

Nonconformities: Evolving Approaches

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How strict should we be with nonconformities?

- **Traditional/stricter approaches:**
Nonconformities may remain, but no substantial modifications without full code compliance
 - Faster implementation of new plans/policies
 - Greater uniformity and easier administration
- **More liberal approaches:**
A wider range of modifications will be considered
 - High standards can discourage infill and redevelopment, especially on challenging sites
 - Nonconformities often provide unique character

Nonconformities

Example: Arlington TX

- **Generally: A nonconforming use may only be changed to a conforming use**
- **However: Targeted allowances for some existing NC uses to change to other NC uses of same general character with admin approval, provided equal or lesser intensity**
 - Auto repair/service, auto sales (encourages economic activity on key corridors)

Nonconformities

Example: Youngstown, OH

- Every pre-existing use, structure, lot, or site improvement falls within 1 of 2 categories:
 - Benign: Director determination of NO creation or increase of material risk to public health or safety in surrounding area (no signs)
 - Significant: Director determination of creation or increase of risk
- Director makes determination at request of property owner; deemed significant until written notice of benign status issued
- Generally the same rules apply, but:
 - Benign PE uses may be reestablished following discontinuance of 2 years
 - Benign PE uses may be extended or expanded by addition of contiguous land
 - Expansion of PE structures:
 - Expansion of benign must comply with code and not increase degree of inconsistency
 - Expansion of significant must also reduce risk to public health/safety (such as by relocating activities away from areas that create risks)

Nonconforming Site Features

- Off-street parking and loading
- Landscaping
- Screening of mechanical equipment
- Exterior lighting
- [Signs]
- Policy Question: To what extent do we require redevelopment projects to upgrade to meet new standards?

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"Prior Non-Conformities"