



MEMORANDUM

To: Beaufort County Planning Commission
From: Tony Criscitiello, Planning Director
Subject: Amendment to the ZDSO
Date: May 28, 2010

ZDSO Section – Section 106-9 (Nonconformities)

Summary of Proposed Amendment – This amendment will permit nonconforming historic structures to be adaptively reused through approval of a Special Use Permit.

Justification – As noted in the Cultural Resources chapter of the Beaufort County Comprehensive Plan (2007), Beaufort County has a rich inventory of vernacular architecture, much of which is being lost to redevelopment and neglect. Protection of these older structures, many of which are located in the rural and less affluent parts of the County, is vital to preserving an important component of the County's historic built environment. The Plan recommends that the County target the preservation of these historic resources. This amendment would permit the rehabilitation and reuse of vacant historic structures that are nonconforming to the standards of their underlying zoning districts through approval of a special use permit by the ZBOA. This gives an owner the opportunity to preserve a nonconforming historic structure instead of allowing it to remain vacant, fall into disrepair and/or be demolished.

Section 106-9. Nonconformities.

- (b) *Procedure for becoming conforming.* Nonconformities may become conforming as follows:
- (1) *Types of situations.* The following are ~~two~~ three types of situations whereby a nonconforming use, building, structure, lot or sign can become conforming:
- a. *Correct the nonconforming situation.* If the nonconformity is terminated and a different use is proposed which is permitted within the subject zoning district, the ZDA shall ensure that all standards for the proposed use, building, structure, lot or sign within the zoning district are met. Once this review by the ZDA is completed and approved, the new use, building, structure, lot or sign shall become conforming through issuance of the appropriate permit. Note: Where a proposed

change of use is different than the nonconforming use, and a special use permit is required according to table 106-1098, the procedures beginning in subdivision IV of division 3 of article III of this chapter must be followed.

- b. *Apply for special use permit as nonconformity.* Many nonconformities have existed in their neighborhood locations for a long time. In fact, some may have only recently become nonconforming. In some instances, the nonconformity is even an integral part of the neighborhood's function. Since zoning's purpose is to protect neighborhoods, and if the community is comfortable with the particular nonconformity, the classification "nonconformity" may run counter to community desires. Under such conditions, the nonconforming situation may be mitigated and made conforming through application for, and approval by the ZBOA for a special use permit. The purpose of this is to remove the stigma typically associated with the designation of being nonconforming with this chapter. The provisions of this section for nonconforming uses, buildings, structures, and lots provide the procedures for making a nonconformity become conforming. In no case shall nonconforming signs be approved as a special use.

- c. *Apply for special use permit to adaptively reuse nonconforming historic structures.* Beaufort County has a rich inventory of vernacular architecture, much of which is being lost to redevelopment and neglect. Protection of these older structures is a goal of the Beaufort County Comprehensive Plan. For buildings listed in the Beaufort County Above Ground Historic Resources Survey (1997), or eligible to be listed in the survey as determined by the Historic Preservation Review Board, a special use permit to make the site conforming may be approved by the ZBOA even if the structure has been vacant for more than 120 days and/or is damaged more than 50% of market value. The proposed use of the structure shall be the same or similar to its historic use, unless the ZBOA determines that another use is compatible with the surrounding community. In addition to the required submittals for a special use application, the applicant shall provide plans for rehabilitation of the structure, which shall be reviewed and approved by the Historic Preservation Review Board and Corridor Review Board, if applicable, prior to final approval of the special use permit.