

070089 Submitted by  
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6/18/2007

Nonconforming use ordinances  
and Moose Lodge / Fire of God  
ministries

**Settlement proposal**

- Allow staff to change a nonconforming use from fraternal organization to place of religious assembly
  - Motivated by the “singling out” of *places of religious assembly usage* from other usages.
    - Counterargument: Gainesville’s codes do not single out *places of religious assembly* wrt to nonconforming uses. No nonconforming use can be switched in residential zoning, an interpretation supported by staff and unanimously by the Board of Adjustment (8/2006)

**Problems with this petition**

- This issue appears before the Commission without any substantive discussion by the plan board and without input at the meeting from the city legal staff.
- Passing this ordinance may not allow Fire of God to legally operate as a place of religious assembly and as a service center for the homeless because:
  - **General regulations on nonconforming uses, appearing in section 30-346**

**Section 30-346d-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;*
- **Translation: If the fraternal organization did not have meetings for 9 months or more, the nonconforming use is lost**

**Recommendations**

- Send this item back to the plan board for a discussion of the legal issues
  - Provides time for neighborhood to seek legal advice and add more substantive comments to the discussion beyond impact to the neighborhood
- Planning staff should determine whether or not the nonconforming use was lost due to disuse

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