

April 6, 2011  
5:30 P.M.

Cowles Council Chambers  
491 East Pioneer Avenue  
Homer, Alaska

## WORK SESSION Advisory Planning Commission AGENDA

1. Call To Order, 5:30 P.M.
2. Discussion of Items on the Regular Meeting Agenda
3. Staff Report PL 11-44, Replacement and/or Expansion of Nonconforming Residential Structures
4. Staff Report PL 11-42, Sign Code Amendments (*Please refer to page 31 of the regular meeting packet.*)
5. Staff Report PL 11-41, Draft Ordinance 11-xx, East End Mixed Use (*Please refer to page 41 of the regular meeting packet.*)
6. Public Comments  
The public may speak to the Planning Commission regarding matters on the work session agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).
7. Commission Comments
8. Adjournment

**Planning Commission Agenda**  
**February 21, 2001**  
**Page 2 of 2**



WATER SUPPLY  
ALTERNATIVE PLANNING COMMISSION  
AGENDA

- 1. Call to Order
- 2. Approval of Agenda
- 3. Presentation of the Water Supply Alternative Planning Commission Report
- 4. Public Comment
- 5. Discussion and Recommendations
- 6. Adjourn





# City of Homer Planning & Zoning

491 East Pioneer Avenue  
Homer, Alaska 99603-7645

Telephone (907) 235-8121  
Fax (907) 235-3118  
E-mail [Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)  
Web Site [www.ci.homer.ak.us](http://www.ci.homer.ak.us)

---

## STAFF REPORT PL 11-44

TO: Homer Advisory Planning Commission  
THROUGH: Rick Abboud, City Planner  
MEETING: April 6, 2011  
SUBJECT: Expansion and/or replacement of nonconforming residential structures

### Background:

After responding to and furthering a negative recommendation to the City Council in regards to a citizen petition that proposed allowance of single family and duplex dwellings in the General Commercial One (GC1) district with a Condition Use Permit (CUP), the Commission recognized the need to address the ability of existing residential dwellings to rebuild and possibly expand.

Our present code does not allow for reconstruction of a nonconformity if the structure is damaged in excess of 50% of the structures 'pre-damaged' value. This is standard language in most all zoning codes. The concept supported is the notion that nonconformities are expected to terminate sometime in the future and are not conducive to meeting the goals and intent of the district in which they are found.

Homer has a limited amount of land zoned for commercial uses and does not expect to be able to rezone much residential to commercial designations. During the public hearing for the comprehensive plan the mere suggestion that sometime in the future Homer may wish to designate some land on west hill as a limited commercial district met with passionate resistance. We believe that similar resistance would be encountered in most any of the current residential districts. Much of the currently designated commercial districts on the east end of town are also very challenging to develop in regards to gaining wetland permits and constructing necessary infrastructure for commercial activities, further constraining potential commercial ventures within the city. For the reasons expressed above, the Planning Commission has determined that it would not be prudent to allow for further expansion of residential activities in the current commercial districts.

### Options:

It is my understanding that the Planning Commission wishes to explore options to rebuild nonconforming residences in the commercial districts. After getting specific direction from the Planning Commission on the approach to take, I will have the attorney help with drafting an ordinance that fulfills your request.

### Rebuilding residences

Attached you will find some examples of ordinances that provide an option for residences to be rebuilt.

**Question 1.**

Should property owners be allowed the option to replace/rebuild nonconforming single family residences damaged beyond 50% of their 'pre-damaged' value?

Single family residences

Duplexes

Mobile homes

From preliminary discussions I understand that there is support to replace and/or expand the structures listed above with the caveat that mobile homes have the option to be replaced with stick structures.

**Question 2.**

Should nonconforming residential structures be allowed to expand?

Or/and be allowed as a second permitted structure?

**Question 3.**

Which zoning districts should such allowances be given to?

Commercial 1? 2? All districts?

**Conclusion:** After general direction is gained an ordinance may be crafted and added to the PC agenda.

**Attachments**

Example from *21<sup>st</sup> Century Land Development Code* and Anchorage Title 21 (including 21.12.020, Single- and Two-Family Structures and Mobile Homes)

## EXAMPLE CODE

### *21<sup>st</sup> Century Land Development Code*

#### TERMINATION OF NONCONFORMITIES

##### **Destruction or Damage of Structure**

The right to operate and maintain any nonconformity, except for a single-family dwelling unit, shall terminate and shall cease to exist whenever the structure or structures in which the nonconforming use is operated and maintained is damaged or destroyed from any cause whatsoever, and the cost of repairing such damage or destruction exceeds 50 percent of the replacement cost of such building or structure on the date of such damage or destruction. A nonconforming single-family dwelling unit that is destroyed or damaged more than 50 percent of the replacement cost may be rebuilt, provided that a development approval is issued within one year of the date of such damage or destruction. The [PLANNING OFFICIAL] shall require the submission of sufficient evidence to verify the date of damage or destruction.

#### EXPANSION OF NONCONFORMITY

##### **Applicability**

No nonconformity may expand unless a conditional use permit (CUP) has been granted as set forth in Chapter 4, Procedures, of the LDC.

**Criteria for Conditional Use Permit** In addition to the criteria required to be met for a CUP, the following criteria shall apply to the issuance of a CUP for the expansion of a nonconformity: (A) The termination of such nonconformity will result in unnecessary hardship; (B) The continuation of the nonconformity will not be contrary to the public interest; (C) The continuation of the nonconformity will not substantially or permanently injure the appropriate use of adjacent conforming property in the same district; (D) The use will be in harmony with the spirit and purpose of these regulations and the comprehensive plan goals, objectives, and policies; (E) The plight of the applicant for which the continuation of the nonconformity is sought is due to unique circumstances existing on the property and/or within the surrounding district; (F) The continuation of the nonconformity will not substantially weaken the general purposes of this chapter or the regulations established in this chapter for the applicable zoning district; (G) The continuation of the nonconformity will not adversely affect the public health, safety, and welfare; and (H) The continuation of the nonconformity through a reasonable amortization period is appropriate.

*Anchorage Title 21 (including 21.12.020, Single- and Two-Family Structures and Mobile Homes)*

#### NONCONFORMITIES

##### SINGLE- AND TWO-FAMILY STRUCTURES AND MOBILE HOMES

**A. Applicability** In this chapter, only sections 21.12.010, 21.12.020, and 21.12.050 shall apply to lawfully erected nonconforming single- and two-family structures and mobile homes. The other sections of this chapter shall not apply to lawfully erected single- and two-family structures and mobile homes.

##### **B. Expansions and Enlargements**

Any lawfully erected nonconforming single- or two-family structure may be expanded or enlarged, as long as the nonconformity is not increased.

**C. Damage or Destruction**

Any lawfully erected nonconforming single- or two-family structure that is damaged or destroyed may be rebuilt in the same location and to the same dimensions so that the nonconformity of the damaged or destroyed structure is not increased, but the structure may be rebuilt in a manner that moves towards conformity.

**D. Mobile Homes**

1. Lawfully erected nonconforming mobile homes may be repaired or replaced, as long as the nonconformity is not increased.
2. Lawfully erected nonconforming mobile homes on individual lots may be moved within the lot in compliance with setback regulations.
3. Mobile homes in nonconforming manufactured home communities may be repaired or replaced, in compliance with setback regulations.