

Wayne Miller
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Shingle Springs, CA 95682
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Board of Supervisors
Santa Cruz County
701 Ocean St.
Santa Cruz, CA 95060

10/1/97

Dear Supervisors,

I am writing concerning a matter before you. Glenda Hill is currently revising some of the county ordinances to straighten out discrepancies in the codes. I commend her work and yours.

I am writing about a related issue I believe you should address immediately. The current code does not allow upgrading existing buildings that do not conform with their current zoning.

I am currently working on a project in Aptos that is an existing residence in a PA-GH zone. It is an occupied residence that needs roofing, window and foundation upgrading. The owner wants to keep this as a residence. This is allowed, but with a potential "El Nino" winter and the condition of the partial foundation (with no earthquake re-enforcement) this is a health and safety issue.

I am not allowed, at this time, to submit an application to upgrade these conditions. I am not asking for an increase in existing size or a change of existing use (I am allowed to add 200 square feet to the structure, go figure). I am asking for permission to legally make this residence safe and secure for the occupants.

I understand you are considering some changes now for roofing, etc. I am requesting an emergency measure by the board to allow upgrades for any situation shown to involve health and safety issues as well. Please consider the potential harm a lack of action on your part can effect.

The Santa Cruz City Council delayed action on building department retrofitting suggestions to the detriment of many in 1989. Let's not repeat history.

Thank you for your attention.

Yours Very Truly,

Wayne Miller, Designer



Nov. 7, 1997

Supervisors Almquist, Beautz, Belgard
Symons & Wormhoudt
County of Santa Cruz
701 Ocean St., 4th Floor
Santa Cruz, CA 95060

Re: Reconstruction of Legal Non-Conforming Residences

Dear Supervisors,

I have recently learned that the County is considering incorporating the attached proposed ordinance regarding the reconstruction of legal non-conforming structures into its Housing Element. I would like to lend my support to this proposal.

Passing the attached ordinance would not only bring the County into conformance with the State SB 2112 but it would help mitigate the fear, confusion and financial loss of owners whose dwelling are involuntarily damaged or destroyed. It would also eliminate these same concerns for lenders, making it easier for owners to refinance or obtain new conventional loans.

My company, Pacific West Realty, manages and sells multi-residential properties throughout Santa Cruz County. If I can be of any assistance describing concerns and needs of owners as they operate in the "real" world, please don't hesitate to call.

Thank You for Your Consideration

Joe Hutchins
Broker

cc: John Warren, Housing Advisory Commission

**PROGRESSIVE PROPERTY PLANNING***"Land Use & Building Consultants"*

ATTACH M ENT 17

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ADMINISTRATIVE MEMORANDUM

TO: Honorable Chair and Members of the Planning Commission

FROM: Michael D. Bethke

DATE May 27, 1998

SUBJECT: Public Comments - Proposed Revisions To The Non-Conforming Use Ordinance

I am unable to attend today's public hearing because of conflicting job commitments, but in lieu of actual public testimony please allow me to submit these written comments instead.

As of last week I had formally served as the Chairman of the County's Historic Resources Commission (HRC). As such, I had taken great pride in this public service commitment, and up to this date had been proud of our Commission's numerous accomplishments - which had been gratefully acknowledged by the Board of Supervisors as well.

It is with a heavy heart that I now must share with you the fact that I have tendered my resignation from the HRC effective immediately due to a procedural process that is now before your Commission, i.e., final review and consideration of all provisions amending the Non-Conforming Use Ordinance.

Please be advised that while serving on the HRC for approximately three years I, and my HRC colleagues, had repeatedly requested that Planning Department staff should forward all proposed Non-Conforming Use Ordinance revisions for HRC review and consideration. This seemed to make perfect sense because all historic properties are essentially by definition non-conforming, as defined by current zoning regulations as well as current building codes.

Despite these repeated requests over the past three years the HRC has never been afforded the courtesy and opportunity to review and/or comment on any proposed revisions to the Non-Conforming Use Ordinance as proposed by staff.

Thus, hopefully you can understand my personal frustration in being completely left out of this procedural process. On at least one occasion, one of my HRC colleagues and myself have actually been belittled by one Planning Department staff member in a very unprofessional and derogatory manner for insisting on having HRC participation in this review process.

ATTACHMENT 17
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Be that as it may, I have now decided to give up in complete **frustration**, and as noted, have **tendered my resignation** from the **HRC**.

While I now only serve in the capacity as a concerned **citizen**, I would like to offer these **final recommendations** to the Planning Commission should you **elect to recommend approval of the final revisions to the Non-Conforming Use Ordinance** as now presented by **staff**.

Perhaps these recommendations could **be** incorporated as **additional** "findings" to support **Planning Commission** approval, **These** recommendations are as follows:

- Since the HRC was not consulted during this procedural review **process**, and since all **historic properties in the County** will be affected by the proposed revisions in this ordinance, it should therefore **be concluded that** the HRC has no **viable role** in policy decision making as a direct **advisory body** to the Board of Supervisors. It should **therefore be recommended to the** Board of Supervisors that the HRC **be disbanded as soon as possible**. This should **serve as an administrative** cost cutting measure **to free up more planning staff time**, which could in turn be **devoted** to more important matters, **e.g.**, processing demolition **permits for historic, albeit non-conforming properties**.
- Should the HRC be **disbanded**, it should **also be recommended that** the Board of Supervisors should immediately petition **the State Historic Preservation Officer (SHPO)**, that the County's **coveted Certified Local Government designation** should be revoked because of **the lack of a standing HRC**.
- **And furthermore, an** additional recommendation should **be forwarded to the** Board of Supervisors, **directing** the Board to notify the California' State **Association of Counties (CSAC)** that my **current CSAC appointment to serve on the State Historic Building Safety Board** should be **rescinded as soon as possible**.

Thank you for the opportunity to submit **these** comments,

Respectfully submitted,



Michael D. Bethke, AICP

Director of Planning and Development

cc: **Planning Director**
County Counsel
County Administrative Officer
County Board of Supervisors
County Historic Resources Commission
State Historic Preservation Officer

May 27, 1998

James W. Crandall, MAI, SRA
450 Cox Rd.
Aptos, Ca. 95003
(408) 688-3643/688-5230 fax

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Planning Commission
County of Santa Cruz
701 Ocean St.
Santa Cruz, CA 95060

RE: Nonconforming Use Ordinance

Dear Members of the Commission:

I have been asked by Ms. Glenda Hill to review the proposed revisions to the "Nonconforming Use" ordinance from an appraiser's viewpoint. Although the time available was too limited to obtain other appraiser's opinions on the specific provisions, based on previous conversations, I have no doubt that very few would object to a liberalization of the "Nonconforming Use" regulations. However, my comments are my own opinions as an appraiser and multi-family property owner. Primarily, I have addressed the conditions pertaining to multi-family use after an involuntary destruction of all or part of the improvements.

While I support the changes resulting in a less onerous ordinance, I believe they fall short of the intent of the State Government code Section 65852.25 as well as a reasonable regulation for nonconforming uses in this county.

In my opinion, no use should be classified as "nonconforming" if the General Plan provides for that use. Certainly, a property should not be classified "nonconforming" for nothing but the lack of a development permit, if none was required at the time of construction and the use meets zoning and General Plan requirements. (See Table #3, column #6, pages #51 and #121.) For an existing use to be classified as nonconforming due to an arbitrary reduction in density allowed does more harm than good in most cases, not to mention the loss in property value typically associated with this action. I have had personal experience with lenders who require a nonconforming property to be appraised as though conforming to current density requirements. That is, although three units are legally existing, if the zoning would allow only two units to be built, the property must be appraised as two units instead of three. Also, a standard insurance policy does not compensate for the loss in land value if the building is destroyed. The difficulty and cost of obtaining adequate insurance and financing are additional burdens on the owner which must be passed on to the tenants in some way.

Specifically, I would question the following provisions of the proposal:

1. Reconstruction of detached multifamily units limited to 75% after disaster. (See Table #3, page 107 of draft.) This is not consistent with state law nor with the Table #3 (General Plan) on page 137 of the draft.

722 I find the inclusion of "comfort and convenience" [referred to in "13.10.250 Interpretation", on page 116 and 129 of the draft, section (a)] to be beyond the scope of the Police Power as well as state law.

3. The county has chosen to include commercial along with industrial General Plan designations with residential uses as "Significantly Nonconforming" (and thereby limiting reconstruction to 75%), since some commercial zonings do not allow residential use. However, state law refers only to multifamily use in an industrial zone as an exception to allowing rebuilding. In my opinion, even multifamily uses in an industrial zone should only be subject to a review as to the effect on health, safety and general welfare of an existing use, not an automatic assumption of undesirability just because the use was not included in a mixed use plan originally approved by the local government.

4. The levels of review are generally too high, considering the restrictions and other circumstances. I see no reason for more than a Level 3 review for 1-4 units and Level 5 for 5 units or more. without intensification or enlargement, even if 100% rebuilt.

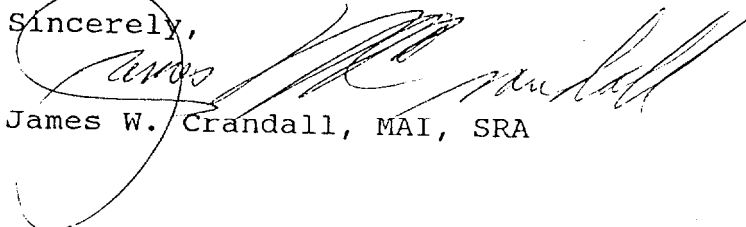
year period for applying for a permit (as opposed to ~~obtaining~~ a permit) is more reasonable due to many complications that ~~may~~ arise after an involuntary

6. Page #116 of the draft states that any nonconforming use is detrimental rather than may be detrimental which I believe is inconsistent with the intent of the revision:

7. Pages #117 and #118 refer to the power of the Board of Supervisors to terminate a "nonconforming use". I believe this power should be limited to "Significantly Nonconforming" uses as defined in this ordinance, since nonconforming uses are legal and many only exist due to arbitrary changes in density limitations.

Although I may not be able to attend the May 27 hearing due to prior commitments, I thank you for considering these comments and suggestions.

Sincerely,



James W. Crandall, MAI, SRA

Dr. and Mrs. E. L. Harlacher
82 Ocean Pines Lane
Pebble Beach, CA 93953

Telephone/FAX 408 622-9280

October 7, 1998

Glenda Hill
Santa Cruz County Planning Department
701 Ocean Street
Santa Cruz, CA 95060

Dear Ms. Hill:

The purpose of this letter is to follow up on our recent telephone conversation. We are pleased that you are planning to submit a new non-conforming ordinance to County Board of Supervisors on November 10, 1998 and are fully in support of your effort.

We own a non-conforming four-unit apartment house at 283 Rio del Mar Blvd. in the Rio del Mar section of Aptos. Since the building was built in the late 1920s or early 1930s before zoning in the county, it has been "grandfathered" in. Nevertheless, whenever we seek refinancing, there is always the question of what would happen if the building were substantially destroyed by fire or earthquake.

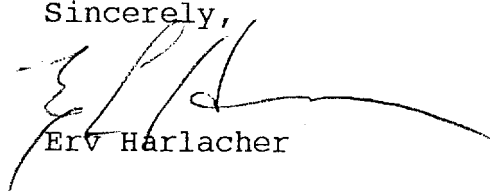
We were told five years ago that when the zoning was changed from residential to multiple residential we would have no further problems. Such is not the case because our two lots are not of sufficient size to meet the requirements of the new zoning.

Hopefully, the changes you have proposed in the new ordinance will clarify the status of our property. As you know, we are not alone; there are many others in the county with non-conforming structures.

Please express our support for the proposed ordinance when you address the Board of Supervisors.

Thank you.

Sincerely,



Erv Harlacher

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**RICHARD BEALE**Land Use Planning
Incorporated800 Doyle Street • Suite E
Santa Cruz, CA 95062
(831) 425-5999
FAX (831) 425-1565Masters of Architecture
Univ. of CA, Berkeley

October 30, 1998

County Board of Supervisors
701 Ocean Street
Santa Cruz, CA 95060**RE: NONCONFORMING USES ORDINANCE/NOVEMBER 3RD AGENDA**

Dear Board Members:

Our **office** has reviewed this proposed **Nonconforming** Uses ordinance and want to go on record as supporting its approval. The ordinance takes a complicated subject and clarifies it considerably. We especially appreciate the new **definitions** and the chart which tells exactly what can be done in each case. **Also**, we support the change in time for loss of nonconforming use status from **6** months to 12 months. This will help a lot with residential units which cannot be rented for more than six months due to renovations and other reasons. We **also** appreciate that roofs and foundations may be **replaced** in order to adequately preserve **our** housing **stock**. The idea of requiring a statement of acknowledgment to be recorded for nonconforming uses is also a good one, we believe, as it will clarify this for new owners. Our only other comment is that we do not see the reasoning behind requiring residential uses in General Plan designations of Residential but with Commercial or Industrial zoning to be treated as nonconforming **uses**. They are the conforming uses, while the **commercial** or industrial **zonings** are nonconforming. We also **appreciate** your not making **all** those habitable accessory structures with bathrooms **nonconforming now!** And we like the addition of **the** references to the other **sections** of the ordinance which apply to nonconforming uses too.

Again, we appreciate all the work staff has put into this ordinance. We think it is well written and **clear**.

Sincerely,
RICHARD BEALE LAND USE PLANNING, INC.
Betty Cost, AICP

SAN LORENZO VALLEY

(SANTA CRUZ COUNTY)

PROPERTY OWNERS' ASSOCIATION

POST OFFICE BOX 325
BEN LOMOND, CALIFORNIA 95005

Santa Cruz County Board of Supervisors
701 Ocean Street
Santa Cruz, CA 95060

Subject: Proposed Zoning and Use Code Revisions to General Plan

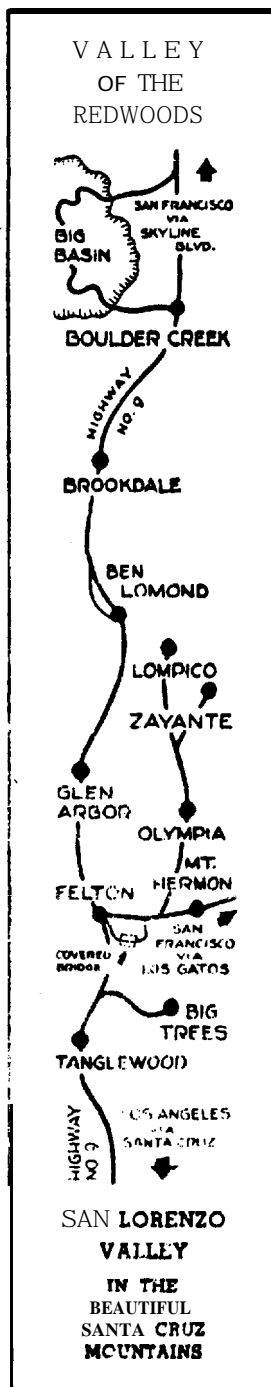
The San Lorenzo Valley Property Owner's Association, Inc. has the following objections to the SC County zoning and use codes and their current applications.

The property owner's utilization of their property should have a higher priority than the government's desire for conformity or adherence to a "orderly" master plan. When health and safety are not in jeopardy, a property owner is assured freedom to live life as best suits him by the U.S. Constitution. The creation of a new classification of housing as "Significantly nonconforming" gives the county more control (and flexibility) over the property owners without any compensating gain to the owners. This change allows the limitation of expansion, structural alteration or reconstruction of existing significantly nonconforming residential structures. This change also requires the owner to designate one unit on residential parcels as the one to maintain and the others be allowed to deteriorate until eliminated. Zoning is a confiscation of private property when it limits the full utilization of the owners' property.

The county has not have been given the authority to "accelerate the elimination" of non-conforming or significantly non-conforming housing or uses, except by use of an eminent domain. The need for more affordable housing precludes raising the minimum standards for existing housing.

In the SLV, most of the non-conforming use occurred before the planning department had jurisdiction. Judge Logan laid out Brookdale at the turn of the century. Many parcels were established with more than one habitable structure included. Parcel size was 3/4 acre for single family dwellings. Out houses were replaced by septic systems for the convenience of the family members, not to anticipate the desires of planners who were not yet born,

The county now withdraws grand fathered use permits if the dwelling is not occupied for six months. This is being expanded to one year. The reason given is 'attractive nuisance', but the planning department generates more empty dwelling by issuing 'red tags' that create the same attractive nuisance than are created through voluntary non-use. How can an unoccupied dwelling be considered an



attractive nuisance unless it is allowed to become run-down? If not, your house could be considered such while you are on vacation. The SLV has historically consisted of summer resort housing for central California.

The county has the right to collect property taxes on real property and to collect fees for new developments to pay for any required government expenditures. They have chosen to base the tax on the market value of the property, with some exceptions. They also desire to simplify the estimation of market value by use of an **inflation** index and requiring permits for improvements. Some estimate that 90% of recent improvements have occurred without a permit. Supervisor Jeff Almquist stated it was 80%. Since the planning personnel are salary employees of the county, permit fees for past, completed, constructions are not warranted, since the county performed no effort in approving the plans or inspecting of the construction. What other purpose would there be for a fee for a permit to maintain one's property? Property taxes not collected? General administration and control?

The SC Planning Director, Alvin James, met with the trustees for a work shop on these issues. Many individual cases were presented to him of hardships created by the codes and their application. To his credit, he did not attempt to solve them that evening. He did state that he would reduce the fee to replace a water heater by 50%. In as much as the proposed changes **affect** property owners, we would appreciate the opportunity to provide inputs to future changes.

The general membership of the association voted authority for the association trustees and officers to investigate, confer and generate this appeal to the Santa Cruz County Board of Supervisors.

Sincerely;



0. Robert Welch
President