



Bureau of Planning and Sustainability

Innovation. Collaboration. Practical Solutions.

MEMO

DATE: March 18, 2015

TO: Planning and Sustainability Commission

FROM: Deborah Stein, Principal Planner

CC: Susan Anderson, Director; Joe Zehnder, Chief Planner; Eric Engstrom, Principal Planner

SUBJECT: **Nonconforming Commercial Uses – Follow-up**

Following the January 27, 2015 work session, you asked for a “decision tool” to help make consistent recommendations about requested map changes to address nonconforming uses. Staff has created a decision framework (see attached) based on the methodology presented in the January 27 staff report, and further informed by your discussion at the January 27 work session.

As attractive as it would be to have a tool that spits out a clear, unambiguous recommendation for every case, this isn’t possible because there are often case-specific locational and other factors that may need to be considered. Nevertheless, staff has identified a few “clear paths to ‘yes’” that we propose to apply to map change requests to address nonconforming commercial uses. Where the answer is not a clear “yes,” we have identified a set of factors that we propose you consider when evaluating the less straightforward situations. Any of these factors may override other factors, and the more of the factors that apply, the greater weight they have in determining whether a “no” can be shifted to a “yes.” (Factors in the yellow box may shift a “no” to a “yes” of vice versa; the factor in the red box may shift a “yes” to a “no.”)

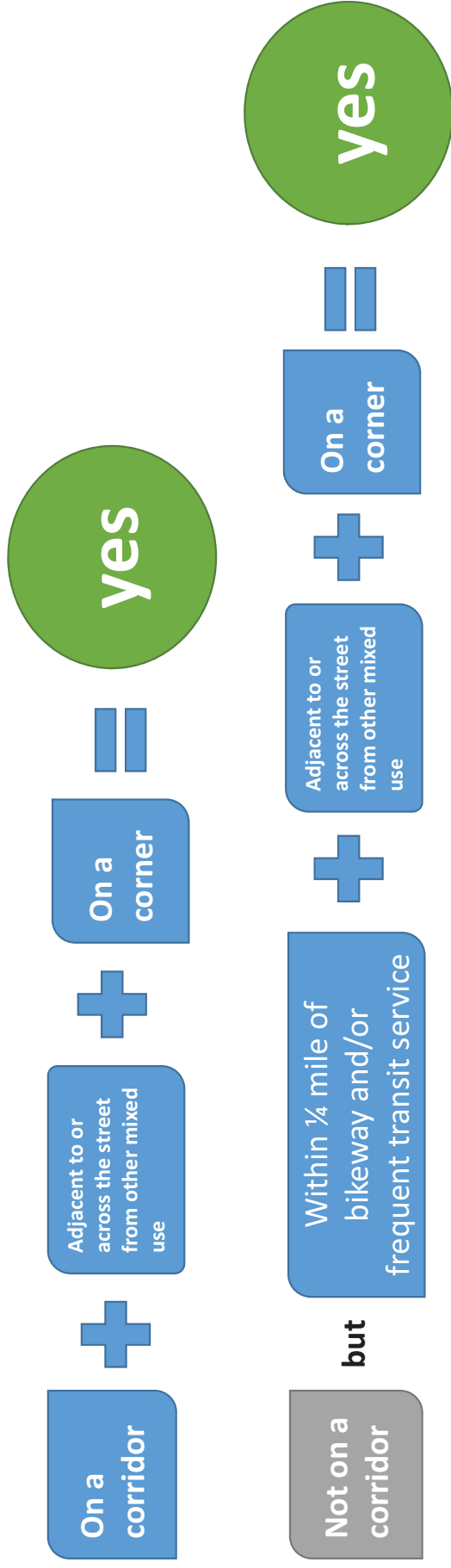
At your work session on March 24, we will run several examples through this decision framework (some cases you’ve already reviewed, and some that are new). If this framework works well for you, we can then use this direction to make recommendations about the remaining nonconforming use situations and, if appropriate, revisit earlier recommendations to be consistent.



Nonconforming uses: Framework for recommendations

Clear paths to “yes”

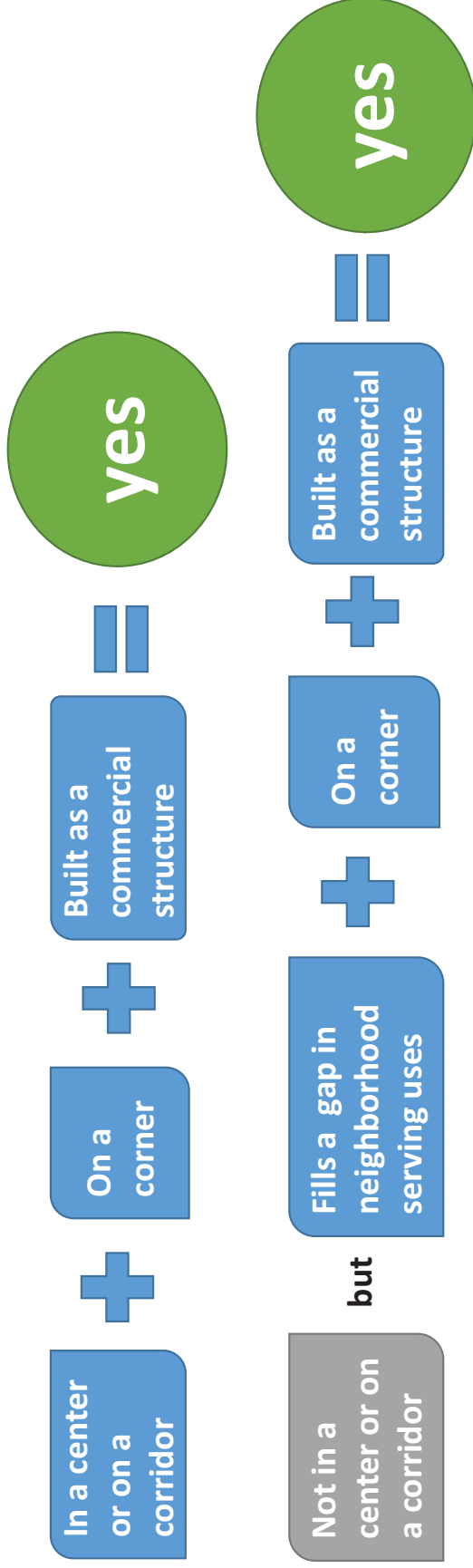
In the Inner Ring/Inner Neighborhoods Pattern Area



Nonconforming uses: Framework for recommendations

Clear paths to “yes”

In Eastern & Western Neighborhoods Pattern Areas



Nonconforming uses: Framework for recommendations

Additional factors to consider

May shift a “no” to a “yes”

- Does this fill a gap in neighborhood-serving uses?
- Is the site within ¼ mile of a bikeway and/or frequent transit?
- Is the structure historic and/or does it help define the neighborhood fabric?
- Is there strong neighborhood support?
- Would a map change address an unintended consequence of an earlier planning decision?

Nonconforming uses: Framework for recommendations

Additional factors to consider

May be positive or negative, depending on the situation

- Is preservation of the structure more likely than redevelopment of the site, based on the economics?
- Is the Conditional Use process a reasonable alternative to allowing the use to continue?
- Are there existing conditions of approval that would go away if there were a map change?

May override other factors

- Are there any site constraints (slope, flood risk, etc.) that would be exacerbated by redevelopment to mixed use, or by the continuation of the use?