

*City of*  
*Gainesville*

Inter-Office Communication

Planning Division  
x5022, FAX x2282, Station 11

Item No. 7

**TO:** City Plan Board **DATE:** Thursday, May 17, 2007

**FROM:** Planning Division Staff

**SUBJECT:** Petition 51TCH-07 PB, City of Gainesville. Amend section 30-346(d) to clarify that the Standard Industrial Classification manual (SIC) categories are not used in residential districts for classification purposes and that non-conforming membership organizations in residential districts may be changed to a place of religious assembly, without a special use permit.

Recommendation

Planning Division Staff recommends approval of the petition.

Explanation

The text changes to the nonconforming section of the Code are proposed to make sure that the City is in accordance with the Religious Land Use and Institutionalized Persons Act, as codified in 42 U.S.C.A. §2000cc. The Act requires that no government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person or institution: is in furtherance of a compelling governmental interest; and is the least restrictive means of furthering the compelling governmental interest. Additionally, the Act specifies that "no government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution".

The proposed change would allow nonconforming membership organizations such civic and social clubs meeting halls to be changed to a place of religious assembly without a special use permit in residential districts. This amendment further clarifies that the Standard Industrial Classification manual (SIC) categories are not used in residential districts for classification purposes.

Respectfully submitted,

Ralph Hilliard  
Planning Manager

## Proposed Code Change

30-346(d) Nonconforming uses of buildings, structures and premises. If a lawful use of a structure, or of a structure and premises in combination, exists in a district other than a residential district on the date this ~~chapter~~ section was adopted or amended, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued or changed to another use of the same major group, as identified in the Standard Industrial Classification Manual (SIC), as long as it remains otherwise lawful. However, consistent with Section 30-22, which provides that the SIC Manual is not used in residential districts for classification purposes, if a lawful use of a structure, or of a structure and premises in combination, exists in a residential district on the date this section was adopted or amended, that would not be allowed in that district under the terms of this chapter, the lawful use may be continued as long as it remains otherwise lawful, except that in accordance with the Religious Land Use and Institutionalized Persons Act, as codified in 42 U.S.C.A. §2000cc et.seq., a membership organization may be changed to a place of religious assembly and, for the purpose of the Act, shall be considered the same use. All nonconforming uses shall be subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, remodeled, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located. The city plan board may allow, by special use permit, minor decorative, functional or safety improvements to existing structures devoted to legal nonconforming uses. Such improvements may not include:
  - a. An increase in floor area; or
  - b. Enclosures of previously unenclosed areas.

~~(2) If the use of a structure devoted to a use not permitted by this chapter in the district in which it is located is changed, the use must be changed to one permitted in such district or to another use of the same major group, as identified by the Standard Industrial Classification Manual.~~

(5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued, vacant, abandoned or not used for nine consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located; provided, the board of adjustment may permit the reestablishment of the nonconforming use where it is determined by the board of adjustment after public hearing that the design, construction and character of the building is not suitable for uses permitted in the district in which

such nonconforming use is situated. The board of adjustment shall hold a public hearing on each case in question after giving ten days' public notice of the time and place of such hearing, in order to determine the question of suitability of uses permitted in the district in which such building is located. In no event shall the board of adjustment permit a change to another nonconforming use, except as otherwise permitted by this section ~~those of the same major group, as identified by the Standard Industrial Classification Manual;~~ nor shall it permit any structure to be enlarged, extended, constructed, reconstructed, remodeled, moved or structurally altered for any purpose other than changing the use of the structure to a use permitted in the district in which it is located.