

March 7, 1991

REPORT TO THE COMMITTEE ON PUBLIC SERVICES AND SAFETY
METHADONE TREATMENT FACILITY - NONCONFORMING USES - IMPOSING TIME
LIMIT IN WHICH TO DISCONTINUE USE

At the Public Services and Safety Committee meeting on February 6, 1991, you held a discussion about an amendment to the Municipal Code which would require conditional use permits for methadone treatment facilities in certain zones. A question was raised about whether the City could include a provision requiring discontinuance of previously established treatment facilities in the event a CUP is not obtained. Attached is our Memorandum of Law dated June 5, 1990, relating to methadone treatment facilities generally, together with two previous opinions on the subject of nonconforming uses and the City's ability to establish time limits for discontinuance of such uses.

You will note that there is long established precedent for zoning laws requiring discontinuance of nonconforming uses after specific periods of time. The attached opinions explain that any such time limits imposed must be reasonable and allow time for a nonconforming user to amortize his or her investment.

In the specific case of methadone treatment facilities it would be necessary to gather information relating to such uses, the ability of such users to relocate, the cost of typical capital investments involved, and other similar information in order to establish a reasonable time limit for pre-existing users to either obtain a conditional use permit or discontinue operations.

Our initial review of existing Municipal Code provisions indicates that a requirement for conditional use permits for methadone treatment facilities could logically be added as subsection r. of section 101.0510 C.3. While input from the Planning Department is necessary in order to develop the precise language, the section could read somewhat as follows:

The Planning Commission shall have the authority under conditions herein provided to authorize by conditional use permit the following uses in any zone, including interim zones, except as otherwise provided below;

...

r. Methadone treatment facilities in the R-1000 through R-200 zone, commercial zones, and the M-1-B zone.

In addition, it would be appropriate to modify section

101.0303 of the Municipal Code entitled "Continuance of Nonconforming Uses and Structures" to add additional language requiring the acquisition of conditional use permits for existing facilities or the discontinuance of such facilities within a specified period.

Respectfully submitted,
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Attachments 3
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