legal right to continue as nonconforming situations as defined by this chapter and must be removed immediately.
- (B) Nonconforming situations shall have the following meanings:
 - (1) A nonconforming lot means a lot that was lawfully established but does not meet the requirements of the zone in which it is located.
 - (2) A nonconforming development means a structure, building, or site improvement, such as an off-street parking facility, that was lawfully established in compliance with the applicable zoning regulations in effect at the time of construction but which no longer complies with the applicable development standards of the zone in which it is located, such as setbacks, buffers or yards, area,

bulk, height, density, or parking. A structure, building, or site improvement shall be considered legally conforming, and not subject to this chapter, if the nonconformance was previously or is subsequently approved through a variance, modification, conditional use permit, or development plan procedure.

- (3) A nonconforming use means a use of land or a structure that was lawfully established in compliance with the applicable zoning regulations in effect at the time it was established but which no longer complies with the applicable regulations of the zone in which it is located. A use shall be considered legally conforming, and not subject to this chapter, if the nonconformance is subsequently approved through a modification, Conditional Use Permit, Development Plan, or other procedure, as applicable in accordance with the Zoning Code..
- (C) When submitting a development application to alter or expand a nonconforming situation or otherwise establish that a lot, use, or development is a legal nonconforming situation, the property owner or applicant must document that a nonconforming situation was legally established on its present site. The City, at the request of the property owner or applicant, will provide the property owner or applicant with all records to the extent they are in the City's possession. Evidence that the situation was legally established shall depend upon the type of nonconforming situation, as follows.
- (1) For nonconforming lots, the property owner or applicant must document when the lot was lawfully created in accordance with § 155.391.
 - (2) For nonconforming development or nonconforming uses, the property owner or applicant must provide building, land use, or development permits. For development or uses which did not require a permit when lawfully established, the property owner or applicant must provide other evidence which clearly shows the date the development or use was established such as dated aerial photographs.
 - (3) In addition, for nonconforming uses, the property owner or applicant must document that the use has been continually maintained the prior one (1) year; however, an extension of time to demonstrate that the use has not ceased may be granted by Planning Commission action or, upon appeal, City Council action. Evidence that a use has been maintained over time shall consist of building permits, functioning utility hookups, tax records, business licenses, lease agreements, business receipts, and/or similar documentation.

§ 155.389 INTENTIONAL DEMOLITION OR DESTRUCTION.

Any nonconforming use or development dependent upon a building or structure that has been declared a "public nuisance" and ordered demolished pursuant to Santa Fe Springs Municipal Code § 95.07 will lose its nonconforming status upon that notice unless the nuisance is abated in accordance with that section. Nonconforming uses or nonconforming developments that have been intentionally destroyed by the owner shall lose their legal nonconforming status.

§ 155.390 PROVISIONS APPLICABLE TO ALL NONCONFORMING SITUATIONS.

The following provisions shall apply to all nonconforming uses, structures, and lots existing as of the effective date of this chapter:

- (A) The nonconforming status of a lot, development, or use shall not be affected by changes in ownership or tenancy; and
- (B) Except as specified herein, a nonconforming situation must maintain compliance with any and all conditions of approval previously established through prior land use reviews.

§ 155.391 NONCONFORMING LOTS.

- (A) Determination of nonconforming status. A nonconforming lot of record that does not comply with the current access, area, or dimensional requirements for the zoning district in which it is located shall be considered to be a legal building site if it meets one of the criteria specified by this section. The applicant shall be responsible for providing sufficient evidence to establish the applicability of one or more of the following to the satisfaction of the city.
 - (1) Approved subdivision. The lot was created through a subdivision approved by the city or the County, before incorporation.
 - (2) Variance, modification permit, or lot line adjustment. The lot was approved through the variance procedure (§§ 155.670 through 155.682), the modification procedure (§§ 155.690 through 155.702), or its current configuration resulted from a lot line adjustment.
 - (3) Partial government acquisition. The lot was created in conformity with the provisions of the Zoning Code but was made nonconforming when a portion of the lot was acquired by a governmental entity.
 - (4) Individual lot otherwise legally created. The lot was legally created before the effective date of the chapter which made the lot nonconforming.
- (B) Further subdivision prohibited. Where structures have been erected on a nonconforming lot, the lot may not be later subdivided, nor can lot lines be altered through a lot line adjustment so as to reduce the building site area or frontage below the requirements of the applicable zoning district or other applicable provisions of this Zoning Ordinance, or in any way that makes the use of the lot more nonconforming, unless a Variance is obtained in compliance with Section 155.670 et seq.

§ 155.392 NONCONFORMING DEVELOPMENT.

- (A) Nonconforming Development, Generally. A nonconforming development may be maintained, repaired, improved, altered, internally remodeled and continued, provided there is no material expansion in floor area except as allowed by Section 155.392(B). A nonconforming development which houses one or more nonconforming uses shall also be subject to the provision of this chapter applicable to nonconforming uses.
- (B) Alterations of a Nonconforming Development.
 - (1) Except as specified in §§ 155.392(B)(2) through (B)(5), a nonconforming development or portion thereof may be materially enlarged or altered if the proposed addition or alteration:
 - (a) Satisfies all of the current requirements of the Zoning Code; and

- (b) Does not materially increase its nonconformity with the applicable standards of the Zoning Code, unless a variance, modification, conditional use permit, or development plan is granted in accordance with the applicable provisions of the Zoning Code.
 - (2) Developments which are nonconforming only in regard to required distances between buildings may be added to or enlarged in accordance with the following:
 - (a) Provided that any additions or enlargements must not encroach into the required distances between buildings to a greater extent than the existing structure; and
 - (b) Complies with all applicable requirements of the California Fire Code.
 - (3) Structures which are nonconforming only in regard to height may be added to or enlarged, provided that any additions or enlargements must conform to the height regulations and to all other provisions of the Zoning Code.
 - (4) For industrial and commercial developments that are nonconforming only as to the regulations relating to off-street parking and loading facilities, such uses may be continued in the same manner as if the parking and loading facilities were conforming, except as needed to comply with Americans with Disabilities Act (ADA) and any applicable state or local disability access statute. However, such parking and loading facilities as do exist may not be further materially reduced with respect to number provided, dimensions, and any other relevant requirement. No material increase in the intensity of use of any building, structure, or premises through the addition of floor area, seating capacity, or other units of measurement specified in the Zoning Code shall be permitted except in accordance with the following requirements:
 - (a) The intensity of use may be increased up to 60% in terms of either floor area, provided that such parking and loading facilities as presently exist may not be reduced unless suitable substitutions are made which would meet the requirements of the Zoning Code, or as otherwise permitted by approval of a variance, modification, conditional use permit, or development plan.
 - (b) The intensity of use may be increased by more than 60% in terms of floor area, provided that parking and loading facilities for the entire developed portion of the property are provided in conformance with all requirements of the Zoning Code.
 - (5) Sheet-metal buildings that are nonconforming only in regard to sheet-metal siding or Quonset-type construction may be altered, added to, or enlarged, provided that any alterations, additions, or enlargements must conform to all of the provisions and regulations of the Zoning Code.
 - (6) A nonconforming development may be altered or enlarged so as to further materially increase the difference between existing conditions and the current applicable development standards in this chapter if a Variance or Conditional Use Permit is obtained in compliance with the Zoning Code.
- (C) Damage or Partial Destruction of a Nonconforming Development. When a nonconforming development is damaged or partially destroyed by fire or other causes not caused by an act or deliberate omission of a property owner or person acting on the owner's behalf, it may be rebuilt in-kind within the footprint of

the damaged or destroyed improvement and any existing nonconforming use of the development may continue, provided:

- (1) The cost of repair or reconstruction does not exceed 75% of the replacement value or appraised value of the building or structure, whichever is higher. The determination of the appraised value shall be made by a professional appraiser selected by the owner and approved by the City, whose fee shall be paid by the owner. If the cost of repair or reconstruction exceeds 75% of the replacement value or appraised value, as applicable, the development may not be rebuilt, except in full conformance with the current provisions of the Zoning Code.
 - (2) Replacement Value Calculation. The extent of damage or partial destruction shall be determined by comparing the estimated cost of restoring the structure to its condition before the damage or partial destruction based on current building and fire code requirements to the estimated cost of duplicating the entire structure, also based on current building and fire code standards, as it existed before the damage or destruction occurred. Estimates for this purpose shall be reviewed and approved by the Building Official.
 - (3) Any reconstruction, restoration, or rebuilding undertaken pursuant to this section shall conform to all applicable building and fire code requirements, provided that a building permit is submitted for within two years after the date of the damage or destruction, and the construction is diligently pursued to completion. This time period may be extended if the property owner can provide evidence, to the reasonable satisfaction of the Building Official, that delays due to insurance requirements or other circumstances beyond the control of the property owner, as reasonably verified by the Building Official, prevent meeting the two- year time frame.
 - (4) The replacement improvements shall not materially increase the degree of nonconformity beyond that of the previously existing improvements, as determined by the Building Official.
- (D) Roadway Access. The owner of a nonconforming driveway approach or access to a public street or highway, upon receiving land use or development plan approval, may be required as a condition of approval to bring the nonconforming access into conformance with city standards.

§ 155.393 NONCONFORMING USES

- (A) Except as specified in § 155.393(B), a nonconforming use may be maintained and continued, provided there is no material increase or enlargement of the area, space, or volume occupied by or devoted to the nonconforming use, except as allowed by this chapter.
- (B) Whenever any of the following facts are found to exist with reference to a nonconforming use, the nonconforming protection/benefits provided by this chapter shall cease except as otherwise allowed by this chapter:
- (1) The license or permit that is required to operate the nonconforming use has been revoked or terminated; or
 - (2) There has been a violation of the provisions of this chapter regarding change of use, alteration, or expansion of the nonconforming use.

- (C) A nonconforming use may be changed to a conforming use, provided that any part of a structure or land occupied by a nonconforming use which is changed to or replaced by a conforming use shall not again be used or occupied by a nonconforming use.
- (D) The area, space, or volume occupied by or devoted to a nonconforming use may be materially increased with the approval of a Conditional Use Permit pursuant to § 155.395.

§ 155.394 DISCONTINUATION OF NONCONFORMING USE.

- (A) Discontinuation. Except as provided in §§ 155.394(C) through (F) a nonconforming use that is discontinued for a period of more than 365 consecutive days shall be deemed abandoned and shall no longer be allowed as a legal nonconforming use. For purposes of calculating the 365-day time period, a use is discontinued on a site when any one of the following conditions occur:
 - (1) The use no longer physically occupies the site;
 - (2) The use ceases operation. For example, the site is no longer actively in use for the sale of merchandise, the manufacture or warehousing of products, or the provision of services, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service or similar indications;
 - (3) A request for final reading of water and power meters is made to the applicable utility or the utility bill account indicates inactivity;
 - (4) The business has failed to make a required payment of a required business license and has failed to maintain a valid business license;
 - (5) The use ceases operation as a result of damage or destruction by fire or other causes and a building permit for the reconstruction or repair has not been submitted for within 24 months after the date of destruction; and/or
 - (6) An event occurs similar to those listed in § 155.394(A)(1) – (6), above, as determined by the Director of Planning or designee.
- (B) Application of Criteria and Standards to Nonconforming Use. Once the Director of Planning or designee deems a nonconforming use discontinued pursuant to § 155.394(A) and issues such determination in writing, any subsequent use of the subject lot must conform to the current standards and criteria of the Zoning Code applicable to the use. After the city has deemed a nonconforming use discontinued, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this chapter and subject to enforcement proceedings.
- (C) Adult Businesses. Nonconforming adult businesses are subject to the provisions in § 155.603.
- (D) Oil and gas wells. Idle wells as defined by the California Geologic Energy Management Division (CalGEM) are subject to the provisions of the State of California's idle well regulations.
- (E) Appeal. Any party that has been administratively ordered by the city to terminate a nonconforming use shall have the right to appeal the decision to the Planning Commission for any reason, including the

party believes the decision is unreasonable or would cause undue hardship. Appeals shall be filed with the Planning Commission Secretary, including a statement and evidence provided by the appellant supporting the appeal, however, the appellant may submit supporting evidence at any time prior to the Planning Commission or City Council, as applicable, makes its decision. The appeal shall be considered in accordance with the following:

- (1) The Planning Commission Secretary shall set the matter for hearing before the Planning Commission at the next regularly scheduled Planning Commission hearing after receiving the appeal. Notice of said hearing shall be given in accordance with applicable provisions of § 155.860 et seq.
- (2) Based on evidence provided by the appellant, the Planning Commission may overturn or confirm the termination order or may extend the date upon which said nonconforming use must be terminated. Such decision shall be issued in writing.
- (3) The decision of the Planning Commission may be appealed to the City Council in accordance with the Zoning Code.
- (4) The nonconforming use may continue while it is being appealed until a final decision is made by the Planning Commission or City Council, as applicable, confirming the termination order.

§ 155.395 NONCONFORMING SITUATIONS REVIEW - PROCEDURES FOR MATERIALLY EXPANDING OR CHANGING A NONCONFORMING SITUATION ON A SITE.

Except for adult businesses, which are subject to § 155.396, material expansion or change of nonconforming use to another nonconforming use will be processed as a conditional use as established in §§ 155.710 through 155.724 and subject to the applicable review criteria in this section. The Planning Commission shall also consider the following in connection with request for such a Conditional Use Permit:

- (A) The nonconforming use was not created unlawfully.
- (B) If the request involves a change of nonconforming use to another nonconforming use, the proposed nonconforming use is within the same use category as the existing legally nonconforming use, whether by right or subject to a Conditional Use Permit.
- (C) With mitigation measures through conditions of approval, the new use or expansion will comply with the performance standards in §§ 155.415 through 155.433 and will not result in a substantial net increase in overall adverse impacts (over the impacts of the existing use) on the surrounding area, taking into account factors such as:
 - (1) Noise, vibration, dust, odor, fumes, glare, and smoke;
 - (2) Potential for increased litter;
 - (3) The amount, location, and nature of any outside displays, storage, or activities;
 - (4) The appearance of the new or expanded use will not substantially detract from the desired function and character of the zoning district;

- (5) The operating characteristics of the new or expanded use are compatible with the existing and anticipated uses in the immediate vicinity. The hours of operation of nonresidential uses in residential zoning districts cannot be extended into the period of 10 p.m. to 7 a.m.;
- (6) If the proposed change to the nonconforming use will result in an increase in vehicular trips, the street system shall have adequate capacity to accommodate the use, as determined by the Director of Public Works and/or Traffic Engineer following completion of a traffic study by the applicant;
- (7) If the proposed change to the nonconforming use will result in an increase in vehicle parking demand, the site shall have adequate on-site parking to accommodate the development, or adequate parking will be provided in accordance with § 155.480;
- (8) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion; and
- (9) Public services for water, sanitary sewer, stormwater, water management, and fire and police protection can serve the proposed use, as determined by the responsible city authorities.

(D) Expansions in floor area shall be limited as follows:

- (1) Expansions in floor area to provide space for nonconforming uses that exceed the following thresholds shall be considered material and require a Conditional Use Permit:

Existing Gross Floor Area	% Expansion of Floor Area
Buildings under 3,999 sq. ft.	25%
Buildings between 4,000 sq. ft. and 9,999 sq. ft.	20%
Buildings between 10,000 sq. ft. and 24,999 sq. ft.	15%
Buildings between 25,000 sq. ft. and 49,999 sq. ft.	10%
Buildings over 50,000 sq. ft.	5%

- (2) The expansion must comply with current development standards for the zoning district in which the use or structure is located.
 - (3) Expansion of a nonconforming use onto another site, except for an adjacent parcel under the same ownership, shall be prohibited without the approval of a Conditional Use Permit.
 - (4) Addition of new residential units to nonconforming residential use is prohibited unless otherwise permitted under state law.
- (E) Nonconforming Use Expansions in Residential Areas. If the nonconforming use is in a residential zoning district or in a mixed-use zoning district with residential uses adjacent to the site, the proposed expansion shall be designed and constructed to minimize the impact on the established residential character of the area, as determined by the Director of Planning. This determination shall be based on, but not limited to, the following factors:
- (1) Building scale and placement;

- (2) Exterior building treatments;
- (3) Parking area placement;
- (4) Buffering and the potential loss of privacy to abutting residential uses;
- (5) Location of loading and refuse storage/collection areas;
- (6) Outdoor storage (where permitted); and
- (7) Lighting and signs.

§ 155.396 NONCONFORMING ADULT BUSINESSES.

Nonconforming adult businesses may not be enlarged or reconstructed and are subject to the amortization and termination provisions in § 155.603.

§ 155.397 NONCONFORMING SIGNS.

- (A) Nonconforming signs may not be enlarged or reconstructed and are subject to the termination provisions of State law.
- (B) In accordance with § 155.535, a sign permit may be required to maintain a nonconforming sign.

ATTACHMENT E – DAN HASKINS – FRANKLIN FAMILY PARTNERSHIP –
REDLINE COMMENTS

PUBLIC REVIEW DRAFT (AUGUST 2023)

NONCONFORMING SITUATIONS

§ 155.385 PURPOSE OF CHAPTER.

This chapter establishes uniform provisions for the regulation of nonconforming land uses, development (including structures and improvements), and lots that were lawfully established but do not comply with the current requirements of this chapter ("nonconforming situations"). The overall intent of this chapter is to protect public health, safety, and general welfare while allowing reasonable use of private property by:

- (A) Limiting the number and extent of specific nonconforming uses and development that conflict with the provisions of this chapter by prohibiting their reestablishment after discontinuation;
- (B) Limiting the extent to which nonconforming uses and development that are involuntarily damaged or destroyed can be restored;
- (C) Allowing for the continuation and maintenance of nonconforming uses and development until a use is expanded or changed or a structure is improved or a site is redeveloped;
- (D) Establishing procedures and criteria for evaluating the allowable enlargement of specific nonconforming uses and development; and
- (E) Limiting the alteration, enlargement, or relocation of nonconforming uses and development in a manner that would further increase the difference between existing nonconforming conditions and the current provisions of this Zoning Ordinance.

§ 155.386 NONCONFORMING SITUATIONS, APPLICABLE PROVISIONS.

- (A) So long as a nonconforming situation exists upon a lot, such situation may continue without any time limitation on its continued presence, provided that such nonconforming situation complies with all applicable provisions of this chapter.
- (B) No new use or structure may be constructed, established, or installed on a lot with a nonconforming situation except as allowed by this chapter.
- (C) In addition to the general requirements in §§ 155.387 through 155.390, properties with nonconforming situations are subject to the standards and procedures for each type of nonconforming situation that is applicable to that property.
 - 1) Nonconforming lots are subject to § 155.391.
 - 2) Nonconforming developments (except nonconforming signs) are subject to § 155.392.
 - 3) Nonconforming uses are subject to §§ 155.393 through 155.396.
 - 4) Nonconforming signs are subject to § 155.398.

§ 155.387 EXCEPTIONS TO THIS CHAPTER.

-
- (A) Public Utilities. The Director of Planning or designee, by written findings, may determine that a particular public utility facility or installation, nonconforming to the requirements of this chapter, is necessary to serve the areas in which it is located. Said public utility facility may then be expanded or altered, provided:
- (1) The facility does not extend beyond the boundaries of the existing site or of the site approved by the city for such use; and
 - (2) The addition, extension, or alteration complies with all other performance standards provisions of §§ 155.415 through 155.433.
-
- (B) Uses Requiring Conditional Use Permits. Notwithstanding the other provisions of this chapter, no use identified in this Zoning Code as a "conditional use" that was lawfully in existence as of the effective date of these regulations shall be deemed nonconforming solely by reason of the application of the Conditional Use Permit procedural requirements, in compliance with §§ 155.710 through 155.724; provided that:
- (1) Use allowed with Conditional Use Permit approval. A land use that was legally established without a Conditional Use Permit, but which would be required under the current Zoning Ordinance provisions to have Conditional Use Permit approval, shall not be altered or enlarged in any way unless a Conditional Use Permit is first obtained as per Section 155.395.
 - (2) Use no longer allowed with Conditional Use Permit approval. A land use that was established with Conditional Use Permit approval, but which is no longer allowed with Conditional Use Permit approval by current Zoning Code regulations, may continue in compliance with the original Conditional Use Permit. Such use may be expanded or altered only in conformance with Section 155.395 with approval of a new Conditional Use Permit.
-

N/A

OK

§ 155.388 NONCONFORMING SITUATIONS, DEFINED.

- (A) Uses or developments that were not lawfully established do not have a legal right to continue as nonconforming situations as defined by this chapter and must be removed immediately.
- (B) Nonconforming situations shall have the following meanings:
- (1) A nonconforming lot means a lot that was lawfully established but does not meet the requirements of the zone in which it is located.
 - (2) A nonconforming development means a structure, building, or site improvement, such as an off-street parking facility, that was lawfully established in compliance with the applicable zoning regulations in effect at the time of construction but which no longer complies with the applicable development standards of the zone in which it is located, such as setbacks, buffers or yards, area, bulk, height, density, or parking. A structure, building, or site improvement shall be considered legally conforming, and not subject to this chapter, if the nonconformance is subsequently approved through a Conditional Use Permit procedure as per Section 155.395.
 - (3) A nonconforming use means a use of land or a structure that was lawfully established in compliance with the applicable zoning regulations in effect at the time it was established but which no longer

12 months is too short. Suggest a proposed language change that tolls the time periods. For example, government shutdowns (Covit), time to settle insurances, planning and rebuilds from property damages etc. Another example, is the State of California provides for extensions of time for entitlements due to economic downturns.

complies with the applicable regulations of the zone in which it is located. A use shall be considered legally conforming, and not subject to this chapter, if the nonconformance is subsequently approved through a Conditional Use Permit procedure as per Section 155.395 and such use has not ceased operation for a continuous period of one year.

- (C) When submitting a development application to alter or expand a nonconforming situation or otherwise establish that a lot, use, or development is a legal nonconforming situation, the property owner or applicant must document that a nonconforming situation was legally established on its present site. The City, at the request of the property owner or applicant, will provide the property owner or applicant with all records to the extent they are in the City's possession. Evidence that the situation was legally established shall depend upon the type of nonconforming situation, as follows.
- (1) For nonconforming lots, the property owner or applicant must document when the lot was lawfully created in accordance with § 155.391.
 - (2) For nonconforming development or nonconforming uses, the property owner or applicant must provide building, land use, or development permits. For development or uses which did not require a permit when lawfully established, the property owner or applicant must provide other evidence which clearly shows the date the development or use was established such as dated aerial photographs.
 - (3) In addition, for nonconforming uses, the property owner or applicant must document that the use has been continually maintained the prior one (1) year; however, an extension of time to demonstrate that the use has not ceased may be granted by Planning Commission action or, upon appeal, City Council action. Evidence that a use has been maintained over time shall consist of building permits, functioning utility hookups, tax records, business licenses, lease agreements, business receipts, and/or similar documentation.

§ 155.389 INTENTIONAL DEMOLITION OR DESTRUCTION.

Any nonconforming use or development dependent upon a building or structure that has been declared a "public nuisance" and ordered demolished pursuant to Santa Fe Springs Municipal Code § 95.07 will lose its nonconforming status upon that notice unless the nuisance is abated in accordance with that section. Nonconforming uses or nonconforming developments that have been intentionally destroyed by the owner shall lose their legal nonconforming status.

§ 155.390 PROVISIONS APPLICABLE TO ALL NONCONFORMING SITUATIONS.

The following provisions shall apply to all nonconforming uses, structures, and lots existing as of the effective date of this chapter:

- (A) The nonconforming status of a lot, development, or use shall not be affected by changes in ownership or tenancy; and
- (B) Except as specified herein, a nonconforming situation must maintain compliance with any and all conditions of approval previously established through prior land use reviews.

§ 155.391 NONCONFORMING LOTS.

- (A) Determination of nonconforming status. A nonconforming lot of record that does not comply with the current access, area, or dimensional requirements for the zoning district in which it is located shall be considered to be a legal building site if it meets one of the criteria specified by this section. The applicant shall be responsible for providing sufficient evidence to establish the applicability of one or more of the following to the satisfaction of the city.
- (1) Approved subdivision. The lot was created through a subdivision approved by the city or the County, before incorporation.
 - (2) Variance, modification permit, or lot line adjustment. The lot was approved through the variance procedure (§§ 155.670 through 155.682), the modification procedure (§§ 155.690 through 155.702), or its current configuration resulted from a lot line adjustment.
 - (3) Partial government acquisition. The lot was created in conformity with the provisions of the Zoning Code but was made nonconforming when a portion of the lot was acquired by a governmental entity.
 - (4) Individual lot otherwise legally created. The lot was legally created before the effective date of the chapter which made the lot nonconforming.
- (B) Further subdivision prohibited. Where structures have been erected on a nonconforming lot, the lot may not be later subdivided, nor can lot lines be altered through a lot line adjustment.

OK

§ 155.392 NONCONFORMING DEVELOPMENT.

- (A) Nonconforming Development, Generally. A nonconforming development may be maintained, repaired, improved, and continued, provided there is no physical change except as allowed by Section 155.395(D). A nonconforming development which houses one or more nonconforming uses shall also be subject to the provision of this chapter applicable to uses.
- (B) Alterations of a Nonconforming Development.
- (1) Except as specified in §§ 155.392(B)(2) through (B)(5), a nonconforming development or portion thereof may be enlarged or altered if the proposed addition or alteration:
 - (a) Satisfies all of the current requirements of the Zoning Code; and
 - (b) Causes the existing development to better comply with the applicable standards of the Zoning Code for which it is nonconforming (i.e., to move in the direction of conformity) and does not increase its nonconformity with the applicable standards of the Zoning Code, unless a Conditional Use Permit is granted in accordance with §155.395.
 - (2) Developments which are nonconforming only in regard to required distances between buildings may be added to or enlarged in accordance with the following:
 - (a) Provided that any additions or enlargements must not encroach into the required distances between buildings to a greater extent than the existing structure;
 - (b) The encroachment of said additions or enlargements must not exceed one-half of the width of the required distances between buildings; and

OK

(c) Complies with all applicable requirements of the California Fire Code.

- (3) Structures which are nonconforming only in regard to height may be added to or enlarged, provided that any additions or enlargements must conform to the height regulations and to all other provisions of the Zoning Code.

- (4) For industrial and commercial developments which are nonconforming only as to the regulations relating to off-street parking and loading facilities, such uses may be continued in the same manner as if the parking and loading facilities were conforming, except as needed to comply with Americans with Disabilities Act (ADA) and any applicable state or local disability access statute. However, such parking and loading facilities as do exist may not be further reduced with respect to number provided, dimensions, and any other relevant requirement. No increase in the intensity of use of any building, structure, or premises through the addition of floor area, seating capacity, or other units of measurement specified in the Zoning Code shall be permitted except in accordance with the following requirements:

- (a) The intensity of use may be increased up to 60% in terms of either floor area or truck traffic generation, as determined by the Director of Planning, provided that the required parking and loading facilities for such increase are installed and that such parking and loading facilities as presently exist may not be reduced unless suitable substitutions are made which would meet the requirements of the Zoning Code.

- (b) The intensity of use may be increased by more than 60% in terms of floor area or traffic generation, as determined by the Director of Planning, provided that parking and loading facilities for the entire developed portion of the property are provided in conformance with all requirements of the Zoning Code.

- (5) Sheet-metal buildings that are nonconforming only in regard to sheet-metal siding or Quonset-type construction may be altered, added to, or enlarged, provided that any alterations, additions, or enlargements must conform to all of the provisions and regulations of the Zoning Code.

- (6) A nonconforming development may be altered or enlarged so as to further decrease the difference between existing conditions and the current applicable development standards in this chapter if a Conditional Use Permit is obtained in compliance with Section 155.710 et seq.

- (C) Damage or Partial Destruction of a Nonconforming Development. When a nonconforming development is damaged or partially destroyed by fire or other causes not caused by an act or deliberate omission of a property owner or person acting on the owner's behalf, it may be rebuilt in-kind within the footprint of the damaged or destroyed improvement and any existing nonconforming use of the development may continue, provided:

- (1) The cost of repair or reconstruction does not exceed 75% of the replacement value of the building or structure. If the cost of repair or reconstruction exceeds 75% of the replacement value, the development may not be rebuilt, except in full conformance with the current provisions of the Zoning Code.
- (2) Replacement Value Calculation. The extent of damage or partial destruction shall be determined by comparing the estimated cost of restoring the structure to its condition before the damage or partial destruction based on current building and fire code requirements to the estimated cost of duplicating the entire structure, also based on current building and fire code standards, as it existed before the

It is reported to FFP that the TO-MUD Zone for FFP's parcel requires no parking?

damage or destruction occurred. Estimates for this purpose shall be reviewed and approved by the Building Official.

- (3) Any reconstruction, restoration, or rebuilding undertaken pursuant to this section shall conform to all applicable building and fire code requirements, provided that a building permit is obtained within two years after the date of the damage or destruction, and the construction is diligently pursued to completion. This time period may be extended if the property owner can provide evidence, to the satisfaction of the Building Official, that delays due to insurance requirements or other circumstances beyond the control of the property owner, as verified by the Building Official, prevent meeting the two-year time frame.
- (4) The replacement improvements shall not increase the degree of nonconformity beyond that of the previously existing improvements, as determined by the Building Official.
- (D) Roadway Access. The owner of a nonconforming driveway approach or access to a public street or highway, upon receiving land use or development plan approval, may be required as a condition of approval to bring the nonconforming access into conformance with city standards.

§ 155.393 NONCONFORMING USES

- (A) Except as specified in § 155.393(B), a nonconforming use may be maintained and continued, provided there is no increase or enlargement of the area, space, or volume occupied by or devoted to the nonconforming use, except as allowed by this chapter.
- (B) Whenever any of the following facts are found to exist with reference to a nonconforming use, the nonconforming protection/benefits provided by this chapter shall cease except as otherwise allowed by this chapter:
 - (1) The license or permit that is required to operate the nonconforming use has been revoked or terminated; or
 - (2) There has been a violation of the provisions of this chapter regarding change of use, alteration, or expansion of the nonconforming use.
- (C) A nonconforming use may be changed to a conforming use, provided that any part of a structure or land occupied by a nonconforming use which is changed to or replaced by a conforming use shall not again be used or occupied by a nonconforming use.
- (D) The area, space, or volume occupied by or devoted to a nonconforming use may be increased with the approval of a Conditional Use Permit pursuant to § 155.395.

OK

§ 155.394 DISCONTINUATION OF NONCONFORMING USE.

- (A) Discontinuation. Except as provided in §§ 155.394(C) through (F) a nonconforming use that is discontinued for a period of more than 365 consecutive days shall be deemed abandoned and shall no longer be allowed as a legal nonconforming use. For purposes of calculating the 365-day time period, a use is discontinued on a site when any one of the following conditions occur:
 - (1) The use no longer physically occupies the site;

Again, 12 months is too short, based on our redline response indicated above in 155.388 (B)

Again, 12 months is too short, based on our redline response indicated above in 155.388 (B)

- (2) The use ceases operation. For example, the site is no longer actively in use for the sale of merchandise, the manufacture or warehousing of products, or the provision of services, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service or similar indications;
 - (3) A request for final reading of water and power meters is made to the applicable utility or the utility bill account indicates inactivity;
 - (4) The business has failed to make a required payment of a required business license and has failed to maintain a valid business license;
 - (5) The use ceases operation as a result of damage or destruction by fire or other causes and a building permit for the reconstruction or repair has not been obtained within 24 months after the date of destruction; and/or
 - (6) An event occurs similar to those listed in § 155.394(A)(1) – (6), above, as determined by the Director of Planning or designee.
- (B) Application of Criteria and Standards to Nonconforming Use. Once the Director of Planning or designee deems a nonconforming use discontinued pursuant to § 155.394(A) and issues such determination in writing, any subsequent use of the subject lot must conform to the current standards and criteria of the Zoning Code applicable to the use. After the city has deemed a nonconforming use discontinued, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this chapter and subject to enforcement proceedings.
- (C) Adult Businesses. Nonconforming adult businesses are subject to the provisions in § 155.603.
- (D) Oil and gas wells. Idle wells as defined by the California Geologic Energy Management Division (CalGEM) are subject to the provisions of the State of California's idle well regulations.
- (E) Appeal. Any party that has been administratively ordered by the city to terminate a nonconforming use shall have the right of appeal to the Planning Commission if the party believes that such order is unreasonable or would cause undue hardship. Appeals shall be filed with the Planning Commission Secretary, including a statement and evidence provided by the appellant as to why the termination of a nonconforming use is not justified. The appeal shall be considered in accordance with the following:
- 1) The Planning Commission Secretary shall set the matter for hearing before the Planning Commission within 60 days of receiving the appeal. Notice of said hearing shall be given in accordance with applicable provisions of § 155.860 et seq.
 - 2) Based on evidence provided by the appellant, the Planning Commission may overturn or confirm the termination order or may extend the date upon which said nonconforming use must be terminated. Such decision shall be issued in writing.

§ 155.395 NONCONFORMING SITUATIONS REVIEW - PROCEDURES FOR EXPANDING OR CHANGING A NONCONFORMING SITUATION ON A SITE.

Except for adult businesses, which are subject to § 155.396, expansion or change of nonconforming use will be processed as a conditional use as established in §§ 155.710 through 155.724 and subject to the applicable review

criteria in this section. The Planning Commission shall also consider the following in connection with request for such a Conditional Use Permit:

- (A) The nonconforming use was not created unlawfully.
- (B) If the request involves a change of use, the proposed nonconforming use is within the same use category as the existing legally nonconforming use, whether by right or subject to a Conditional Use Permit.
- (C) With mitigation measures through conditions of approval, the new use or expansion will comply with the performance standards in §§ 155.415 through 155.433 and will not result in a net increase in overall adverse impacts (over the impacts of the existing use) on the surrounding area, taking into account factors such as:
 - (1) Noise, vibration, dust, odor, fumes, glare, and smoke;
 - (2) Potential for increased litter;
 - (3) The amount, location, and nature of any outside displays, storage, or activities;
 - (4) The appearance of the new or expanded use will not detract from the desired function and character of the zoning district;
 - (5) The operating characteristics of the new or expanded use are compatible with the existing and anticipated uses in the immediate vicinity. The hours of operation of nonresidential uses in residential zoning districts cannot be extended into the period of 10 p.m. to 7 a.m.;
 - (6) If the proposed change to the nonconforming use will result in an increase in vehicular trips, the street system shall have adequate capacity to accommodate the use, as determined by the Director of Public Works and/or Traffic Engineer following completion of a traffic study by the applicant;
 - (7) If the proposed change to the nonconforming use will result in an increase in vehicle parking demand, the site shall have adequate on-site parking to accommodate the development, or adequate parking will be provided in accordance with § 155.480;
 - (8) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion; and
 - (9) Public services for water, sanitary sewer, stormwater, water management, and fire and police protection can serve the proposed use, as determined by the responsible city authorities.
- (D) Expansions in floor area shall be limited as follows:
 - (1) Expansions in floor area to provide space for nonconforming uses shall not exceed the following thresholds and shall require a Conditional Use Permit:

Existing Gross Floor Area	Maximum Percentage of Expansion of Floor Area
Buildings under 3,999 sq. ft.	25%
Buildings between 4,000 sq. ft. and 9,999 sq. ft.	20%
Buildings between 10,000 sq. ft. and 24,999 sq. ft.	15%
Buildings between 25,000 sq. ft. and 49,999 sq. ft.	10%
Buildings over 50,000 sq. ft.	5%

FFP's buildings fall within this range. Section 155.392 (4) (a) and (b) states the "non conforming uses can be expanded up to 60% of their existing floor areas" The draft should be updated in this table to reflect 60%.

Why? This restriction should be removed!



- (2) Expansions in floor area for nonconforming uses or structures may occur one time only, and the expansion must comply with current development standards for the zoning district in which the use or structure is located.
- (3) Expansion of a nonconforming use onto another site shall be prohibited. In the event an abutting parcel is under the same ownership as the parcel supporting the nonconforming use, the nonconforming use may be expanded with approval of a Conditional Use Permit.
- (4) Addition of new residential units to nonconforming residential use is prohibited unless otherwise permitted under state law.
- (E) Nonconforming Use Expansions in Residential Areas. If the nonconforming use is in a residential zoning district or in a mixed-use zoning district with residential uses adjacent to the site, the proposed expansion shall be designed and constructed to minimize the impact on the established residential character of the area, as determined by the Director of Planning. This determination shall be based on, but not limited to, the following factors:
 - (1) Building scale and placement;
 - (2) Exterior building treatments;
 - (3) Parking area placement;
 - (3) Buffering and the potential loss of privacy to abutting residential uses;
 - (4) Location of loading and refuse storage/collection areas;
 - (5) Outdoor storage (where permitted); and
 - (6) Lighting and signs.

§ 155.396 NONCONFORMING ADULT BUSINESSES.

Nonconforming adult businesses may not be enlarged or reconstructed and are subject to the amortization and termination provisions in § 155.603.

§ 155.397 NONCONFORMING SIGNS.

OK

- (A) Nonconforming signs may not be enlarged or reconstructed and are subject to the termination provisions of State law.
- (B) In accordance with § 155.535, a sign permit may be required to maintain a nonconforming sign.

ATTACHMENT F – ELIZABETH WATSON GM PROPERTIES – COMMENT LETTER

September 21, 2023

Via Email: teresacavallo@santafesprings.org

City of Santa Fe Springs
11710 Telegraph Road
Santa Fe Springs, CA 90670-3679
Attn.: Cuong Nguyen, Assistant Director of Planning
Teresa Cavallo, Program Assistant

Re: Public Review Draft (August 2023) Nonconforming Situations

Dear Mr. Nguyen:

We submit these comments concerning the referenced August 2023 Public Review Draft of Nonconforming Situations (the “Draft NCS”) on behalf of our client GM Properties, Inc. (“GM”), the operational manager of two industrial properties located at 11816-11850 E. Washington Boulevard and 8018-8108 S. Sorensen Ave. (APN #8169-003-044) (the “Washington/Sorensen Property”) and 11668-11714 E. Washington Blvd. (APN #8169-004-002) (the “Washington Property”), jointly referred to as the “GM Properties”. The GM Properties have been rezoned from M-1 to C-4 through the City’s 2040 General Plan and Targeted Zoning Update. Unfortunately, GM Properties was not notified of the proposed zone changes until after they were irreversible, rendering the GM Properties legal nonconforming and, therefore, subject to the pending Nonconforming Situations ordinance.

By way of background, the GM Properties are light industrial business centers that have been in operation for over than five decades. What sets them apart is that they are comprised of multi-building, multi-unit structures, providing compact light industrial warehouse units for many industrial users, including burgeoning “mom and pop” business enterprises within the community. The Washington/Sorensen Property consists of five buildings, comprised of 55,111 square feet with 38 separate rentable units, while the Washington Property’s three buildings consist of 30,816 square feet with 9 separate rentable units. For purposes of this discussion, we will treat the two GM Properties together.

To provide a snapshot, the units range from approximately 500 to 5,500 square feet and are occupied by typical light industrial uses, including manufacturing, distribution and receiving as well as warehousing for various products. The longest tenured tenant has occupied a 2,406 square-foot unit for nearly 35 years with his Driveshaft Pro operation, a leather belt manufacturer’s lease has extended over twenty years, while many other business occupancies exceed ten years, including a bagel manufacturer, a machine shop and ice block production for a shaved-ice entrepreneur. Shorter leases of one to five years are part of the mix as well. Occupancy rates for the properties are historically high, currently at approximately 95 percent for the GM Properties’

combined 85,927 square-feet of premises. The Draft NCS language, as currently formulated, presents problematic issues when applied to this type of legal non-conforming industrial use and development that has been re-zoned as commercial.

GM intends to continue the long-standing, existing use of the GM Properties for decades to come in their current configuration without any expansion of the use or additions to the existing structures. Both industrial complexes are on single lots. While the current version of the Draft NCS would protect the continuation of standard single-user or larger industrial or commercial developments rendered legal nonconforming by a zone change, based upon our review, it does not appear to contemplate the complexities of multi-building, multi-unit properties with a multitude of tenants, such as the GM Properties.

Our specific comments are provided below.

A. Section 155.394 Discontinuance of Nonconforming Use

A fundamental concern is the current language of the Draft NCS relating to the discontinuation of nonconforming uses. As provided in Section 155.394(A), a discontinuation that exceeds 365 days is deemed an abandonment, whereupon the legally-established use is disallowed. If any of the listed criteria were to be applied to individual buildings or units within a portion of either of the GM Properties, despite the legal nonconforming use and development of the remainder of the GM Property, it would result in requiring incompatible commercial use of the individual unit or building and the imposition of infeasible commercial development standards to the unit or building on a piecemeal basis. Excerpts of that provision, including the six discontinuance conditions, are as follows with italics to highlight certain concerns:

“Except as provided in [Subsections] (C) through (F) (*sic*—it should be (E)), a nonconforming use that is discontinued for a period of 365 consecutive days shall be deemed abandoned and shall no longer be allowed as a nonconforming use. For purposes of calculating the 365-day period, a use is discontinued on a *site* when any of the following conditions occur:

1. The use no longer physically occupies the *site*;
2. The use ceases operation. For example, the *site* is no longer actively in use for...the manufacturing or warehousing of products...;
3. A request for final reading of water and power meters is made to the applicable...*utility bill account* indicates inactivity;
4. The *business* has failed to make a required payment of a required business license and has failed to maintain a valid business license;
5. The use ceases operation as a result of damage or destruction by fire or other causes and a building permit for the reconstruction and repair has not been obtained within 24 months ; and/or

6. An event occurs similar to those listed in [Subsections] (1)-(6) (*sic*—it should be (5)) above, as determined by the Director of Planning...”

As noted, the text references a “site”, which is ambiguous. The whole of the lot is appropriate in the context of properties similar to the GM Properties. Utility meter accounts and business licenses are applicable to individual units rather than the whole of a lot. Similarly, a catastrophic occurrence, such as a fire, resulting in damage or destruction to a single building or portion of a building could jeopardize the continuation of the nonconforming use of the entirety of the lot. In addition, Section 155.392(C)(3)’s provision regarding reconstruction of a nonconforming *development* (rather than a use) due to fire and similar incident, which provides for a potential extension if evidence of delays due to circumstances beyond the property owner’s control are verified by the Building Official, is not made available for damage affecting a nonconforming use, despite the consequential repercussions.

Of note, Subsection 155.394(B), addressing application of the above criteria in making a determination to deem a use discontinued, does state that “any subsequent *use* of the subject *lot* must conform...” (emphasis added). It would be suitable to extend that use of the word “lot” to the conditions potentially triggering a discontinuance of nonconforming use as applied to these types of properties.

As to consistency of terminology, additional confusion is created by language addressing the expansion of a nonconforming use under Section 155.395(D)(3), which uses the terms “site” (“onto another site”) and “parcel” (“abutting parcel under the same ownership as the parcel supporting the nonconforming use”) as opposed to “lots”.

B. Section 155.388 Nonconforming Situations Defined

Subsection (B)(1) defines a “nonconforming development” as a “structure, building or site improvement...” The language suggests that, if the legal nonconforming industrial use of an individual building or unit were deemed terminated, it could trigger a requirement to convert that single structure or unit on a piecemeal basis to conform with commercial development standards, such as parking or setbacks, which would be impossible to meet. Specifically, as to the GM Properties, in that event, neither lot has lot area available to accommodate increased setbacks or the higher parking ratios of the C-4 commercial zone. Such commercial uses would also be incompatible with the overall established industrial use. The result would be unleaseable vacant space.

Subsection (B)(3) defines a “nonconforming use” as “use of land or a structure...” Zoning is generally applied to lots as a whole, and uses are established on land within lot lines and other established boundaries. Adding the word “lot” to the definition of “nonconforming use” would provide flexibility and clarity as to certain circumstances. Consistent with that, Section 155.386 regarding Nonconforming Situations, Applicable Provisions, uses the word “lot” in both Subsections (A) and (B).

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In closing, we value the opportunity to provide our comments relating to the complexities involved in the application of the Draft NCS to the GM Properties. We appreciate your thoughtful consideration of these concerns and remain available to discuss them in further detail.

Sincerely,



Elizabeth Watson

EW/jk

cc: GM Properties, Inc.