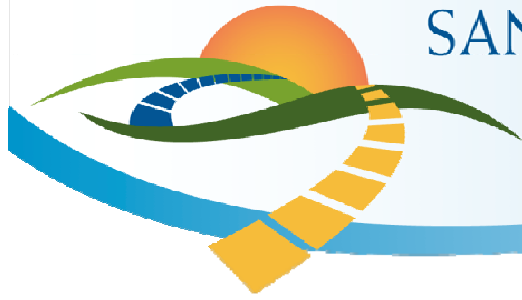


# SAN MARCOS GENERAL PLAN

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## General Plan Advisory Committee

May 26, 2011



# SAN MARCOS GENERAL PLAN

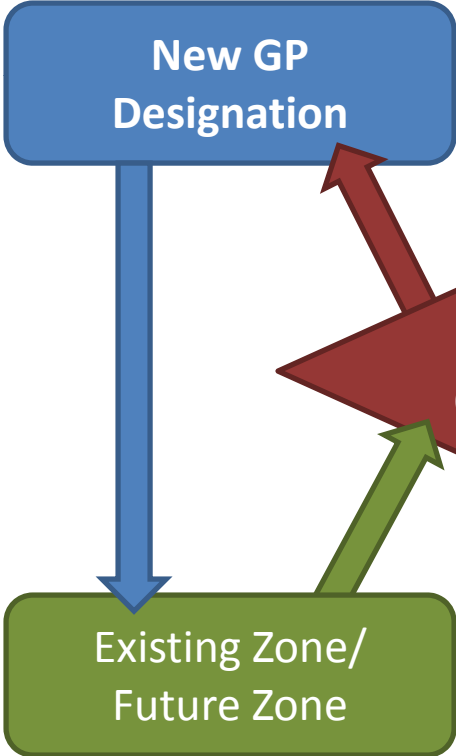
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## Agenda (Revised):

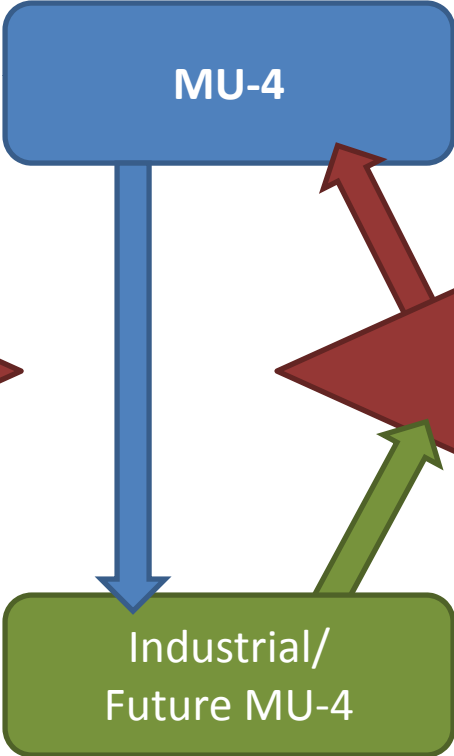
1. Welcome
2. New General Plan/Zoning Approach
3. Legal Nonconforming Ordinance Provision
4. Schedule
5. Public Comment / Input
6. Wrap Up and Adjournment

# New GP/Zoning Approach

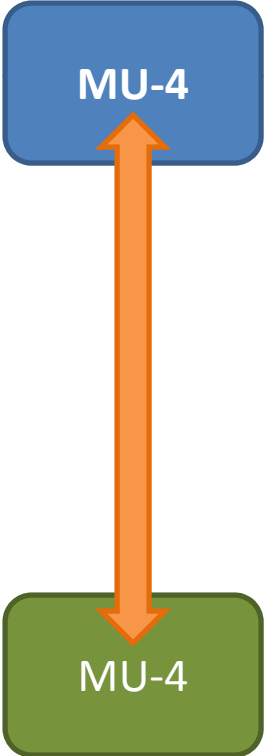
Transitional Designation Model

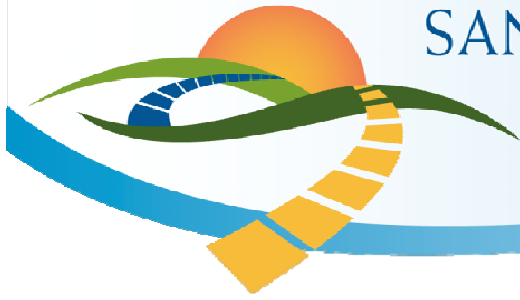


Examples:



Ultimate Designation





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### Purpose of Nonconforming Regulations

- The Nonconforming Ordinance codifies the “grandfathering” of land uses and structures that legally existed at the time of the change of General Plan or zoning designation;
- Allows the continuation of uses and structures;
- The Nonconforming Ordinance will be adopted by the City Council along with the General Plan Update, comprehensive Zoning Ordinance Update, and EIR

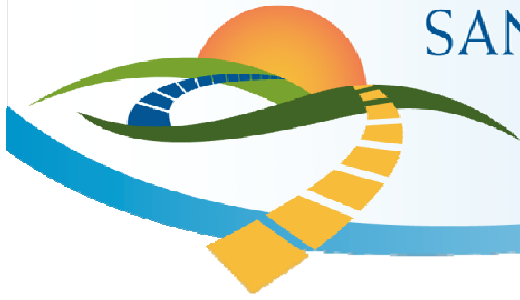


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### Nonconforming Ordinance - History

- As a result of feedback from the business community and GPAC, staff initiated revisions to the nonconforming regulations
- The proposed revisions were presented to the GPAC in late January



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### Nonconforming Ordinance - History

- The GPAC chairman directed staff to meet with a subcommittee to further refine the regulations related to:
  - Abandonment (discontinuance of a nonconforming use or building)
    - Period of time
    - Defining what constitutes abandonment
  - Damage/reconstruction of legal nonconforming structures

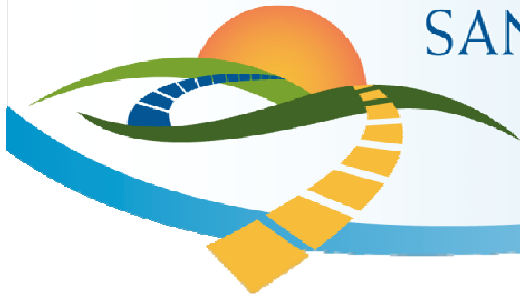


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### Abandonment

- Purpose of the abandonment regulations is to define how long a nonconforming use or nonconforming structure can be abandoned (or discontinued) before the new zoning regulations apply to the property

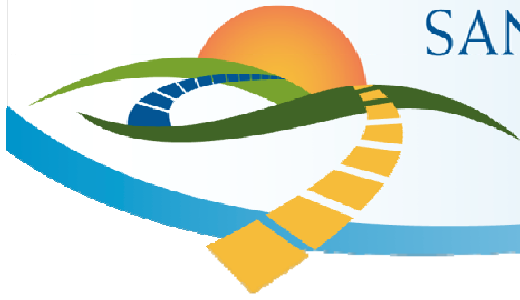


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### Abandonment- proposed changes

- Added a clarification to provide examples of what types of evidence would demonstrate a discontinuance, such as a
  - Lapse of a City Business license
  - Lapse of a State Board of Equalization permit
  - No other evidence of any other business related receipts and/or records (telephone/utility, etc)
- This evidence is in addition to removal of characteristic furnishings and equipment associated with the use

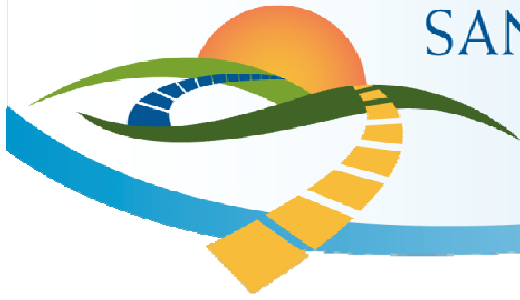


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Extension of time of a  
nonconforming use (abandonment)

- Added ability for the Planning Director to extend the period of legal nonconforming status from a maximum of 12 months for an additional 12 months (total not to exceed 24 continuous months of discontinued use)
- Established an Administrative application process for the extension of a legal nonconforming use
- Established the legal findings required for approving the extension



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### Administrative Process- Extension of Legal Nonconforming status

- Application/fees paid to City
- City to notify applicant within 15 working days status of application (complete/incomplete)
- Notices sent to surrounding property owners within 10 working days of application-public to notify the City within 15 days with input/concerns
- Decision by City made within 50 calendar days of application, with preliminary decision made at 40 days



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## Extension of Nonconforming Status-Factors

- Factors to be considered by the Planning Director in decision:
  - Investment in the property or structure
  - Lease obligations
  - Whether the investment in property will be realized
  - Whether investment in property made prior to nonconforming status
  - Good faith effort to keep nonconforming status



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## Extension of Nonconforming Status-Findings

- **At least three (3) findings must be made:**
  - Physical and/or economic hardship has prevented nonconforming use to be reestablished within 12 months
  - Approval of extension will not adversely affect character, integrity or value of surrounding properties
  - Approving the extension will not adversely affect the character, integrity or value of the neighborhood;
  - The extension will not adversely impact the public health, safety, or general welfare of the City's residents



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## Extension of Nonconforming Status-Findings

- **At least three (3) findings must be made:**
  - The applicant will be unable to recoup the investment as of the date established for termination of the use
  - The applicant has made a substantial investment (including lease obligations) in the property or structure; such structure cannot be readily converted to another use; and the investment was made prior to the nonconforming status



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## Damage/Reconstruction of Nonconforming structure

- Allows the reconstruction of a damaged or destroyed nonconforming structure due to Act of God or other factor outside the control of the property owner
- Structure can be restored to pre-existing building envelope, original number of dwelling units or intensity, size, height, and same amount of parking, at the time of destruction

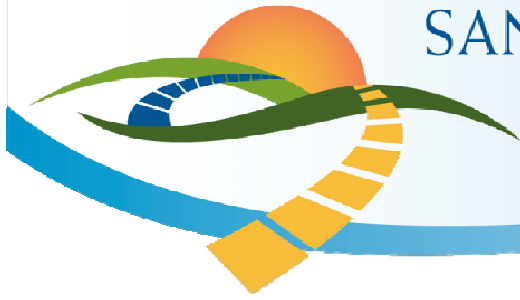


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### Damage/Reconstruction of Nonconforming structure

- **Structure can be rebuilt/restored if:**
  - Proof of legal creation of building (such as a building permit)
  - Building permit for the reconstruction obtained within 1 year, compliance with current Building Code in effect
  - Construction started and completed within 18 months of issuance of building permit
  - Compliance with zoning regulations in effect at time the building was legally created



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### Highlights of New Ordinance-Summary

- Allows for continuation of a nonconforming use; allows for expansion/extension of use within building
- Allows for continued use and maintenance of non conforming structures
- Code will allow for expansion of nonconforming structures
- Extends period of abandonment
- Allows reconstruction of a damage/destroyed nonconforming structure