

PLANNING DEPARTMENT

GOVERNMENTAL CENTER



COUNTY OF SANTA CRUZ 555

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October 20, 1998

Agenda: November 10, 1998

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

SUBJECT: PUBLIC HEARING ON PROPOSED GENERAL PLAN/LCP AMENDMENTS AND ORDINANCE AMENDMENTS REGARDING RESIDENTIAL NONCONFORMING USES AND GENERAL NONCONFORMING USE PROVISIONS

Members of the Board:

On December 9, 1997, your Board directed that specific revisions be prepared to revise the nonconforming use regulations, that the revisions be presented to the Planning Commission for their review and recommendation, and that the revisions be returned to your Board for final consideration

Your Board directed that the revisions to the nonconforming use regulations be based on the following:

- The current Nonconforming Use regulations do not fully implement the General Plan/LCP with regard to retaining existing housing stock;
- Not all nonconforming uses should be subject to the same regulations;
- Significantly nonconforming uses (proposed to be defined as those uses that are inconsistent with their General Plan designation) should be subject to limited repair and accelerated elimination; and
- Other nonconforming uses should be allowed various types of improvement, based on their degree of nonconformity.

Because the General Plan contains different policies for residential, commercial, industrial, and agricultural nonconforming uses, your Board also directed that revisions to the Nonconforming Use ordinance be written and presented in phases. The first phase, which is before your Board, contains general provisions that apply to all uses and residential uses. The second phase will contain commercial, industrial, and historic nonconforming use provisions; the third phase will contain agricultural nonconforming use provisions.

On May 27, 1998, the Planning Commission held a public hearing and recommended approval of the revisions, as presented (see Attachment 13).

BACKGROUND

A nonconforming use is a use that was legally established but no longer complies with one or more of the County's land use regulations. Uses can be nonconforming because they predate the adoption of regulations (a preexisting use), or the County's regulations, zoning, or General Plan have been changed since the use was established and the use, which once conformed to all regulations, no longer complies. Examples of common nonconforming uses include:

- A use that no longer meets the density allowed by its zoning and/or General Plan designation, such as Multiple Dwelling Units on a parcel zoned for one single family dwelling.
- A use that is no longer allowed by its zoning and/or General Plan designation, such as a commercial store in a residential area.
- An accessory structure that was legally built but does not meet the current use regulations.
- A use that does not have a required Development Permit, such as an apartment building constructed in 1940.

Nonconforming uses should not be confused with nonconforming structures, or with illegal uses. Nonconforming structures are those that do not meet one or more current site standards, such as setbacks from property lines, height restrictions, or lot coverage. The Nonconforming Structure ordinance (Section 13.10.265 of the County Code) was revised in 1995; staff is not proposing changes to it. Illegal uses are those that were commenced in violation of one or more County regulations. They did not pre-date the County's regulations — they were initiated in violation of the regulations or without the required Development and Building Permits. The amendments before your Commission do not address illegal uses.

Today, because of nearly 40 years of rezonings, and numerous General Plan and ordinance amendments, many parcels in the County contain nonconforming uses. Our present nonconforming use regulations, which are essentially the same as those adopted in 1958, are simple but rigid, offering little flexibility in dealing with the wide range of nonconforming uses. The last comprehensive amendment to the nonconforming use regulations was in 1974. In our judgement, the current ordinance is overly restrictive, dated, and does not distinguish between those nonconforming uses which are innocuous, and those which are detrimental. In addition, the ordinance does not reflect and properly implement the policies of the 1994 General Plan regarding retention of housing stock and continuation of commercial uses.

DISCUSSION OF THE CURRENT NONCONFORMING USE REGULATIONS

The current ordinance (Attachment 7) states that: "Any nonconforming use within the County is detrimental to the orderly development of the County and to the general welfare. It is the intent of the Chapter that nonconforming uses shall be eliminated as rapidly as possible." The ordinance

provisions that follow reflect this basic goal and impose restrictions on structural improvements, expansions, intensification of use, reconstruction after disaster, terminations of nonconforming rights, and so forth (see Attachment 8 for a summary of the current regulations). At one level, these provisions advance standard planning principles, and make sense. Inappropriate uses should generally not be enlarged, or intensified, or perpetuated through significant structural upgrades. However, some nonconforming uses are not objectionable or in basic conflict with surrounding uses. Under the current rules, these more benign nonconforming uses are subject to the same restrictions as the more noxious uses. The following are examples of some of the current restrictions that now apply to all nonconforming residential uses:

The current ordinance prohibits structural repair, structural alteration (except to roofs), physical expansion, and reconstruction (with a few exceptions) of structures containing nonconforming uses. As a result:

A termite damaged wall stud in an existing legal cabin on a property with multiple units in a single family zone cannot be repaired, unless it is designated as the conforming unit. Thus, if there are four units, only one can be altered or repaired structurally. Only nonstructural ordinary repair and maintenance can be done to the other three units.

An old foundation under an existing legal duplex that does not have the currently required Development Permit may not upgrade for seismic safety.

A garage exceeding the current 1000 square foot size limitation that has a dry rotted ceiling joist cannot be repaired.

The current ordinance makes no differentiation in the degree of nonconformity. As an example:

A duplex located on property with a Commercial zoning and General Plan designation is treated the same as a duplex located on property now zoned for single family uses.

POLICY BASIS FOR PROPOSED AMENDMENTS

The Housing Element of the General Plan/Local Coastal Program states:

According to data generated by the 1980 US Census, 43% of the units in the county's unincorporated area were built before 1960. This would indicate that 19,582 units are 30 years of age or older . . . In addition, there are also a significant number of units (11, 613 units) that were built during the 1960-1969 period. These units will be approaching 30 years of age in the next decade and may also need housing improvement and modernization. In total, then, there are 19,582 units over the age of 30 years and another 11, 613 units approaching 30 years of age in the unincorporated Comfy. These 31, 195 units represent 59% of all units in the County (unincorporated areas only) as of January, 1990.

Many of these units, generally because they exceed density, are nonconforming uses. The Housing Element also emphasizes the preservation of existing residential housing stock. As illustrated in the above examples, the express provisions of the current ordinance do not mirror this goal, but in many ways, impede it.

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PROPOSED CHANGES TO THE RESIDENTIAL AND GENERAL PROVISIONS
NONCONFORMING USE REGULATIONS

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The recommended amendments before your Board relax the rules and levels of review for residential nonconforming uses based on the degree of nonconformity. A nonconforming use that is close to conformance is proposed to be able to make more improvements and at a lower level of review than a use that is more nonconforming. Thus, the fundamental purpose of the ordinance for nonconforming uses states: “Nonconforming uses may be detrimental to the orderly development of the County. . .”

Staff is proposing two basic categories of nonconforming uses: nonconforming and significantly nonconforming. The concept of “significantly nonconforming” is taken from the Nonconforming Structure regulations and will complement it. Staff is proposing to define significantly nonconforming uses as those that are inconsistent with their General Plan/LCP land use designation. Thus, the fundamental purpose of the ordinance for significantly nonconforming uses shifts in emphasis by stating: “Significantly nonconforming, uses are detrimental to the orderly development of the County.” A significantly nonconforming residential use is one that is located in a Commercial or Industrial General Plan land use category -- the only land use categories that prohibit primary residential uses. A residential use surrounded by commercial or industrial activities is an undesirable situation. It is, therefore, proposed that significantly nonconforming uses be restricted to limited repair and structural alterations for imminent threat.

All other nonconforming residential uses would be allowed to be repaired, altered, or even reconstructed at varying levels of review based on the degree of nonconformity. Current and proposed regulations are generally illustrated in Tables 1 through 3 (Attachment 8). A detailed discussion of each proposed section is found in the annotated ordinance (Attachment 6).

In addition to these basic objectives, the regulations are proposed to be revised, per your Board’s direction, to allow the rehabilitation and reconstruction of accessory structures made nonconforming by the approval, in 1997, of revisions to the Accessory Structures ordinance (see Attachment 10).

The revised ordinance implements Government Code Section 65852.25 (Senate Bill 2112) (Attachment 11). This State law requires local jurisdictions to adopt regulations allowing the reconstruction of multifamily dwellings (including nonconforming multifamily dwellings) after catastrophes. Local jurisdictions are allowed some discretion in their approval; review criteria is proposed.

General provisions that apply to all nonconforming uses are being proposed as a separate Section of the County Code. Because structural repair, alterations, and reconstructions will, for the first time, be available to nonconforming uses, new definitions clearly differentiating between these terms are proposed. Other new provisions include: a subsection clearly stating that preexisting legal parcels not meeting current size requirements are conforming and may be developed; an exception to allow structural work even to significantly nonconforming uses if done solely for the purpose of complying with the American with Disabilities Act or Title 24 of the State Building Code; and a requirement that a Statement of Acknowledgment of Nonconforming or Significantly Nonconforming Status be recorded prior to issuance of any permits. Again, a more detailed discussion of these proposed subsections is found in Attachment 6.

PROPOSED GENERAL PLAN CHANGES

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Two policies of the General Plan/Local Coastal Program are proposed to be amended (see Attachments 2 and 3):

Policy 2.12.3 would be amended to eliminate the provision for a one time expansion of a residential use on property with a Commercial land use designation. As this use is proposed to be considered significantly nonconforming, expansion of the use would not be consistent with the proposed purpose of the significantly nonconforming use regulations. Expansions of residential uses in approved mixed use developments would remain allowable, and the provision for increased residential to commercial ratio found in the County Code would be added to bring consistency.

Policy 8.4.2 would be amended to strengthen the language for retention of existing nonconforming multifamily housing.

HOUSING ADVISORY COMMISSION REVIEW

The Housing Advisory Commission reviewed the proposed ordinance and General Plan changes at their February and April meetings. On April 1, 1998, the Commissioners voted unanimously to support the ordinance as presented and the concept of preserving existing housing (see Attachment 15).

COMMISSION ON DISABILITIES REVIEW

The Commission on Disabilities reviewed proposed Section 13.10.260(c)7, which allows structural work to any nonconforming use if performed for the sole purpose of coming into compliance with the Americans with Disabilities Act (ADA) or Title 24 of the State Building Code. At their December 12, 1997 meeting, the Commission voted unanimously to support the proposed Section (see Attachment 14).

HISTORIC RESOURCES COMMISSION REVIEW

The Historic Resources Commission reviewed the proposed revisions at their July and August meetings (see Attachment 16).

ENVIRONMENTAL REVIEW

The Environmental Coordinator considered the proposed ordinance and General Plan changes and on February 17, 1998 made the determination to issue a Negative Declaration with no mitigations. The Initial Study and Negative Declaration are attached as Attachment 12.

RECOMMENDATION

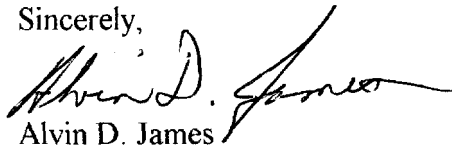
The proposed changes will create flexibility to the Nonconforming Use regulations and help preserve existing housing stock that is benign, accelerate the elimination of existing housing stock that is detrimental to their neighborhoods, implement State law concerning the reconstruction of multifamily

housing destroyed by catastrophe, and bring conformance between the Zoning Ordinance and the General Plan/Local Coastal Program. 500

It is, therefore, RECOMMENDED that your Board take the following actions:

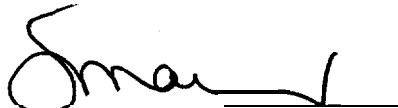
1. Adopt the attached Resolution amending the County of Santa Cruz Local Coastal Program Implementation Program (Attachment 1); and
2. Adopt the attached ordinance amending various sections of the Santa Cruz County Code (Attachment 4) and certify the Environmental Determination (Attachment 13); and
3. Direct Planning staff to submit this ordinance amendment to the California Coastal Commission for certification as part of the next round of 1998.

Sincerely,



Alvin D. James
Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

Attachments:

1. Proposed Resolution
 2. Proposed General Plan/LCP Amendments
 3. "Strikeout" Version of Proposed General Plan/LCP Amendments
 4. Proposed Ordinance
 5. "Strikeout" Version of Proposed Ordinance
 6. Annotated Version of Proposed Ordinance
 7. Copy of Current Nonconforming Use Regulations
 8. Summary Table of Current and Proposed Regulations
 9. Minute Order from Board of Supervisors Meeting of December 9, 1997
 10. Minute Order from Board of Supervisors Meeting of May 6, 1997
 11. Copy of Government Code Section 65852.25 (Senate Bill 2112)
 12. Environmental Review Initial Study and Notice of Determination
 13. Planning Commission Resolution and Meeting Minutes of May 27, 1998
 14. Commission on Disabilities Letter dated January 9, 1998
 15. Housing Advisory Commission Meeting Minutes of April 1, 1998
 16. Historic Resources Commission Meeting Minutes of July 2, 1998 and August 20, 1998
- 1 Correspondence Received

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. _____

On the motion of Supervisor
duly seconded by Supervisor
the following is adopted:

RESOLUTION ADOPTING AMENDMENT OF POLICIES 2.12.3 AND 8.4.2 OF THE
GENERAL PLAN/LOCAL COASTAL PROGRAM LAND USE PLAN; ADOPTING AN
ORDINANCE AMENDING SANTA CRUZ COUNTY CODE SECTIONS 13.10.260,
13.10.265, 13.10.332, 13.10.342, 13.10.510, 13.10.658 AND 13.10.700; AND THE ADDITION
OF SECTIONS 13.10.26 1 AND 13.10.262 TO THE COUNTY CODE REGARDING
GENERAL NONCONFORMING USE PROVISIONS AND RESIDENTIAL
NONCONFORMING USES

WHEREAS, the Board of Supervisors directed that an ordinance amendment be developed to amend nonconforming use regulations within Volume II of the Santa Cruz County Code and amendments to the General Plan/Local Coastal Program; and

WHEREAS, the Planning Commission has held a duly noticed public hearing and has considered the proposed amendments, and all testimony and evidence received at the public hearing; and

WHEREAS, the Board of Supervisors has held a duly noticed public hearing and has considered the proposed amendments, and all testimony and evidence received at the public hearing; and

WHEREAS, the Board of Supervisors finds that the proposed General Plan and Local Coastal Program amendments and proposed amendments to the Santa Cruz County Code will be consistent with the policies of the General Plan and Local Coastal Program and other provisions of the County Code, and will contribute to the retention of existing housing stock;

WHEREAS, the Environmental Coordinator issued a Negative Declaration with No Mitigations associated with these amendments and the Board of Supervisors has reviewed the environmental document and finds that the proposed amendments have been processed consistent with applicable provisions of the California Environmental Quality Act (CEQA) and the County of Santa Cruz environmental guidelines; and

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WHEREAS, the proposed amendments were submitted to the Housing Advisory Commission for their review and recommendation and were reviewed at public meetings on February 4, 1998 and April 1, 1998; and

WHEREAS, the proposed amendments were submitted to the Commission on Disabilities for their review and recommendation and were reviewed at a public meeting on December 12, 1997; and

WHEREAS, the proposed amendments were submitted to the Historic Resources Commission for their and recommendation and were reviewed at public meetings on July 2, 1998 and August 20, 1998; and

WHEREAS, the California Coastal Commission has certified the Tmplementation Program of the County's Local Coastal Program; and

WHEREAS Chapter 13.10 of the County Code is an implementing ordinance of the Local Coastal Program (LCP) and the proposed amendments to Chapter 13.10 constitute an amendment to the Local Coastal Program; and

WHEREAS, the proposed amendments are consistent with the California Coastal Act

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Board of Supervisors hereby certifies the Negative Declaration under CEQA and approves the amendments to Policies 2.12.3 and 8.4.2 of the General Plan and Local Coastal Program Land Use Plan and the amendments to County Code Sections 13.10.260, 13.10.265, 13.10.332, 13.10.342, 13.10.510, 13.10.658 and 13.10.700 and the proposed addition of Sections 13.10.261 and 13. IO.262 relating to Nonconforming Uses.

BE IT FURTHER RESOLVED AND ORDERED that the Board of Supervisors hereby directs these amendments be submitted to the State of California Coastal Commission as part of the next 1998 "rounds" package.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 1998 by the following vote:


- AYES: SUPERVISORS
- NOES: SUPERVISORS
- ABSENT: SUPERVISORS
- ABSTAIN: SUPERVISORS

Janet K. Beautz, Chairperson

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:



County Counsel

DISTRIBUTION: County Counsel
Planning Department

PROPOSED AMENDMENTS TO THE COUNTY OF SANTA CRUZ
GENERAL PLAN AND LOCAL COASTAL PROGRAM

1. Amend Section 2.12.3 of the County General Plan and Local Coastal Program to read as follows:

2.12.3 Residential Uses in Commercial Designations

Allow a mix of residential and commercial uses in areas designated Neighborhood or Community Commercial or Professional and Administrative Office. Require the inclusion of residential development where provided by adopted village, town, community or specific plans. Limit residential uses to densities which allow good site design and commercial utilization of the property, and which are secondary to the commercial use, not to exceed 50 percent (67% if project is 100% affordable) of the floor area of the development.

2. Amend Section 8.4.2 of the County General Plan and Local Coastal Program to read as follows:

8.4.2 Retaining Existing Housing

Encourage the maintenance and repair of existing nonconforming single and multi family residential structures on residentially designated lands and allow reconstruction where appropriate when found not to be detrimental to the health, safety, or welfare of the surrounding neighborhood. Limit expansion, structural alteration, or reconstruction of existing significantly nonconforming residential structures.

cc: California Coastal Commission
James Samuels
San Lorenzo Valley Property Owners' Association

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PROPOSED AMENDMENTS TO THE COUNTY OF SANTA CRUZ
GENERAL PLAN AND LOCAL COASTAL PROGRAM

1. Amend Section 2.12.3 of the County General Plan and Local Coastal Program to read as follows:

2.12.3 Residential Uses in Commercial Designations

Allow a mix of residential and commercial uses in areas designated Neighborhood or Community Commercial or Professional and Administrative Office. Require the inclusion of residential development where provided by adopted village, town, community or specific plans. Limit residential uses to densities which allow good site design and commercial utilization of the property, and which are secondary to the commercial use, not to exceed 50 percent (67% if project is 100% affordable) of the floor area of the development. Existing residential uses in commercial designations may expand up to an additional 500 square feet (total).

2. Amend Section 8.4.2 of the County General Plan and Local Coastal Program to read as follows:

8.4.2 Retaining Existing Housing

Encourage the maintenance and repair of existing nonconforming single and multi family residential structures on residentially designated lands and allow reconstruction where appropriate when found not to be detrimental to the health, safety, or welfare of the surrounding neighborhood. Limit expansion, structural alteration, or reconstruction of existing significantly nonconforming single-family residential structures.

ORDINANCE _____

ORDINANCE AMENDING SECTIONS 13.10.260, 13.10.265,
13.10.332, 13.10.342, 13.10.510, 13.10.658 AND 13.10.700 AND ADDING
SECTIONS 13.10.261 AND 13.10.262 TO THE COUNTY CODE
RELATING TO NONCONFORMING USES

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Section 13.10.260 is hereby amended to read as follows:

13.10.260 NONCONFORMING USES - PROVISIONS THAT APPLY TO ALL USES

The following provisions apply to all categories of nonconforming uses.

(a) Purpose and Intent:

1. Significantly nonconforming uses are detrimental to the orderly development of the County, to the general welfare, and to the implementation of the General Plan/Local Coastal Program. It is the intent of this Chapter that significantly nonconforming uses be rapidly eliminated through restrictions on repairs, alterations, expansion, reconstruction, change and intensification of use, cessation of use, and termination of use in conformance with the policies of the General Plan/LCP.

2. Nonconforming uses that are not significantly nonconforming may be detrimental to the orderly development of the County and the general welfare based on the degree of nonconformity. It is the intent of this Chapter to regulate the repair, alteration, expansion, reconstruction, change and intensification of use, cessation of use, and termination of use in conformance with the policies of the General Plan/LCP.

3. Nonconforming uses that can become conforming to the regulations of this Chapter are encouraged to do so.

(b) Definitions. In addition to the definitions set forth in Section 13.10.700-A through 13.10.700-Z, the following words and phrases, whenever used in this Section, or Sections

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13.10.261 or 13.10.262, shall have the following meanings:

1. Development Standards: Standards that regulate the development of uses, including but not limited to signage, useable open space and the design regulations found in Chapter 13.11. For the purposes of this Section, site and structural dimensions are not considered development standards.

2. Imminent Threat: A situation that poses an impending threat to life or property as determined by the Planning Director, Building Official and/or the County Geologist.

3. Intensification of Use, Residential: Any change to a residential use which will result in an increase of its number of bedrooms, as defined in Section 13.10.700-B, shall be an “intensification of use” for purposes of this Chapter.

4. Nonconforming Use: The use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of Chapters 13.10 or 13.11, conforms to the present General Plan/Local Coastal Program land use designation, and:

(i) Has not lost its nonconforming status due to cessation of use, as outlined in Sections 13.10.260, 13.10.261, or 13.10.262; and

(i) No longer conforms to the present use, density, or development standards of the zone district in which it is located; or

(ii) Does not have a valid Development Permit as required by the present terms of this Chapter.

5. Ordinary Maintenance and Repair in Kind: Any work, whether structural or non-structural, that is done to a structure in kind to preserve its current condition or restore to its original condition. Structural repairs in kind may not exceed the aggregate of 10% of the exterior walls, roof, or foundation within any one year period. Structural repairs in kind that result in greater than the aggregate of 10% of the exterior walls, roof, or foundation being repaired within any one year period shall be deemed a structural alteration. The replacement of the interior or exterior wall coverings or the replacement of the windows or doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant’s expense to certify that portions of the structure which the plans show as proposed not to be structurally repaired are in fact structurally sound and that it will not be

necessary to repair or alter such portions of the structure during the course of construction.

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6. Reconstruction: The rebuilding of a structure or portion(s) of a structure. A structural alteration or repair that involves greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction.

7. Significantly Nonconforming Use: The use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of Chapters 13.10 or 13.11, does not conform to the present General Plan/Local Coastal Program land use designation, and has not lost its nonconforming status due to cessation of use as outlined in Sections 13.10.260, 13.10.261, or 13.10.262.

8. Structural Alteration: Any change in the supporting members of a building, such as the foundation, bearing walls, columns, beams, girders, floor, ceiling or roof joists, and roof rafters or structural repairs in kind greater than 10% but less than 50.1% of the exterior walls. Roofs and foundations may be replaced. No physical expansion shall be permitted unless expressly authorized in Sections 13.10.261 or 13.10.262. Structural alterations or repairs that result in greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction. The replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction.

(c) General Requirements

1. Determination of Nonconforming Status. The property owner shall have the burden of proof in establishing the nonconforming use status of any land or structure. The Planning Director may charge a fee, as stated in the Uniform Fee Schedule, for the review of submitted documents which shall be based upon a reasonable estimate of the cost to the County for verifying the claim.

2. Continuation of Nonconforming Rights. The lawful use of land existing on the effective date of the adoption or change of zoning designation or of the zoning regulations may be continued, even if the use no longer conforms to the regulations specified by Chapter 13.10 for the district in which the land is located and Chapter 13.11, provided that the use shall not be intensified or expanded to occupy a greater area than that occupied by the use at the time of adoption or

change in zoning designation or zoning regulations.

Exceptions:

(i) The nonconforming use of a structure may be changed to a use of the same or less intense nature, provided that in each case a Level V Development Permit, or lower level Development Permit as provided in Section 13.10.261, is obtained.

(ii) The nonconforming use of a portion of a building may be extended throughout the building, provided that in each case a Level V Development Permit, or lower level Development Permit as provided in Section 13.10.261, is obtained.

3. Loss of Nonconforming Status. Loss of nonconforming status due to cessation of use shall be as provided in Sections 13.10.261 and 13.10.262.

4. Reconstruction of Structures Containing Nonconforming Uses Damaged by the Loma Prieta Earthquake. Notwithstanding any other provision of this Section, any building or structure damaged or destroyed as a result of the earthquake of October 17, 1989 and/or associated aftershocks may be repaired or reconstructed, provided the structure:

(i) Will be sited in the same location on the affected property as the destroyed structure, and that location is determined to be located away from potentially hazardous areas, as required by Chapter 16.10 of this Code;

(ii) Will be for the same use as the damaged or destroyed structure; and

(iii) Will not exceed the floor area, height, or bulk of the damaged or destroyed structure by more than 10%.

5. Preexisting Parcels. A parcel that does not meet the current minimum site area, width, or frontage as required by the regulations of the zone district in which the parcel is located, or does not conform due to public dedication of right-of-way in accordance with Section 13.10.323(d)3, shall be deemed conforming and may be developed if

(i) The parcel was legally created; and

(ii) The parcel has not been combined or merged pursuant to Sections 14.01.110 and 14.01.111.

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6. Nonconforming Parking. In accordance with the limitations of Section 13.10.575, no legal existing use of land or structure shall be deemed to be a nonconforming use solely because of the lack of offstreet parking or loading facilities.

7. Compliance with the American with Disabilities Act or Chapter 11 of the State Building Code. Nothing in this Section, or Sections 13.10.261 and 13.10.262, shall preclude structural work performed for the sole purpose of coming into compliance with the Americans with Disabilities Act (ADA) or Chapter 11 of the State Building Code found in Volume II of Title 24 of the California Code of Regulations.

8. Compliance with Other Sections of the County Code. All development allowed by this Section, or Sections 13.10.261 and 13.10.262, shall be in conformance with all other requirements of the County Code, unless exceptions, as provided in those Sections, are granted.

9. Statement of Acknowledgment Required. Any Building or Development Permit issued for repair, structural alteration, expansion, change or intensification of use, or reconstruction shall include a condition requiring recordation of a Statement of Acknowledgment of Nonconforming or Significantly Nonconforming Use Status.

IO. Termination of Use. The Board of Supervisors may order a nonconforming use to be terminated, upon recommendation of the Planning Commission. The Planning Commission shall conduct a public hearing after 15 days written notice to the nonconforming user. If the nonconforming user has not made a substantial investment in furtherance of the use, or if the investment can be substantially utilized or recovered through a currently permitted use, the Order may require complete termination of the nonconforming use within a minimum of one year after the date of the Order. If the nonconforming user has made a substantial investment in furtherance of the use, or if the investment cannot be substantially utilized or recovered through a currently permitted use, the Order may require complete termination of the nonconforming use within a longer reasonable amount of time. Nonconforming uses that are determined to be an imminent threat to public health or safety may be terminated immediately, pursuant to Chapter 1.14 of this Code. In making its recommendation, the Planning Commission shall consider:

- (i) The total cost of land and improvements;
- (ii) The length of time the use has existed;

- (iii) Adaptability of the land and improvements to a currently permitted use;
- (iv) The cost of moving and reestablishing the use elsewhere;
- (v) Whether the use is significantly nonconforming;
- (vi) Compatibility with the existing land use patterns and densities of the surrounding neighborhood;
- (vii) The possible threat to public health, safety, or welfare; and
- (viii) Any other relevant factors.

Failure to comply with a Board of Supervisors' Order to terminate a nonconforming use shall constitute a violation of the Chapter and is a public nuisance subject to abatement in accordance with Chapter 1.14 of this Code.

11. Termination as a Result of Public Agency Acquisition or Eminent Domain.

Notwithstanding any other provisions of this section, whenever a nonconforming use of land or buildings outside of the California Coastal Zone is terminated by reason of an acquisition of the property or portion thereof by a public agency by eminent domain or an acquisition under threat of the use of eminent domain, the nonconforming use may be relocated to another location on the property or to an adjacent parcel, including a parcel which is near or close to the subject parcel, provided that:

- (i) Any structure reconstructed and/or relocated for the nonconforming use will not exceed the floor area, height, or bulk of the replaced structure;
- (ii) The use will remain the same;
- (iii) A Level V approval is obtained based on a finding that the relocated use and any structure for the use will not be detrimental to the health, safety, or welfare of persons residing or working in the vicinity or the general public, nor be materially injurious to properties or improvements in the vicinity, and that any relocated or reconstructed structure will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects of the neighborhood.

SECTION II

Chapter 13.10 of the County Code is hereby amended by adding Section 13.10.261 to read as follows:

13.10.261 RESIDENTIAL NONCONFORMING USES

(a) Single Family Dwelling Regulations.

1. A dwelling located on a parcel whose general plan designation prohibits primary residential use and is not part of a permitted mixed use development shall be deemed significantly nonconforming and limited to the improvements and restrictions provided in Section 13.10.261 Table 1.
2. A dwelling located on a parcel with Commercial or Industrial zoning and a Residential general plan designation shall be deemed nonconforming and subject to the restrictions provided in Section 13.10.261 Table 1.
3. In determining the percentage of damage for the purposes of repair or reconstruction after fire, other catastrophic event, or the public enemy, the following method shall be used:

The percentage of damage or destruction of the total length of the exterior walls (exclusive of the foundation or roof) that occurred and the percentage of the exterior walls (exclusive of the foundation or roof) that will be required to be moved, replaced or altered in any way to restore the structure, except that the replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be counted in this calculation. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that the portions of the structure which the plans shows as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based upon a reasonable estimate of the cost to the County for making such determination.

(b) Accessory Structure Regulations The following regulations shall apply to both habitable and non-habitable accessory structures as defined in Sections 13.10.700-H and 13.10.700-N: **574**

1. An accessory structure located on a parcel whose general plan designation prohibits primary residential use and is not part of a permitted mixed use development shall be deemed significantly nonconforming and limited to the improvements and restrictions provided in Section 13.10.261 Table 2.
2. An accessory structure located on a parcel with Commercial or Industrial zoning and a Residential general plan designation shall be deemed nonconforming and subject to the restrictions as provided in Section 13.10.261 Table 2.
3. An accessory structure that does not meet the use standards of Section 13.10.611 shall be deemed nonconforming and subject to the restrictions provided in Section 13.10.261 Table 2.

Exception: An accessory structure that is a nonconforming use solely because of the existence of a toilet and/or waste drain lines larger than 1½ inches in size may be repaired, structurally altered, or reconstructed with no physical expansion upon issuance of a building permit.

4. In determining the percentage of damage for the purposes of repair or reconstruction after fire, other catastrophic event, or the public enemy, the method outlined in Section 13.10.261(a)3 shall be used.

(c) Nonstructural Uses and Home Occupations Regulations.

1. Nonstructural uses and home occupations shall not be expanded.
2. Loss of nonconforming status occurs **after** a continuous six month cessation of use.

(d) Dwelling Groups Regulations.

1. Where two or more residential dwelling units exist on a parcel of land as nonconforming units because the zoning of the property no longer allows more than one dwelling unit, one of the units shall be deemed as conforming to the zone district. The owner may choose, one time only, which unit shall be considered as conforming. Accordingly, that unit may be repaired, structurally altered, enlarged, or reconstructed in accordance with the site and structural dimensions of the zone district in which the parcel is located. The other

6. An application to reconstruct, restore or rebuild a nonconforming dwelling unit or units that has been denied pursuant to subsection 4. of the subsection may be resubmitted and approved if it is revised, including but not limited to reducing the size and/or number of units, such that the basis for making the findings for denial no longer apply.

(e) Reconstruction of Dwelling Groups after Catastrophe.

1. Notwithstanding any other provisions of the County Code (including, but not limited to subsections (g) and (h) of Section 13.10.265), whenever a multifamily dwelling is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy, the multifamily dwelling may be reconstructed, restored, or rebuilt as a nonconforming use in accordance with this subsection (e) and with a Level V or VI approval in accordance with this subsection and Section 13.10.261 Table 3.

2. For purposes of this subsection, for dwelling groups that are significantly nonconforming, the term “multifamily dwelling” means a structure designed for human habitation that is divided into two or more independent living quarters. For dwelling groups that are nonconforming, the term “multifamily dwelling” means a structure designed for human habitation that is divided into two or more independent living quarters or a structure designed for human habitation located on site with other dwellings.

3. In determining the percentage of damage for the purposes of repair or reconstruction after fire, other catastrophic event, or the public enemy, the following method shall be used:

The percentage of damage or destruction of the total length of the exterior walls (exclusive of the foundation or roof) that occurred and the percentage of the exterior walls (exclusive of the foundation or roof) that will be required to be moved, replaced or altered in any way to restore the structure, except that the replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be counted in this calculation. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant’s expense to certify that the portions of the structure which the plans shows as proposed to remain are in fact structurally sound and that it will not be necessary to

alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based upon a reasonable estimate of the cost to the County for making such determination. 577

4. Any reconstruction, restoration, or rebuilding undertaken pursuant to this subsection shall conform to all of the following:

- (i) The California Building Standards Code as that code is in effect at the time of the reconstruction, restoration, or rebuilding;
- (ii) Any more restrictive County building standards authorized pursuant to Sections 13869.7, 17958.7, 18941.5 of the Health and Safety Code and any successor provisions, as those standards are in effect at the time of reconstruction, restoration, or rebuilding;
- (iii) The State Historical Building Code Part 2.7 (commencing with Section 18950 and any successor provisions) of Division 13 of the Health and Safety Code) for work on qualified historical buildings or structures;
- (iv) The County Zoning Ordinance, so long as the predamage size and number of dwelling units are not exceeded;
- (v) State Architectural regulations and standards or County Code Chapter 13.11, so long as the predamage size and number of dwelling units are not exceeded; and
- (vi) A building permit which shall be obtained within two years after the date of the damage or destruction and construction diligently pursued.

5. An application made pursuant to this subsection shall be denied if the Approving Body makes one or more of the following findings:

- (i) That the reconstruction, restoration or rebuilding will be detrimental or injurious to the health, safety or general welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvement in the neighborhood; or
- (ii) That the existing nonconforming use of the building or structure would be more appropriately moved to a zone in which the use is permitted; or
- (iii) That the building is located in an industrial zone district.

nonconforming unit(s) shall be subject to the requirements of this Section.

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2. Dwelling groups located on a parcel whose general plan designation prohibits primary residential use and are not part of a permitted mixed use shall be deemed a significantly nonconforming use and limited to the improvements and restrictions provided in Section 13.10.261 Table 3.

3. All other nonconforming dwelling groups shall be subject to the restrictions as provided in Section 13.10.261 Table 3.

Exception: The foundation and/or roof line of dwelling units that are not significantly nonconforming may be physically expanded provided that the cubic habitable space of the structure(s) is not increased, the structural alterations are in accordance with the height and other applicable restrictions of this Chapter, and a Level TV Use Approval is obtained.

4. Except as provided in subsection (e) of this Section regarding reconstruction of dwelling groups after catastrophe, an application to reconstruct a nonconforming dwelling unit or units shall be denied if the Approving Body makes one or more of the following findings:

(i) That the reconstruction, restoration or rebuilding will be detrimental or injurious to the health, safety or general welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvements in the neighborhood; or

(ii) That the existing nonconforming use of the building or structure would be more appropriately moved to a zone in which the use is permitted.

5. Factors that the Approving Body shall take into consideration in making the findings referred to in subsection 4(i) or 4(ii) of this subsection include, but are not limited to, the following:

(i) Compatibility with the existing land use patterns and densities of the surrounding neighborhood;

(ii) The availability of off and on-street parking, both on the subject property and in the surrounding neighborhood; and

(iii) The adequacy of light, air and privacy on both the subject property and adjacent properties.

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6. Factors that the Approving Body shall take into consideration in making the findings referred to in subsection 5(i) or 5(ii) of this subsection include, but are not limited to, the following:

- (i) Whether the multifamily residential use, as defined in subsection (e)2 of this subsection, is significantly nonconforming;
- (ii) Compatibility with the existing land use patterns and densities of the surrounding neighborhood;
- (iii) The availability of off and on-street parking, both on the subject property and in the surrounding neighborhood; and
- (iv) The adequacy of light, air and privacy on both the subject property and adjacent properties.

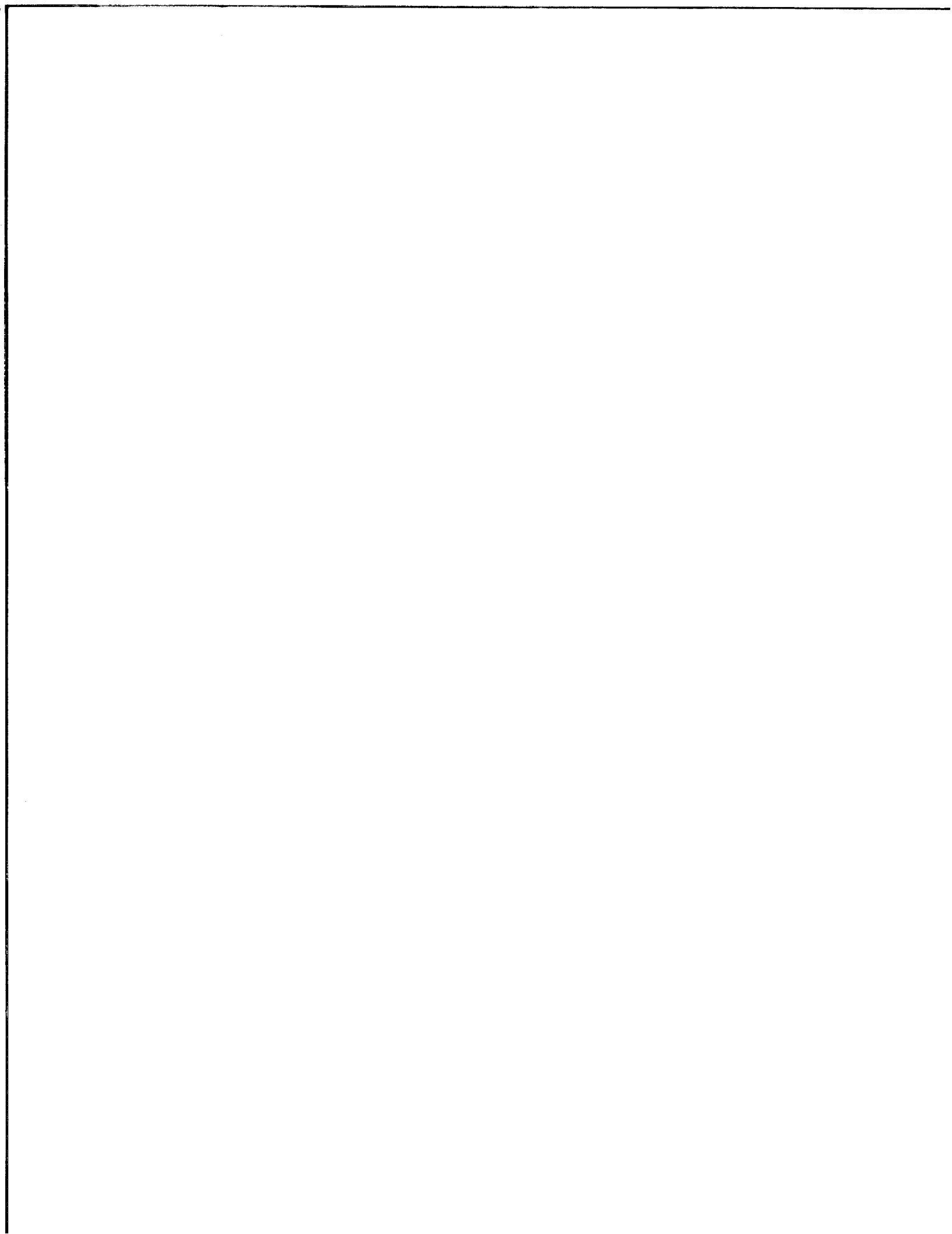
7. An application to reconstruct, restore or rebuild a multifamily dwelling to its predamaged size and number of dwelling units that has been denied pursuant to subsection 5. of this subsection may be resubmitted and approved if it is revised, including but not limited to reducing the size and/or number of units, such that the basis for making the findings for denial no longer apply.

8. This subsection shall not apply if, prior to the damage or destruction, the multifamily dwelling use had lost its nonconforming status due to cessation of use as shown in Section 13.10.261 Table 3.

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SECTION 13.10.261 TABLE 1		
RESIDENTIAL NONCONFORMING USE: SINGLE FAMILY DWELLING		
TYPE OF ALTERATION	SIGNIFICANTLY NONCONFORMING: Parcel has Commercial or Industrial General Plan designation and a residential use only on site	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation
Ordinary maintenance and repair in kind or structural alteration for imminent threat	Yes	Yes
Structural alteration	No	Yes, maximum of 50% of exterior walls within 5 year period
Extend use throughout building	Yes, with Level V no intensification	Yes, with Level III
Physical Expansion	No	Yes, with Level III, 500 square feet expansion one time only
Reconstruction	No	Yes, with Level III, 500 square feet expansion one time only
Reconstruction up to 75% after disaster	Yes, with Level V no intensification	Yes, may expand 500 square feet one time only with Level III
Reconstruction 75% or greater after disaster	No	Yes, with Level III, 500 square feet expansion one time only
Loss of nonconforming status due to cessation of use	12 continuous months**	No restriction



**** unless cessation caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued**

SECTION 13.10.261 TABLE 2				
RESIDENTIAL NONCONFORMING USE: ACCESSORY STRUCTURE				
TYPE OF ALTERATION	SIGNIFICANTLY NONCONFORMING: Parcel has Commercial or Industrial General Plan designation and a residential use only on site	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation and accessory structure does not meet use restrictions	NONCONFORMING: Structure meets zoning and General Plan designations but does not meet use restrictions or does not have required Development Permit	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation and accessory structure meets use restrictions
Ordinary maintenance and repair in kind or structural alteration for imminent threat	Yes	Yes	Yes	Yes
Structural alteration	No	Yes, with Level III, maximum of 50% of exterior walls within a 5 year period	Yes, with Level III, maximum of 50% of exterior walls within a 5 year period	Yes, with Level III
Extend use throughout building	Yes, with Level V	Yes, with Level IV	Yes, with Level IV	Yes, with Level III
Physical expansion	No	No	No	Yes, with Level III
Reconstruction	No	No	No	Yes, with Level III
Reconstruction up to 75% after disaster	Yes, with Level V; no intensification	Yes, with Level IV; no intensification	Yes, with Level IV; no intensification	Yes, with Level III
Reconstruction 75% or greater after disaster	No	No	No	Yes, with Level III

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Loss of nonconforming status due to cessation of use	12 continuous months**	12 continuous months**	12 continuous months**	No restriction
** unless cessation caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued				

SECTION 13.10.261 TABLE 3				
RESIDENTIAL NONCONFORMING USE: DWELLING GROUPS				
TYPE OF ALTERATION	SIGNIFICANTLY NONCONFORMING: Parcel has General Plan designation that prohibits primary residential use and dwelling group is not part of a legal mixed use	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built before Development Permit requirements, does not meet zone district use, density, and/or standards	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built with Development Permit, does not meet zone district use, density, and/or standards	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built before Development Permit requirement, does meet zone district use, density, and standards
Ordinary maintenance and repair in kind or structural alteration for imminent threat	Yes	Yes	Yes	Yes
Structural alteration	No	Yes, maximum of 50% of exterior walls within a 5 year period	Yes, maximum of 50% of exterior walls within a 5 year period	Yes, maximum of 50% of exterior walls within a 5 year period
Extend use throughout building	Yes, with Level V, no intensification	Yes, with Level IV, no intensification	Yes, amend Development Permit (per Section 18.10.134), no intensification	Yes, with Level III; Level V if intensifies
Physical expansion	No	No	No	No
Reconstruction without expansion	No	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes, if work commenced within 12 months no intensification	Yes, with Level V
Reconstruction up to 100% after disaster: multifamily attached only, with no expansion*	Yes 1-4 units: Level V 5+ units: Level VI, no intensification	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes no intensification	Yes, with Level V

Reconstruction up to 75% after disaster: detached units, with no expansion	Yes no intensification	Yes no intensification	Yes no intensification	Yes Level V if intensifies
Reconstruction 75% or greater after disaster: detached units, with no expansion	No	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes no intensification	Yes, with Level V
Loss of nonconforming status due to cessation of use	12 continuous months**	12 continuous months**	12 continuous months**	12 continuous months**
* except for properties zoned M-1, M-2, M-3				
** unless cessation caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued				

SECTION III

Chapter 13.10 of the County Code is hereby amended to add Section 13.10.262 to read as follows:

13.10.262 NONRESIDENTIAL NONCONFORMING USES

(a) Allowed Changes to Nonresidential Uses.

Only ordinary maintenance and repair in kind not involving structural repairs may be made to a nonresidential nonconforming use, except as provided in 13.10.262(b) below.

(b) Reconstruction of Involuntarily Damaged or Destroyed Nonresidential Uses.

If any building or structure which does not conform to the use of the district in which it is located is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy to the extent that the reconstruction or repair of the structure will require more than 75% of the total length of the exterior walls (exclusive of the foundation or roof) to be moved, replaced or altered in any way, except that the replacement or alteration of the interior or exterior wall coverings

or the replacement of windows and doors without altering their openings will not be counted in this calculation, the land and structure shall be subject to all regulations specified by this Chapter for the district in which such land and structures are located. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that the portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based upon a reasonable estimate of the cost to the County for making such determination.

(c) Loss of Nonconforming Status.

If the nonconforming use of land or buildings ceases for a continuous period of six months, then without further action by the County, the building or land shall be subject to all of the regulations of this Chapter for the district in which said land is located.

(d) Nonconforming Greenhouses.

Regulations regarding the replacement of nonconforming greenhouses are found in Section 13.10.636(c).

(e) Nonconforming Farm Worker Housing.

Regulations regarding repair and replacement of nonconforming farm worker housing are found in Section 13.10.631(c).

(f) Nonconforming Recycling Collection Facilities

Regulations regarding nonconforming recycling collection facilities are found in Section 13.10.658(b).

(g) "M-1" Zone District Uses Not in Compliance with Section 13.10.345(a)

Uses in the "M-1" zone district which are not in compliance with the provisions of Section 13.10.345(a)1 through 6 are subject to Sections 13.10.345(a)7 and 8.

(h) Lands designated with a "P" Combining District

Modification or expansion of uses on lands designated with a "P" Combining District shall be processed as set forth in Section 13.10.473.

(i) Expansion of Organized Camps with Nonconforming Densities

Expansion of organized camps with nonconforming densities shall be processed as set forth in Section 13.10.353(b)3.

SECTION IV

Section 13.10.265(g) is hereby amended to read as follows:

(g) If any building or structure which does not conform to the site and structural dimension regulations of the district in which it is located is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy to the extent that the reconstruction or repair of the structure will require more than 75% of the total length of the exterior walls (exclusive of the foundation or roof) to be moved, replaced or altered in any way, except that the replacement or alteration of the interior or exterior wall coverings, windows and doors without altering their openings will not be counted in this calculation, the land and structure shall be subject to all regulations specified by this Chapter for the district in which such land and structures are located. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that the portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based on a reasonable estimate of the cost to the County for making such determination.

SECTION V

The last sentence of the "Commercial Change of Use" category of Section 13.10.332(b) of the County Code is hereby amended to read as follows:

(For legal, nonconforming uses,
see Sections 13.10.260 and ,262
for additional requirements)

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which are inconsistent with the General Plan, subject to Section 13.10.26 1 Nonconforming Uses

BP-6

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SECTION VIII

Subsection (h) of Section 13.10.5 10 of the County Code is hereby repealed.

SECTION IX

Section 13.10.658(b) of the County Code is hereby amended to read as follows:

b. The following recycling collection facilities, which were in existence on July 23, 1987, are legal nonconforming uses in the zone district in which they are located and are subject to Section 13.10.260, 13.10.262, and 13.10.265 of the Santa Cruz County Code, provided that all such collection facilities are associated with a legal conforming use and can demonstrate permission from the property owner to occupy the site:

- (i) Mobile buy-back or drop off multi-material recycling collection in one location for less than eight (8) hours in any seven (7) day period;
- (ii) Stationary drop off of newspapers utilizing placement of an unattended covered or closeable drop box or bin;
- (iii) Stationary drop off of household goods or clothes for resale or recycle through a charitable organization such as the Salvation Army or Goodwill Industries.

SECTION X

Section 13.10.700-I of the County Code is hereby amended by changing the definition of Intensification of Use to read:

Intensification of Use. Commercial. Any change of commercial use which will result in a 10% increase in parking need or traffic generation from the prior use, or which is determined by the Planning Director likely to result in a significant new or increased impact due to potential noise, smoke, glare, odors, water use, and/or sewage generation shall be an "intensification of use" for purposes of this Chapter.

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SECTION VI

The second use specified in the “Residential Use” category of Section 13.10.332(b) of the County Code is hereby amended to read as follows:

Repair, alteration, expansion,
or reconstruction of dwelling
units and accessory structures
which are consistent
with the General Plan, subject
to Sections 13 10.260 and
13.10.261

Nonconforming Uses

BP-6 BP-6 BP-6 BP-6 BP-6 BP-6

Repair, alteration, expansion,
or reconstruction of dwelling
units and accessory structures
which are inconsistent
with the General Plan, subject
to Sections I 3.10.260
and 13.10.261

Nonconforming Uses

BP-6 BP-6 BP-6 BP-6 BP-6 BP-6

SECTION VII

The “Residential Use” category of Section 13.10.342(b) of the County Code is hereby amended to read as follows:

Repair, alteration, expansion,
or reconstruction of dwelling
units and accessory structures
which are consistent
with the General Plan, subject
to Sections 13.10.260
and 13.10.261

Nonconforming Uses

BP-6 BP-6 BP-6

Repair, alteration, expansion,
or reconstruction of dwelling
units and accessory structures

SECTION XI

Section 13.10.700-I of the County Code is hereby amended by adding the definition of **Intensification of Use, Residential** to read:

Intensification of Use, Residential. Any change to a residential use which results in an increase of its number of bedrooms, as defined in Section 13.10.700-B, shall be an “intensification of use” for purposes of this Chapter.

SECTION XII

Section 13.10.700-N of the County Code is hereby amended to change the definition of **Nonconforming Use** to read:

Nonconforming Use. The use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of this Chapter, conforms to the present General Plan/Local Coastal Program land use designation, and:

1. Has not lost its nonconforming status due to cessation of use, as outlined in Sections 13.10.260, 13.10.261, or 13.10.262; and
2. No longer conforms to the present use, density, or development standards of the zone district in which it is located; or
3. Does not have a valid Development Permit as required by the present terms of this Chapter.

(See also 13.10.700-S definition of Significantly Nonconforming Use)

SECTION XIII

Section 13.10.700-O of the County Code is hereby amended by adding the definition of **Ordinary Maintenance and Repair In Kind** to read:

Ordinary Maintenance and Repair in Kind. Any work, whether structural or non-structural, that is done to a structure in kind to preserve its current condition or restore to its original condition. Structural repairs in kind may not exceed the aggregate of 10% of the exterior walls, roof, or foundation within any one year period. Structural repairs in kind that result in greater than the aggregate of 10% of the exterior walls, roof, or foundation being repaired within any one year period shall be deemed a structural alteration. The replacement of the interior or exterior wall coverings or the replacement

of the windows or doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that portions of the structure which the plans show as proposed not to be structurally repaired are in fact structurally sound and that it will not be necessary to repair or alter such portions of the structure during the course of construction.

SECTION XIV

Section 13. IO. 700-R of the County Code is hereby amended by adding the definition of Reconstruction to read:

Reconstruction. The rebuilding of a structure or portion(s) of a structure. A structural alteration or repair that involves greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction.

SECTION XV

Section 13.10.700-S of the County Code is hereby amended by adding the definition of Significantly Nonconforming Use to read:

Significantly Nonconforming Use. The use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of Chapters 13.10. Or 13.11, does not conform to the present General Plan/Local Coastal Program land use designation, and has not lost its nonconforming status due to cessation of use as outlined in Sections 13.10.260, 13.10.261, or 13.10.262.

SECTION XVI

Section 13.10.700-S of the County Code is hereby amended by changing the definition of Structural Alteration to read:

Structural Alteration. Any change, whether in kind or not, in the supporting members of a building, such as the foundation, bearing walls, columns, beams, girders, floor, ceiling or roof joists, and roof rafters or structural repairs in kind greater than 10% but less than 50% of the exterior walls. Roofs and foundations may be replaced. No physical expansion shall be permitted unless expressly authorized in Sections 13.10.261 or 13.10.262. Structural alterations that result in greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction. The replacement or alteration of the interior or exterior wall coverings or the replacement of windows and

doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction.

ORDINANCE _____

ORDINANCE AMENDING SECTIONS 13.10.260, 13.10.265,
13.10.332, 13.10.342, 13.10.510, 13.10.658 AND 13.10.700 AND ADDING
SECTIONS 13.10.261 AND 13.10.262 TO THE COUNTY CODE
RELATING TO NONCONFORMING USES

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Section 13.10.260 is hereby amended to read as follows:

13.10.260 NONCONFORMING USES - PROVISIONS THAT APPLY TO ALL USES

(a) ~~Any nonconforming use within the County is detrimental to the orderly development of the County and to the general welfare. It is the intent of this Chapter that nonconforming uses shall be eliminated as rapidly as possible. In addition to the definition given in Section 13.10.700-N, any existing use for which a Use Approval is required by the terms of this Chapter shall be considered a nonconforming use unless and until the required permit is obtained.~~

(b) ~~The lawful use of land existing on the effective date of a change of zoning designation or of the zoning regulations may be continued, even if such use no longer conforms to the regulations specified by this Chapter for the district in which such land is located, provided that no such use shall be enlarged, increased, or extended to occupy a greater area than that occupied by such use at the time of the change in zoning designation or change of the zoning designation except that:~~

~~1. The nonconforming use of a portion of a building may be changed to a use of the same or more restricted nature provided that in each case a Use Approval is obtained.~~

~~2. The nonconforming use of a portion of a building may be extended throughout the building provided that in each case a Use Approval is obtained.~~

(c) ~~Where two or more residential dwelling units exist on a parcel of land as nonconforming units because the zoning of the property no longer allows more than one dwelling unit, the largest of the units, or one of two or more units of similar size, may be~~

SECTION XVII

If any section, subsection, division, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not effect the validity of the remaining portions of this ordinance. The Board of Supervisors of this County hereby declares that it would have adopted this ordinance and each section, subsection, division, sentence, clause, phrase, or portion thereof, irrespective of any such decision.

SECTION XVII

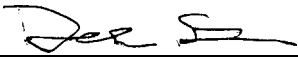
This Ordinance shall take effect on the 3¹st day after final passage, or upon certification by the California Coastal Commission, whichever is later.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this _____ day of _____, 1998, by the following vote:

- AYES:
- N O E S :
- ABSENT:
- ABSTAIN:

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: _____
Clerk of the Board

APPROVED AS TO FORM: 
County Counsel

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considered as conforming to the zone district. Accordingly, that unit only may be enlarged, extended, reconstructed, or structurally altered in accordance with the site coverage, yard, and height restrictions of this Chapter. Notwithstanding the foregoing limitation, the roof line of the other units not deemed conforming to the zone district may be structurally altered (with a Level 4 approval) provided, however, that the cubic habitable space of the structure or structures containing the other units is not increased by the alteration of the roof line, and such structural alterations of the roof line are in accordance with the height and other applicable restrictions of this Chapter.

(d) If the nonconforming use of land or buildings ceases for a continuous period of six months, or is abandoned, then without further action by the County, said building or land shall be subject to all of the regulations of this Chapter for the district in which said land is located.

(e) Whenever property for which a Use Approval has been granted is placed in a district in which the use is no longer allowed either as a permitted or as a discretionary use, the use for which the permit was granted shall be considered nonconforming. Such nonconforming use shall be subject to the provisions of this section.

(f) A nonconforming use may be ordered to be terminated by the Board of Supervisors by an Order of the Board of Supervisors upon recommendation of the Planning Commission within a period to be specified in such Order. Such an Order shall be issued only after a public hearing by the Planning Commission after 15 days' written notice to the nonconforming user. If the nonconforming user has not made a substantial investment in furtherance of such use, or if the investment can be substantially utilized or recovered through a then permitted use, such Order may require complete termination of the nonconforming use within a minimum of one year after the date of the Order. In making its recommendation, the Planning Commission shall consider the total cost of land and improvements, the length of time the use has continued, adaptability of the land and improvements to a then permitted use, the cost of moving and reestablishing the use elsewhere, and other relevant factors.

(g) Where a nonconforming use involves the removal of natural earth products, any order for termination shall be considered in accordance with Chapter 16.54, Mining Regulations, of the Santa Cruz County Code.

(h) When a use has become nonconforming because it does not comply with the requirements of Section 13.10.345 (Industrial Special Standards and Conditions), any permit subsequently issued shall set a reasonable time schedule for conformance to such requirements. In no case shall the time set for full compliance exceed five years. The time schedule for compliance shall be in addition to any other conditions to the permit.

(i) Failure to comply with a Board of Supervisors' Order to terminate a nonconforming

use shall constitute a violation of this chapter and is a public nuisance subject to abatement in accordance with Chapter 1.08 of this Code.

(j) Regulations regarding the replacement of nonconforming greenhouses are found in Section 13.10.636(e) of this Code.

The following provisions apply to all categories of nonconforming uses.

(a) Purpose and Intent

1. Significantly nonconforming uses are detrimental to the orderly development of the County, to the general welfare, and to the implementation of the General Plan/Local Coastal Program. It is the intent of this Chapter that significantly nonconforming uses be rapidly eliminated through restrictions on repairs, alterations, expansion, reconstruction, change and intensification of use, cessation of use, and termination of use in conformance with the policies of the General Plan/LCP.

2. Nonconforming uses that are not significantly nonconforming may be detrimental to the orderly development of the County and the general welfare based on the degree of nonconformity. It is the intent of this Chapter to regulate the repair, alteration, expansion, reconstruction, change and intensification of use, cessation of use, and termination of use in conformance with the policies of the General Plan/LCP.

3. Nonconforming uses that can become conforming to the regulations of this Chapter are encouraged to do so.

(b) Definitions. The following words and phrases, whenever used in this Section, or Sections 13.10.261 or 13.10.262, shall have the following meanings:

1. **Development Standards**: Standards that regulate the development of uses, including but not limited to signage, useable open space and the design regulations found in Chapter 13.11. For the purposes of this Section, site and structural dimensions are not considered development standards.

2. **Imminent Threat**: A situation that poses an impending threat to life or property as determined by the Planning Director, Building Official and/or the County Geologist.

3. **Intensification of Use, Residential**: Any change to a residential use which will result in an increase of its number of bedrooms, as defined in Section 13.10.700-B, shall be an "intensification of use" for purposes of this Chapter.

4. Nonconforming Use: The use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of Chapters 13.10 or 13.11, conforms to the present General Plan/Local Coastal Program land use designation, and:

(i) Has not lost its nonconforming status due to cessation of use, as outlined in Sections 13.10.260, 13.10.261, or 13.10.262; and

(i) No longer conforms to the present use, density, or development standards of the zone district in which it is located; or

(ii) Does not have a valid Development Permit as required by the present terms of this Chapter.

5. Ordinary Maintenance and Repair in Kind: Any work, whether structural or non-structural, that is done to a structure in kind to preserve its current condition or restore to its original condition. Structural repairs in kind may not exceed the aggregate of 10% of the exterior walls, roof, or foundation within any one year period. Structural repairs in kind that result in greater than the aggregate of 10% of the exterior walls, roof, or foundation being repaired within any one year period shall be deemed a structural alteration. The replacement of the interior or exterior wall coverings or the replacement of the windows or doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that portions of the structure which the plans show as proposed not to be structurally repaired are in fact structurally sound and that it will not be necessary to repair or alter such portions of the structure during the course of construction.

6. Reconstruction: The rebuilding of a structure or portion(s) of a structure. A structural alteration or repair that involves greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction.

7. Significantly Nonconforming Use: The use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of Chapters 13.10 or 13.11, does not conform to the present General Plan/Local Coastal Program land use designation, and has not lost its nonconforming status due to cessation of use as outlined in Sections 13.10.260, 13.10.261, or 13.10.262.

8. Structural Alteration: Any change in the supporting members of a building, such as the foundation, bearing walls, columns, beams, girders, floor, ceiling or roof joists, and roof rafters or structural repairs in kind greater than 10% but less

than 50.1% of the exterior walls. Roofs and foundations may be replaced. No physical expansion shall be permitted unless expressly authorized in Sections 13.10.261 or 13.10.262. Structural alterations or repairs that result in greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction. The replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction.

(c) General Requirements

1. Determination of Nonconforming Status. The property owner shall have the burden of proof in establishing the nonconforming use status of any land or structure. The Planning Director may charge a fee, as stated in the Uniform Fee Schedule, for the review of submitted documents which shall be based upon a reasonable estimate of the cost to the County for verifying the claim.

2. Continuation of Nonconforming Rights. The lawful use of land existing on the effective date of the adoption or change of zoning designation or of the zoning regulations may be continued, even if the use no longer conforms to the regulations specified by Chapter 13.10 for the district in which the land is located and Chapter 13.11, provided that the use shall not be intensified or expanded to occupy a greater area than that occupied by the use at the time of adoption or change in zoning designation or zoning regulations.

Exceptions.

(i) The nonconforming use of a structure may be changed to a use of the same or less intense nature, provided that in each case a Level V Development Permit, or lower level Development Permit as provided in Section 13.10.261, is obtained.

(ii) The nonconforming use of a portion of a building may be extended throughout the building, provided that in each case a Level V Development Permit, or lower level Development Permit as provided in Section 13.10.261, is obtained.

3. Loss of Nonconforming Status. Loss of nonconforming status due to cessation of use shall be as provided in Sections 13.10.261 and 13.10.262.

4. Reconstruction of Structures Coming Nonconforming Uses Damaged by the Loma Prieta Earthquake. Notwithstanding any other provision of this Section, any building or structure damaged or destroyed as a result of the earthquake of October 17, 1989 and/or associated aftershocks may be repaired or reconstructed, provided the structure:

(i) Will be sited in the same location on the affected property as the destroyed structure, and that location is determined to be located away from potentially hazardous areas, as required by Chapter 16.10 of this Code,

(ii) Will be for the same use as the damaged or destroyed structure, and

(iii) Will not exceed the floor area, height, or bulk of the damaged or destroyed structure by more than 10%.

5. Preexisting Parcels. A parcel that does not meet the current minimum site area, width, or frontage as required by the regulations of the zone district in which the parcel is located, or does not conform due to public dedication of right-of-way in accordance with Section 13.10.323(d)3, shall be deemed conforming and may be developed if:

(i) The parcel was legally created; and

(ii) The parcel has not been combined or merged pursuant to Sections 14.01.110 and 14.01.111.

6. Nonconforming Parking. In accordance with the limitations of Section 13.10.575, no legal existing use of land or structure shall be deemed to be a nonconforming use solely because of the lack of offstreet parking or loading facilities.

7. Compliance with the American with Disabilities Act or Chapter 11 of the State Building Code. Nothing in this Section, or Sections 13.10.261 and 13.10.262, shall preclude structural work performed for the sole purpose of coming into compliance with the Americans with Disabilities Act (ADA) or Chapter 11 of the State Building Code found in Volume II of Title 24 of the California Code of Regulations.

8. Compliance with Other Sections of the County Code. All development allowed by this Section, or Sections 13.10.261 and 13.10.262, shall be in conformance with all other requirements of the County Code, unless exceptions, as provided in those Sections, are granted.

9. Statement of Acknowledgment Required. Any Building or Development Permit issued for repair, structural alteration, expansion, change or intensification of use, or reconstruction shall include a condition requiring recordation of a Statement of Acknowledgment of Nonconforming or Significantly Nonconforming Use Status.

10. Termination of Use. The Board of Supervisors may order a nonconforming use to be terminated, upon recommendation of the Planning Commission. The Planning Commission shall conduct a public hearing after 15 days written notice to the nonconforming user. If the nonconforming user has not made a substantial investment in furtherance of the use, or if the investment can be substantially utilized or recovered through a currently permitted use, the Order may require complete termination of the nonconforming use within a minimum of one year after the date of the Order. If the nonconforming user has made a substantial investment in furtherance of the use, or if the investment cannot be substantially utilized or recovered through a currently permitted use, the Order may require complete termination of the nonconforming use within a longer reasonable amount of time. Nonconforming uses that are determined to be an imminent threat to public health or safety may be terminated immediately, pursuant to Chapter 1.14 of this Code. In making its recommendation, the Planning Commission shall consider:

- (i) The total cost of land and improvements,
- (ii) The length of time the use has existed,
- (iii) Adaptability of the land and improvements to a currently permitted use,
- (iv) The cost of moving and reestablishing the use elsewhere,
- (v) Whether the use is significantly nonconforming,
- (vi) Compatibility with the existing land use patterns and densities of the surrounding neighborhood,
- (vii) The possible threat to public health, safety, or welfare; and
- (viii) Any other relevant factors.

Failure to comply with a Board of Supervisors' Order to terminate a nonconforming use shall constitute a violation of the Chapter and is a public nuisance subject to abatement in accordance with Chapter 1.14 of this Code.

~~(k)~~ 11. Termination as a Result of Public Agency Acquisition or Eminent Domain. Notwithstanding any other provisions of this section, whenever a nonconforming use of land or buildings outside of the California Coastal Zone is terminated by reason of an acquisition of the property or portion thereof by a public agency by eminent domain or an acquisition under threat of the use of eminent domain, the nonconforming use may be relocated to another location on the property or to an adjacent parcel, including a parcel which is near or close to the subject parcel, provided that:

- (i) Any structure reconstructed and/or relocated for the nonconforming use will not exceed the floor area, height, or bulk of the replaced structure;
- (ii) The use will remain the same;
- (iii) A Level V approval is obtained based on a finding that the relocated use and any structure for the use will not be detrimental to the health, safety, or welfare of persons residing or working in the vicinity or the general public, nor be materially injurious to properties or improvements in the vicinity, and that any relocated or reconstructed structure will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects of the neighborhood.

SECTION II

Chapter 13.10 of the County Code is hereby amended by adding Section 13.10.26 1 to read as follows:

13.10.261 RESIDENTIAL NONCONFORMING USES

(a) Single Family Dwelling Regulations.

1. A dwelling located on a parcel whose general plan designation prohibits primary residential use and is not part of a permitted mixed use development shall be deemed significantly nonconforming and limited to the improvements and restrictions provided in Section 13.10.261 Table 1.
2. A dwelling located on a parcel with Commercial or Industrial zoning and a Residential general plan designation shall be deemed nonconforming and subject to the restrictions provided in Section 13.10.261 Table 1.
3. In determining the percentage of damage for the purposes of repair or reconstruction after fire, other catastrophic event, or the public enemy, the

following method shall be used:

The percentage of damage or destruction of the total length of the exterior walls (exclusive of the foundation or roof) that occurred and the percentage of the exterior walls (exclusive of the foundation or roof) that will be required to be moved, replaced or altered in any way to restore the structure, except that the replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be counted in this calculation. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that the portions of the structure which the plans shows as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based upon a reasonable estimate of the cost to the County for making such determination.

(b) Accessory Structure Regulations The following regulations shall apply to both habitable and non-habitable accessory structures as defined in Sections 13.10.700-H and 13.10.700-N:

1. An accessory structure located on a parcel whose general plan designation prohibits primary residential use and is not part of a permitted mixed use development shall be deemed significantly nonconforming and limited to the improvements and restrictions provided in Section 13.10.261 Table 2.
2. An accessory structure located on a parcel with Commercial or Industrial zoning and a Residential general plan designation shall be deemed nonconforming and subject to the restrictions as provided in Section 13.10.261 Table 2.
3. An accessory structure that does not meet the use standards of Section 13.10.611 shall be deemed nonconforming and subject to the restrictions provided in Section 13.10.261 Table 2.

Exception: An accessory structure that is a nonconforming use solely because of the existence of a toilet and/or waste drain lines larger than 1½ inches in size may be repaired, structurally altered, or reconstructed with no physical expansion upon issuance of a building permit.

4. In determining the percentage of damage for the purposes of repair or reconstruction after fire, other catastrophic event, or the public enemy, the method outlined in Section 13.10.261(a)3 shall be used.

(c) Nonstructural Uses and Home Occupations Regulations

1. Nonstructural uses and home occupations shall not be expanded.

2. Loss of nonconforming status occurs after a continuous six month cessation of use.

(d) Dwelling Groups Regulations

1. Where two or more residential dwelling units exist on a parcel of land as nonconforming units because the zoning of the property no longer allows more than one dwelling unit, one of the units shall be deemed as conforming to the zone district. The owner may choose, one time only, which unit shall be considered as conforming. Accordingly, that unit may be repaired, structurally altered, enlarged, or reconstructed in accordance with the site and structural dimensions of the zone district in which the parcel is located. The other nonconforming unit(s) shall be subject to the requirements of this Section.

2. Dwelling groups located on a parcel whose general plan designation prohibits primary residential use and are not part of a permitted mixed use shall be deemed a significantly nonconforming use and limited to the improvements and restrictions provided in Section 13.10.261 Table 3.

3. All other nonconforming dwelling groups shall be subject to the restrictions as provided in Section 13.10.261 Table 3.

Exception: The foundation and/or roof line of dwelling units that are not significantly nonconforming may be physically expanded provided that the cubic habitable space of the structure(s) is not increased, the structural alterations are in accordance with the height and other applicable restrictions of this Chapter, and a Level IV Use Approval is obtained.

4. Except as provided in subsection (e) of this Section regarding reconstruction of dwelling groups after catastrophe, an application to reconstruct a nonconforming dwelling unit or units shall be denied if the Approving Body makes one or more of the following findings:

(i) That the reconstruction, restoration or rebuilding will be detrimental or injurious to the health, safety or general welfare of persons residing or

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working in the neighborhood, or will be detrimental or injurious to property and improvements in the neighborhood; or

(ii) That the existing nonconforming use of the building or structure would be more appropriately moved to a zone in which the use is permitted.

5. Factors that the Approving Body shall take into consideration in making the findings referred to in subsection 4(i) or 4(ii) of this subsection include, but are not limited to, the following:

(i) Compatibility with the existing land use patterns and densities of the surrounding neighborhood;

(ii) The availability of off and on-street parking, both on the subject property and in the surrounding neighborhood, and

(iii) The adequacy of light, air and privacy on both the subject property and adjacent properties.

6. An application to reconstruct, restore or rebuild a nonconforming dwelling unit or units that has been denied pursuant to subsection 4. of the subsection may be resubmitted and approved if it is revised, including but not limited to reducing the size and/or number of units, such that the basis for making the findings for denial no longer apply.

(e) Reconstruction of Dwelling Groups after Catastrophe.

1. Notwithstanding any other provisions of the County Code (including, but not limited to subsections (g) and (h) of Section 13.10.265), whenever a multifamily dwelling is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy, the multifamily dwelling may be reconstructed, restored, or rebuilt as a nonconforming use in accordance with this subsection (e) and with a Level V or VI approval in accordance with this subsection and Section 13.10.261 Table 3.

2. For purposes of this subsection, for dwelling groups that are significantly nonconforming, the term "multifamily dwelling" means a structure designed for human habitation that is divided into two or more independent living quarters. For dwelling groups that are nonconforming, the term "multifamily dwelling" means a structure designed for human habitation that is divided into two or more independent living quarters or a structure designed for human habitation located on site with other dwellings.

In determining the percentage of damage for the purposes of repair or reconstruction after fire, other catastrophic event, or the public enemy, the following method shall be used:

The percentage of damage or destruction of the total length of the exterior walls (exclusive of the foundation or roof) that occurred and the percentage of the exterior walls (exclusive of the foundation or roof) that will be required to be moved, replaced or altered in any way to restore the structure, except that the replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be counted in this calculation. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that the portions of the structure which the plans shows as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based upon a reasonable estimate of the cost to the County for making such determination.

4. Any reconstruction, restoration, or rebuilding undertaken pursuant to this subsection shall conform to all of the following:

(i) The California Building Standards Code as that code is in effect at the time of the reconstruction, restoration, or rebuilding;

(ii) Any more restrictive County building standards authorized pursuant to Sections 13869.7, 17958.7, 18941.5 of the Health and Safety Code and any successor provisions, as those standards are in effect at the time of reconstruction, restoration, or rebuilding;

(iii) The State Historical Building Code Part 2.7 (commencing with Section 18950 and any successor provisions) of Division 13 of the Health and Safety Code) for work on qualified historical buildings or structures;

(iv) The County Zoning Ordinance, so long as the predamage size and number of dwelling units are not exceeded;

(v) State Architectural regulations and standards or County Code Chapter 13.11, so long as the predamage size and number of dwelling units are not exceeded; and

(vi) A building permit which shall be obtained within two years after the date of the damage or destruction and construction diligently pursued.

5. An application made pursuant to this subsection shall be denied if the Approving Body makes one or more of the following findings:

(i) That the reconstruction, restoration or rebuilding will be detrimental or injurious to the health, safety or general welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvement in the neighborhood; or

(ii) That the existing nonconforming use of the building or structure would be more appropriately moved to a zone in which the use is permitted; or

(iii) That the building is located in an industrial zone district.

6. Factors that the Approving Body shall take into consideration in making the findings referred to in subsection 5(i) or 5(ii) of this subsection include, but are not limited to, the following:

(i) Whether the multifamily residential use, as defined in subsection (e)2 of this subsection, is significantly nonconforming;

(ii) Compatibility with the existing land use patterns and densities of the surrounding neighborhood;

(iii) The availability of off and on-street parking, both on the subject property and in the surrounding neighborhood; and

(iv) The adequacy of light, air and privacy on both the subject property and adjacent properties.

7. An application to reconstruct, restore or rebuild a multifamily dwelling to its predamaged size and number of dwelling units that has been denied pursuant to subsection 5. of this subsection may be resubmitted and approved if it is revised, including but not limited to reducing the size and/or number of units, such that the basis for making the findings for denial no longer apply.

8. This subsection shall not apply if, prior to the damage or destruction, the multifamily dwelling use had lost its nonconforming status due to cessation of use as shown in Section 13.10.261 Table 3.

SECTION 13.10.261 TABLE I		
RESIDENTIAL NONCONFORMING USE: SINGLE FAMILY DWELLING		
TYPE OF ALTERATION	SIGNIFICANTLY NONCONFORMING: Parcel has Commercial or Industrial General Plan designation and a residential use only on site	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation
Ordinary maintenance and repair in kind or structural alteration for imminent threat	Yes	Yes
Structural alteration	No	Yes, maximum of 50% of exterior walls within 5 year period
Extend use throughout building	Yes, with Level V no intensification	Yes, with Level III
Physical Expansion	No	Yes, with Level III, 500 square feet expansion one time only
Reconstruction	No	Yes, with Level III, 500 square feet expansion one time only
Reconstruction up to 75% after disaster	Yes, with Level V no intensification	Yes, may expand 500 square feet one time only with Level III
Reconstruction 75% or greater after disaster	No	Yes, with Level III, 500 square feet expansion one time only
Loss of nonconforming status due to cessation of use	12 continuous months**	No restriction
** unless cessation caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued		

SECTION 13.10.261 TABLE 2				
RESIDENTIAL NONCONFORMING USE: ACCESSORY STRUCTURE				
TYPE OF ALTERATION	SIGNIFICANTLY NONCONFORMING: Parcel has Commercial or Industrial General Plan designation and a residential use only on site	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation and accessory structure does not meet use restrictions	NONCONFORMING: Structure meets zoning and General Plan designations but does not meet use restrictions or does not have required Development Permit	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation and accessory structure meets use restrictions
Ordinary maintenance and repair in kind or structural alteration for imminent threat	Yes	Yes	Yes	Yes
Structural alteration	No	Yes, with Level III, maximum of 50% of exterior walls within a 5 year period	Yes, with Level III, maximum of 50% of exterior walls within a 5 year period	Yes, with Level III
Extend use throughout building	Yes, with Level V	Yes, with Level IV	Yes, with Level IV	Yes, with Level III
Physical expansion	No	No	No	Yes, with Level III
Reconstruction	No	No	No	Yes, with Level III
Reconstruction up to 75% after disaster	Yes, with Level V; no intensification	Yes, with Level IV; no intensification	Yes, with Level IV; no intensification	Yes, with Level III
Reconstruction 75% or greater after disaster	No	No	No	Yes, with Level III
Loss of nonconforming status due to cessation of use	12 continuous months**	12 continuous months**	12 continuous months**	No restriction
** unless cessation caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued				

SECTION 13.10.261 TABLE 3

RESIDENTIAL NONCONFORMING USE: DWELLING GROUPS

TYPE OF ALTERATION	SIGNIFICANTLY NONCONFORMING: Parcel has General Plan designation that prohibits primary residential use and dwelling group is not part of a legal mixed use	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built before Development Permit requirements, does not meet zone district use, density, and/or standards	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built with Development Permit, does not meet zone district use, density, and/or standards	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built before Development Permit requirement, does meet zone district use, density, and standards
Ordinary maintenance and repair in kind or structural alteration for imminent threat	Yes	Yes	Yes	Yes
Structural alteration	No	Yes, maximum of 50% of exterior walls within a 5 year period	Yes, maximum of 50% of exterior walls within a 5 year period	Yes, maximum of 50% of exterior walls within a 5 year period
Extend use throughout building	Yes, with Level V, no intensification	Yes, with Level IV, no intensification	Yes, amend Development Permit (per Section 18.10.134), no intensification	Yes, with Level III, Level V if intensifies
Physical expansion	No	No	No	No
Reconstruction without expansion	No	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes, if work commenced within 12 months no intensification	Yes, with Level V
Reconstruction up to 100% after disaster, multifamily attached only, with no expansion*	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes no intensification	Yes, with Level V

Reconstruction up to 75% after disaster: detached units, with no expansion	Yes no intensification	Yes no intensification	Yes no intensification	Yes Level V if intensifies
Reconstruction 75% or greater after disaster: detached units, with no expansion	No	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes no intensification	Yes, with Level V
Loss of nonconforming status due to cessation of use	12 continuous months**	12 continuous months**	12 continuous months**	12 continuous months**
* except for properties zoned M-1, M-2, M-3				
** unless cessation caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued				

SECTION TIT

Chapter 13.10 of the County Code is hereby amended to add Section 13.10.262 to read as follows:

13.10.262 NONRESIDENTIAL NONCONFORMING USES

(a) Allowed Changes to Nonresidential Uses

Only ordinary maintenance and repair in kind not involving structural repairs may be made to a nonresidential nonconforming use, except as provided in 13.10.262(b) below.

(b) Reconstruction of Involuntarily Damaged or Destroyed Nonresidential Uses

If any building or structure which does not conform to the use of the district in which it is located is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy to the extent that the reconstruction or repair of the structure will require more than 75% of the total length of the exterior walls (exclusive of the foundation or roof) to be moved, replaced or altered in any way,

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except that the replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be counted in this calculation, the land and structure shall be subject to all regulations specified by this Chapter for the district in which such land and structures are located. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that the portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based upon a reasonable estimate of the cost to the County for making such determination.

(c) Loss of Nonconforming Status.

If the nonconforming use of land or buildings ceases for a continuous period of six months, then without further action by the County, the building or land shall be subject to all of the regulations of this Chapter for the district in which said land is located.

(d) Nonconforming Greenhouses.

Regulations regarding the replacement of nonconforming greenhouses are found in Section 13.10.636(c).

(e) Nonconforming Farm Worker Housing.

Regulations regarding repair and replacement of nonconforming farm worker housing are found in Section 13.10.631(c).

(f) Nonconforming Recycling Collection Facilities.

Regulations regarding nonconforming recycling collection facilities are found in Section 13.10.658(b).

(g) "M-1" Zone District Uses Not in Compliance with Section 13.10.345(a).

Uses in the "M-1" zone district which are not in compliance with the provisions of Section 13.10.345(a)1 through 6 are subject to Sections 13.10.345(a)7 and 8.

(h) Lands designated with a "P" Combining District

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Modification or expansion of uses on lands designated with a "P" Combining District shall be processed as set forth in Section 13.10.473.

(i) Expansion of Organized Camps with Nonconforming Densities

Expansion of organized camps with nonconforming densities shall be processed as set forth in Section 13.10.353(b)3.

SECTION IV

Section 13.10.265(g) is hereby amended to read as follows:

(g) If any building or structure which does not conform to the ~~use of~~ site and structural dimension regulations of the district in which it is located is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy to the extent that the reconstruction or repair of the structure will require more than 75% of the total length of the exterior walls (exclusive of the foundation ~~or roof~~) to be moved, replaced or altered in any way, except that the replacement or alteration of the interior or exterior wall coverings

or the replacement of windows and doors without altering their openings will not be counted in this calculation, the land and structure shall be subject to all regulations specified by this Chapter for the district in which such land and structures are located. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that the portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based on a reasonable estimate of the cost to the County for making such determination,

SECTION V

The last sentence of the "Commercial Change of Use" category of Section 13.10.332(b) of the County Code is hereby amended to read as follows:

(For legal, nonconforming uses, see Sections 13.10.260 and 262 for additional requirements)

SECTION VI

The second use specified in the "Residential Use" category of Section 13.10.332(b) of the County Code is hereby amended read as follows:

Repair, alteration, expansion, or reconstruction of dwelling units and accessory structures which are consistent with the General Plan, subject to Sections 13.10.260 and 13.10.261

Nonconforming Uses

BP-6 BP-6 BP-6 BP-6 BP-6 BP-6

Repair, alteration, expansion, or reconstruction of dwelling units and accessory structures which are not consistent with the General Plan up-to-a one time total of an additional 500 square feet, subject to Sections 13.10.260 and 13.10.261

Nonconforming Uses

3 BP-6 3 BP-6 3 BP-6 3 BP-6 3 BP-6 3 BP-6

SECTION VII

The "Residential Use" category of Section 13.10.342(b) of the County Code is hereby amended to read as follows:

Repair, alteration, expansion, or reconstruction of dwelling units and accessory structures which are consistent

with the General Plan, subject to Sections 13.10.260 and 13.10.261

Nonconforming Uses

BP-6

BP-6

BP-6

Repair, alteration, expansion, or reconstruction of dwelling units and accessory structures which are not inconsistent with the General Plan up to a total of an additional 500 square feet, subject to Section 13.10.261

Nonconforming Uses

3 BP-6

3 BP-6

3 BP-6

SECTION VIII

~~(h) Pre-Existing Parcels. The use of land permitted for the district in which the land is located shall be permitted on a building site of less area, width, depth, or frontage than that required by the regulations for such district if such land was a separate lot or parcel under ownership of record or was shown on a map of a recorded subdivision on the date said district regulation became applicable to said lot or parcel; provided that such land has not been combined or merged with a contiguous lot or parcel pursuant to the provisions of the Santa Cruz County Code now contained in Sections 14.01.102.1 through 14.01.102.4.~~

SECTION TX

Section 13.10.658(b) of the County Code is hereby amended to read as follows:

b. The following recycling collection facilities, which ~~are~~ were in existence on July 23, 1987 the effective date of this ordinance, are legal nonconforming uses in the zone district in which they are located and are subject to Section 13.10.260, 13.10.262, and 13.10.265 of the Santa Cruz County Code, provided that all such collection facilities are associated with a legal conforming use and can demonstrate permission from the property owner to occupy the site:

- (i) Mobile buy-back or drop off multi-material recycling collection in one location for less than eight (8) hours in any seven (7) day period;
- (ii) Stationary drop off of newspapers utilizing placement of an unattended covered or closeable drop box or bin;

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- (iii) Stationary drop off of household goods or clothes for resale or recycle through a charitable organization such as the Salvation Army or Goodwill Industries.

SECTION X

Section 13.10.700-T of the County Code is hereby amended by changing the definition of Intensification of Use to read:

Intensification of Use, Commercial. Any change of commercial use which will result in a 10% increase in parking need or traffic generation from the prior use, or which is determined by the Planning Director likely to likely result in a significant new or increased impact due to potential noise, smoke, glare, odors, water use, and/or sewage generation shall be an "intensification of use" for purposes of this Chapter.

SECTION XI

Section 13.10.700-T of the County Code is hereby amended by adding the definition of Intensification of Use, Residential to read:

Intensification of Use, Residential. Any change to a residential use which results in an increase of its number of bedrooms, as defined in Section 13.10.700-B, shall be considered an "intensification of use" for purposes of this Chapter.

SECTION XII

Section 13.10.700-N of the County Code is hereby amended to change the definition of Nonconforming Use to read:

Nonconforming Use. A The use of a structure or land which that was legally established and maintained prior to the adoption, revision, or amendment of this Chapter but which under this Chapter does not conform with the use regulations for the district in which it is located, conforms to the present General Plan/Local Coastal Program land use designation, and:

1. Has not lost its nonconforming status due to cessation of use, as outlined in Sections 13.10.260, 13.10.261, or 13.10.262; and
2. No longer conforms to the present use, density, or development standards of the zone district in which it is located; or
3. Does not have a valid Development Permit as required by the present terms of this Chapter.

(See also 13.10.700-S definition of Significantly Nonconforming Use)

SECTION XIII

Section 13.10.700-O of the County Code is hereby amended by adding the definition of Ordinary Maintenance and Repair In Kind to read:

Ordinary Maintenance and Repair in Kind. Any work, whether structural or non-structural, that is done to a structure in kind to preserve its current condition or restore to its original condition. Structural repairs in kind may not exceed the aggregate of 10% of the exterior walls, roof, or foundation within any one year period. Structural repairs in kind that result in greater than the aggregate of 10% of the exterior walls, roof, or foundation being repaired within any one year period shall be deemed a structural alteration. The replacement of the interior or exterior wall coverings or the replacement of the windows or doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that portions of the structure which the plans show as proposed not to be structurally repaired are in fact structurally sound and that it will not be necessary to repair or alter such portions of the structure during the course of construction.

SECTION XIV

Section 13.10.700-R of the County Code is hereby amended by adding the definition of Reconstruction to read:

Reconstruction. The rebuilding of a structure or portion(s) of a structure. A structural alteration or repair that involves greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction.

SECTION XV

Section 13.10.700-S of the County Code is hereby amended by adding the definition of Significantly Nonconforming Use to read:

Significantly Nonconforming Use. The use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of Chapters 13.10. Or 13.11, does not conform to the present General Plan/Local Coastal Program land use designation, and has not lost its nonconforming status due to cessation of use as

outlined in Sections 13.10.260, 13.10.261, or 13.10.262.

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SECTION XVI

Section 13.10.700-S of the County Code is hereby amended by changing the definition of Structural Alteration to read:

Structural Alteration. Any change, whether in kind or not, in the supporting members of a building, such as the foundation, bearing walls, columns, beams or girders, floor, ceiling or roof joists, and roof rafters or structural repairs in kind greater than 10% but less than 50.1% of the exterior walls. Roofs and foundations may be replaced. No physical expansion shall be permitted unless expressly authorized in Sections 13.10.261 or 13.10.262. Structural alterations that result in greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction. The replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction.

SECTION XVII

If any section, subsection, division, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not effect the validity of the remaining portions of this ordinance. The Board of Supervisors of this County hereby declares that it would have adopted this ordinance and each section, subsection, division, sentence, clause, phrase, or portion thereof, irrespective of any such decision.

SECTION XVII

This Ordinance shall take effect on the 31st day after final passage, or upon certification by the California Coastal Commission, whichever is later.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this _____ day of _____, 1998, by the following vote:

~~510~~

AYES:
NOES:
ABSENT:
ABSTAIN:

613

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: _____
Clerk of the Board

APPROVED AS TO FORM: _____
County Counsel

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ANNOTATION OF PROPOSED ORDINANCE
(annotation shown in italics)

ORDINANCE _____

ORDINANCE AMENDING SECTIONS 13.10.260, 13.10.265,
 13.10.332, 13.10.342, 13.10.510, 13.10.658 AND 13.10.700 AND ADDING
 SECTIONS 13.10.261 AND 13.10.262 TO THE COUNTY CODE
 RELATING TO NONCONFORMING USES

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Section 13.10.260 is hereby amended to read as follows:

13.10.260 NONCONFORMING USES - PROVISIONS THAT APPLY TO ALL USES

Since different regulations are being proposed for residential, commercial, industrial, agricultural, and historic nonconforming uses, this Section contains those regulations that apply to all of the uses.

The following provisions apply to all categories of nonconforming uses.

(a) Purpose and Intent :

1. Significantly nonconforming uses are detrimental to the orderly development of the County, to the general welfare, and to the implementation of the General Plan/Local Coastal Program. It is the intent of this Chapter that significantly nonconforming uses be rapidly eliminated through restrictions on repairs, alterations, expansion, reconstruction, change and intensification of use, cessation of use, and termination of use in conformance with the policies of the General Plan/LCP.

The use of the term "significantly nonconforming" is intended to complement the regulations for nonconforming structures, which impose more restrictive requirements on structures that are considerably out of compliance with current standards. This purpose makes it clear that significantly nonconforming uses are detrimental. The current purpose

states that a nonconforming use shall be eliminated as rapidly as possible, ⁶²⁰ this proposed purpose eliminates “as rapidly as possible” so that structural repairs or alterations for imminent threat may be considered.

2. Nonconforming uses that are not significantly nonconforming may be detrimental to the orderly development of the County and the general welfare based on the degree of nonconformity. It is the intent of this Chapter to regulate the repair, alteration, expansion, reconstruction, change and intensification of use, cessation of use, and termination of use in conformance with the policies of the General Plan/LCP.

There are many nonconforming uses that are closer to conformance. This purpose recognizes this and states that these uses may or may not be detrimental and allows the possibility of repair and reconstruction.

3. Nonconforming uses that can become conforming to the regulations of this Chapter are encouraged to do so.

While nonconforming uses are legal and may continue, this purpose states that conformance is preferable.

(b) Definitions. The following words and phrases, whenever used in this Section, or Sections 13.10.261 or 13.10.262, shall have the following meanings:

1 Development Standards: Standards that regulate the development of uses, including but not limited to signage, useable open space and the design regulations found in Chapter 13.11. For the purposes of this Section, site and structural dimensions are not considered development standards.

A use is considered nonconforming if it is not in compliance with applicable development standards. Development standards are defined and it is stated that site and structural dimensions (such as setbacks and height) are not considered development standards.

2. Imminent Threat: A situation that poses an impending threat to life or property as determined by the Planning Director, Building Official and/or the County Geologist.

The proposed ordinance allows certain improvements in the case of imminent threat. This definition defines the term and designates the staff authorized to make the determination.

3. Intensification of Use, Residential: Any change to a residential use which will

result in an increase of its number of bedrooms, as defined in Section 13.10.700-B, shall be an “intensification of use” for purposes of this Chapter.

For most categories of residential nonconforming uses, physical expansion and additional bedrooms are not allowed, as bedrooms result in the need for additional parking and impact existing services. This definition clearly defines what is an intensification of residential use. The County Code already contains a definition of intensification of commercial use.

4. Nonconforming Use: The use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of Chapters 13.10 or 13.11, conforms to the present General Plan/Local Coastal Program land use designation, and:

(i) Has not lost its nonconforming status due to cessation of use, as outlined in Sections 13.10.260, 13.10.261, or 13.10.262; and

(i) No longer conforms to the present use, density, or development standards of the zone district in which it is located; or

(ii) Does not have a valid Development Permit as required by the present terms of this Chapter.

This definition clearly explains what a nonconforming use is and adds language that noncompliance with the standards of Chapter 13.11 (Design Standards) creates a nonconforming use.

5. Ordinary Maintenance and Repair in Kind: Any work, whether structural or non-structural, that is done to a structure in kind to preserve its current condition or restore to its original condition. Structural repairs in kind may not exceed the aggregate of 10% of the exterior walls, roof, or foundation within any one year period. Structural repairs in kind that result in greater than the aggregate of 10% of the exterior walls, roof, or foundation being repaired within any one year period shall be deemed a structural alteration. The replacement of the interior or exterior wall coverings or the replacement of the windows or doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant’s expense to certify that portions of the structure which the plans show as proposed not to be structurally repaired are in fact structurally sound and that it will not be necessary to repair or alter such portions of the structure during the course of construction.

Ordinary maintenance and nonstructural repair in kind is currently allowed; however, there is no definition, which has led to considerable confusion for staff and the public. This definition clearly describes the scope of ordinary maintenance and repair (proposed to include structural as well as nonstructural) and states the consequence of exceeding the scope, i.e. being categorized as structural alteration. The fourth and fifth sentences are identical to the language in the Nonconforming Structures regulations.

6. Reconstruction: The rebuilding of a structure or portion(s) of a structure. A structural alteration or repair that involves greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction.

The current regulations do not have a definition of reconstruction nor language that clearly states when a structural alteration or remodel becomes a reconstruction. This has led to confusion among staff and the public and has made enforcement of the regulations difficult. This definition should correct these problems. The reference to 50% of the exterior walls being altered within any five year period complements the regulations of the Nonconforming Structures ordinance.

7. Significantly Nonconforming Use: The use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of Chapters 13.10 or 13.11, does not conform to the present General Plan/Local Coastal Program land use designation, and has not lost its nonconforming status due to cessation of use as outlined in Sections 13.10.260, 13.10.261, or 13.10.262.

This definition clarifies that a nonconforming use is significantly nonconforming when it does not conform to its basic General Plan/LCP designation, i.e. a commercial use in a residential designation. Since the General Plan/LCP is the most important planning document, nonconformance to it should be considered as the most serious nonconforming situation.

8. Structural Alteration: Any change in the supporting members of a building, such as the foundation, bearing walls, columns, beams, girders, floor, ceiling or roof joists, and roof rafters or structural repairs in kind greater than 10% but less than 50.1% of the exterior walls. Roofs and foundations may be replaced. No physical expansion shall be permitted unless expressly authorized in Sections 13.10.261 or 13.10.262. Structural alterations or repairs that result in greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction. The replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings

will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction.

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The current definition of structural alteration does not include language explaining when an alteration becomes a reconstruction. This has led to confusion among staff and the public. The proposed definition will clearly define the threshold. The fourth and fifth sentences are identical to the language in the Nonconforming Structures regulations.

(c) General Requirements

1. Determination of Nonconforming Status. The property owner shall have the burden of proof in establishing the nonconforming use status of any land or structure. The Planning Director may charge a fee, as stated in the Uniform Fee Schedule, for the review of submitted documents which shall be based upon a reasonable estimate of the cost to the County for verifying the claim.

This regulation codifies the current practice. Reviewing submitted documents can take many hours; a fee would pay for the staff time.

2. Continuation of Nonconforming Status. The lawful use of land existing on the effective date of the adoption or change of zoning designation or of the zoning regulations may be continued, even if the use no longer conforms to the regulations specified by Chapter 13.10 for the district in which the land is located and Chapter 13.11, provided that the use shall not be intensified or expanded to occupy a greater area than that occupied by the use at the time of adoption or change in zoning designation or zoning regulations,

Exceptions:

(i) The nonconforming use of a structure may be changed to a use of the same or less intense nature, provided that in each case a Level V Development Permit, or lower level Development Permit as provided in Section 13.10.261, is obtained

(ii) The nonconforming use of a portion of a building may be extended throughout the building, provided that in each case a Level V Development Permit, or lower level Development Permit as provided in Section 13.10.261, is obtained.

This proposed language is very close to that of the current ordinance. A reference to Chapter 13.11 has been added and the level of Development Permit has been added. The current language requires a Development Permit but does not state the level of review; Planning staff have interpreted this to require a Level V permit.

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3. Loss of Nonconforming Status. Loss of nonconforming status due to cessation of use shall be as provided in Sections 13.10.261 and 13.10.262.

The amount of time it takes to lose nonconforming status is proposed to vary depending on the type of use. This subsection refers the reader to the appropriate sections.

4. Reconstruction of Structures Containing Nonconforming Uses Damaged by the Loma Prieta Earthquake. Notwithstanding any other provision of this Section, any building or structure damaged or destroyed as a result of the earthquake of October 17, 1989 and/or associated aftershocks may be repaired or reconstructed, provided the structure:

- (i) Will be sited in the same location on the affected property as the destroyed structure, and that location is determined to be located away from potentially hazardous areas, as required by Chapter 16.10 of this Code;
- (ii) Will be for the same use as the damaged or destroyed structure; and
- (iii) Will not exceed the floor area, height, or bulk of the damaged or destroyed structure by more than 10%.

This language currently exists in the Nonconforming Structures regulations, but has never explicitly applied to the nonconforming uses. Staff has interpreted the language to include nonconforming uses. Applications for earthquake related repair are still being submitted. This language clarifies that nonconforming uses can also take advantage of the special regulations your Board adopted for earthquake related repairs.

5. Preexisting Parcels. A parcel that does not meet the current minimum site area, width, or frontage as required by the regulations of the zone district in which the parcel is located, or does not conform due to public dedication of right-of-way in accordance with Section 13.10.323(d)3, shall be deemed conforming and may be developed if

- (i) The parcel was legally created; and
- (ii) The parcel has not been combined or merged pursuant to Sections 14.01.110 and 14.01.111.

This language simplifies the language of the current ordinance and states clearly that preexisting parcels are conforming uses and may be developed.

6. Nonconforming Parking. In accordance with the limitations of Section 13.10.575, no legal existing use of land or structure shall be deemed to be a nonconforming use solely because of the lack of offstreet parking or loading facilities.

This regulation creates a cross reference to Section 13.10.575 and summarizes the Section.

7. Compliance with the American with Disabilities Act or Chapter 11 of the State Building Code. Nothing in this Section, or Sections 13.10.261 and 13.10.262, shall preclude structural work performed for the sole purpose of coming into compliance with the Americans with Disabilities Act (ADA) or Chapter 11 of the State Building Code found in Volume II of Title 24 of the California Code of Regulations.

This regulation allows structural work required to meet ADA or Title 24 requirements even if the use is significantly nonconforming. The use of the word "sole" ensures that work beyond the scope needed to comply with the requirements will not be allowed.

8. Compliance with Other Sections of the County Code. All development allowed by this Section, or Sections 13.10.261 and 13.10.262, shall be in conformance with all other requirements of the County Code, unless exceptions, as provided in those Sections, are granted.

All work authorized by this ordinance must meet current regulations unless specific exceptions exist in other ordinances.

9. Statement of Acknowledgment Required. Any Building or Development Permit issued for repair, structural alteration, expansion, change or intensification of use, or reconstruction shall include a condition requiring recordation of a Statement of Acknowledgment of Nonconforming or Significantly Nonconforming Use Status.

Currently, a current or new owner of a nonconforming use may not know the status of their use or the restrictions imposed on nonconforming uses. The requirement for the recordation of a Statement of Acknowledgment in conjunction with the issuance of permits will correct this problem.

10. Termination of Use. The Board of Supervisors may order a nonconforming use to be terminated, upon recommendation of the Planning Commission. The Planning Commission shall conduct a public hearing after 15 days written notice to the nonconforming user. If the nonconforming user has not made a substantial investment in furtherance of the use, or if the investment can be substantially utilized or recovered through a currently permitted use, the Order may require complete termination of the nonconforming use within a minimum of one year after the date of the Order. If the nonconforming user has made a substantial investment in furtherance of the use, or if the investment cannot be substantially utilized or recovered through a currently permitted use, the Order may require complete termination of the nonconforming use within a longer reasonable amount of time. Nonconforming uses that are determined to be an imminent threat to public health or safety may be terminated immediately, pursuant to Chapter 1.14 of this Code. In making its recommendation, the Planning Commission shall consider:

- (i) The total cost of land and improvements;
- (ii) The length of time the use has existed;
- (iii) Adaptability of the land and improvements to a currently permitted use;
- (iv) The cost of moving and reestablishing the use elsewhere;
- (v) Whether the use is significantly nonconforming;
- (vi) Compatibility with the existing land use patterns and densities of the surrounding neighborhood;
- (vii) The possible threat to public health, safety, or welfare; and
- (viii) Any other relevant factors.

Failure to comply with a Board of Supervisors' Order to terminate a nonconforming use shall constitute a violation of the Chapter and is a public nuisance subject to abatement in accordance with Chapter 1.14 of this Code.

This proposed language is close to that of the current ordinance. This clarifies that a use determined to be an imminent threat may be terminated immediately, and that a use in which a substantial investment has been made may be given a longer time to conform. It also adds additional factors that may be considered in determining if termination is appropriate.

11. Termination as a Result of Public Agency Acquisition or Eminent Domain.

Notwithstanding any other provisions of this section, whenever a nonconforming use of land or buildings outside of the California Coastal Zone is terminated by reason of an acquisition of the property or portion thereof by a public agency by eminent domain or an acquisition under threat of the use of eminent domain, the nonconforming use may be relocated to another location on the property or to an adjacent parcel, including a parcel which is near or close to the subject parcel, provided that:

- (i) Any structure reconstructed and/or relocated for the nonconforming use will not exceed the floor area, height, or bulk of the replaced structure;
- (ii) The use will remain the same;
- (iii) A Level V approval is obtained based on a finding that the relocated use and any structure for the use will not be detrimental to the health, safety, or welfare of persons residing or working in the vicinity or the general public, nor be materially injurious to properties or improvements in the vicinity, and that any relocated or reconstructed structure will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects of the neighborhood.

There has been no change to this subsection.

SECTION II

Chapter 13.10 of the County Code is hereby amended by adding Section 13.10.261 to read as follows:

13.10.261 RESIDENTIAL NONCONFORMING USES

Since the General Plan LCP contains different policies for residential, commercial, industrial, and agricultural nonconforming uses, the nonconforming use regulations are proposed to be tailored to each

category.

(a) Single Family Dwelling Regulations.

1. A dwelling located on a parcel whose general plan designation prohibits primary residential use and is not part of a permitted mixed use development shall be deemed significantly nonconforming and limited to the improvements and restrictions provided in Section 13.10.261 Table I.

*The regulations for a significantly nonconforming single-family dwelling, as show?? in Table I, are the same as current regulations **except-for two** changes: structural repairs and structural alterations for imminent threat are allowed,. loss of nonconforming status is changed from six continuous months to twelve continuous months. Staff believes that six months is too short a time period as houses are sometimes vacant for more than six months due to the owner being or? sabbatical or the house being offered . for sale during a sluggish real estate market. When cessation is caused by a catastrophic event, it is proposed that the time restriction be relaxed to require issuance of a building permit within two years. This language comes from Senate Bill 2 112.*

2. A dwelling located on a parcel with Commercial or Industrial zoning and a Residential general plan designation shall be deemed nonconforming and subject to the restrictions provided in Section 13.10.261 Table 1.

A single family dwelling in this category has a residential General Plan designation and meets all regulations but has a Commercial or Industrial zoning. The rural rezoning work program project kill correct these inconsistent zonings arid confer conforming status. In the mea?? time, these uses are considered the most benign and it is proposed that they be allowed to repair, remodel, reconstruct arid slightly expand. Cessation of use is proposed to not affect nonconforming status. A f the Board of Supervisors hearing onthe concep tual review of these proposed changes, the Board expressed concern about fhe low level of review (Level III) and suggested that a higher level of review, which includes public nofice or hearing, might be more appropriate. Staff unders tands the Board's concern, but believes that, because of the benign nature of the single family dwelling uses, subjecting a property owner to the expense and time involved in a higher level of review is not warranted. The level of review for dwelling units in this category has beer? increased to a Level V.

3. In determining the percentage of damage for the purposes of repair or reconstruction after fire, other catastrophic event, or the public enemy, the

following method shall be used:

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The percentage of damage or destruction of the total length of the exterior walls (exclusive of the foundation or roof) that occurred and the percentage of the exterior walls (exclusive of the foundation or roof) that will be required to be moved, replaced or altered in any way to restore the structure, except that the replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be counted in this calculation. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that the portions of the structure which the plans shows as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based upon a reasonable estimate of the cost to the County for making such determination.

This is the same criteria used in the Nonconforming Structure regulations. It also clarifies that only the extent of damage to the exterior walls is considered in calculating the percent of damage.

(b) Accessory Structure Regulations The following regulations shall apply to both habitable and non-habitable accessory structures as defined in Sections 13.10.700-H and 13.10.700-N:

1. An accessory structure located on a parcel whose general plan designation prohibits primary residential use and is not part of a permitted mixed use development shall be deemed significantly nonconforming and limited to the improvements and restrictions provided in Section 13.10.26 1 Table 2.

The regulations for a significant fly nonconforming accessory structure, as shown in Table 2, are the same as current regulations except for two changes: structural repairs and structural alterations for imminent threat are allowed; loss of nonconforming status is changed from six continuous months to twelve continuous months. When cessation is caused by a catastrophic event, it is proposed that the time restriction be relaxed to require issuance of a building permit within two years. This language comes from Senate Bill 2112.

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(d) Dwelling Groups Regulations.

1. Where two or more residential dwelling units exist on a parcel of land as nonconforming units because the zoning of the property no longer allows more than one dwelling unit, one of the units shall be deemed as conforming to the zone district. The owner may choose, one time only, which unit shall be considered as conforming. Accordingly, that unit may be repaired, structurally altered, enlarged, or reconstructed in accordance with the site and structural dimensions of the zone district in which the parcel is located. The other nonconforming unit(s) shall be subject to the requirements of this Section.

These regulations are unchanged with the exception of allowing the owner to choose which unit shall be deemed as conforming. Currently, only the largest of the units may be considered as conforming. Staff have seen cases where the smaller unit is in better condition and more worthy of restoration and expansion. This change allows the owner more flexibility.

2. Dwelling groups located on a parcel whose general plan designation prohibits primary residential use and are not part of a permitted mixed use shall be deemed a significantly nonconforming use and limited to the improvements and restrictions provided in Section 13.10.261 Table 3.

The regulations for a significantly nonconforming dwelling group, as shown in Table 3, are the same as current regulations except for three changes: structural repairs and structural alterations for imminent threat are allowed; loss of nonconforming status is changed from six continuous months to twelve continuous months; and reconstruction of attached units up to 100% in the case of catastrophe is permitted (discussion of reconstruction is found in subsection (e) below). Staff believes that six months is too short a time period as units are sometimes vacant for more than six months due to the owner being on sabbatical or the house being offered for sale during a sluggish real estate market. When cessation is caused by a catastrophic event, it is proposed that the time restriction be relaxed to require issuance of a building permit within two years. This language comes from Senate Bill 2112.

3. All other nonconforming dwelling groups shall be subject to the restrictions as provided in Section 13.10.261 Table 3.

Additional improvements and lower level Development Permits are allowed for dwelling groups that are closer to being in conformance. At the Board of Supervisors hearing on the conceptual review of these proposed changes, the Board expressed concern about the low level of

review (Level III) proposed for the most benign category and suggested that a higher level of review, which includes public notice or hearing, might be more appropriate. Staff has reviewed this request and agrees with the Board's concern; the proposed level of review has been changed to Level V.

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Exception: The foundation and/or roof line of dwelling units that are not significantly nonconforming may be physically expanded provided that the cubic habitable space of the structure(s) is not increased, the structural alterations are in accordance with the height and other applicable restrictions of this Chapter, and a Level IV Use Approval is obtained.

This exception for roof lines was created by Ordinance 4467. Staff is proposing that the exception also be granted for foundations. A property owner who wishes, for example, to replace a slab foundation with a pier foundation is not permitted, as the new foundation results in a slight physical expansion.

4. Except as provided in subsection (e) of this Section regarding reconstruction of dwelling groups after catastrophe, an application to reconstruct a nonconforming dwelling unit or units shall be denied if the Approving Body makes one or more of the following findings:

- (i) That the reconstruction, restoration or rebuilding will be detrimental or injurious to the health, safety or general welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvements in the neighborhood; or
- (ii) That the existing nonconforming use of the building or structure would be more appropriately moved to a zone district in which the use is permitted.

The purpose for nonconforming uses states that they may be detrimental. These findings determine if the proposed reconstruction is truly detrimental, and if found to be, the project must be denied.

5. Factors that the Approving Body shall take into consideration in making the findings referred to in subsection 4(i) or 4(ii) of this subsection include, but are not limited to, the following:

- (i) Compatibility with the existing land use patterns and densities of the surrounding neighborhood;

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(ii) The availability of off and on-street parking, both on the subject property and in the surrounding neighborhood; and

(iii) The adequacy of light, air and privacy on both the subject property and adjacent properties.

This subsection gives the Approving Body guidance in the factors that should be considered when making the above findings.

6. An application to reconstruct, restore or rebuild a nonconforming dwelling unit or units that has been denied pursuant to subsection 4. of the subsection may be resubmitted and approved if it is revised, including but not limited to reducing the size and/or number of units, such that the basis for making the findings for denial no longer apply.

(e) Reconstruction of Dwelling Groups after Catastrophe.

1. Notwithstanding any other provisions of the County Code (including, but not limited to subsections (g) and (h) of Section 13.10.265), whenever a multifamily dwelling is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy, the multifamily dwelling may be reconstructed, restored, or rebuilt as a nonconforming use in accordance with this subsection (e) and with a Level V or VI approval in accordance with this subsection and Section 13.10.261 Table 3.

Subsection (e) is proposed to implement Senate Bill 2112, which mandates that local jurisdictions create provisions for the reconstruction of dwelling groups after catastrophe. Senate Bill 2112 contains internal inconsistencies; staff has drafted language, with the assistance of County Counsel, that contains most of its language while still meeting the spirit of the legislation.

2. For purposes of this subsection, for dwelling groups that are significantly nonconforming, the term “multifamily dwelling” means a structure designed for human habitation that is divided into two or more independent living quarters. For dwelling groups that are nonconforming, the term “multifamily dwelling” means a structure designed for human habitation that is divided into two or more independent living quarters or a structure designed for human habitation located on site with other dwellings.

Senate Bill 2112 defines “multifamily dwelling” as a structure designed for human habitation that is divided into two or more independent living quarters. If Senate Bill 2112 was not in force, significantly

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2. An accessory structure located on a parcel with Commercial or Industrial zoning and a Residential general plan designation shall be deemed nonconforming and subject to the restrictions as provided in Section 13.10.261 Table 2.

Accessory structures in this category are further divided into those that meet the current use restrictions and those that do not. Those that do not meet the use restrictions (such as size and story limitations) will be restricted in the variety of improvements allowed and require higher level Development Permits. Those that meet the use restrictions are the most benign and are allowed greater improvements and lower levels of review.

3. An accessory structure that does not meet the use standards of Section 13.10.611 shall be deemed nonconforming and subject to the restrictions provided in Section 13.10.261 Table 2.

Property owners with accessory structures in this category may prefer to seek conformance, but if not, limited improvements are allowed and a public notice is required.

Exception: An accessory structure that is a nonconforming use solely because of the existence of a toilet and/or waste drain lines larger than 1 ½ inches in size may be repaired, structurally altered, or reconstructed with no physical expansion upon issuance of a building permit.

*Your Board directed, as part **of** the approval of changes to the Accessory Structure ordinance, that this language be added to the nonconforming use regulations.*

4. In determining the percentage of damage for the purposes of repair or reconstruction after fire, other catastrophic event, or the public enemy, the method outlined in Section 13.10.261(a)3 shall be used.

(c) Nonstructural Uses and Home Occupations Regulations.

1. Nonstructural uses and home occupations shall not be expanded.
2. Loss of nonconforming status occurs after a continuous six month cessation of use.

These regulations are unchanged.

nonconforming dwelling groups would not be permitted to be reconstructed. To implement the Bill, only those significantly nonconforming dwelling groups that meet the definition of "multifamily dwelling" (i.e. two or more units in one structure) may be reconstructed. Significantly nonconforming detached units (two or more units on one parcel) are not proposed to be allowed to reconstruct. Nonconforming attached or detached dwelling groups are proposed to be allowed to be reconstructed.

3. In determining the percentage of damage for the purposes of repair or reconstruction after fire, other catastrophic event, or the public enemy, the following method shall be used:

The percentage of damage or destruction of the total length of the exterior walls (exclusive of the foundation or roof) that occurred and the percentage of the exterior walls (exclusive of the foundation or roof) that will be required to be moved, replaced or altered in any way to restore the structure, except that the replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be counted in this calculation. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that the portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based upon a reasonable estimate of the cost to the County for making such determination.

This is the same criteria used in the Nonconforming Structure regulations. It also clarifies that only the extent of damage to the exterior walls is considered in calculating the percent of damage.

4. Any reconstruction, restoration, or rebuilding undertaken pursuant to this subsection shall conform to all of the following:

The following criteria are from Senate Bill 2112.

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- (i) The California Building Standards Code as that code is in effect at the time of the reconstruction, restoration, or rebuilding;
- (ii) Any more restrictive County building standards authorized pursuant to Sections 13869.7, 17958.7, 18941.5 of the Health and Safety Code and any successor provisions, as those standards are in effect at the time of reconstruction, restoration, or rebuilding;
- (iii) The State Historical Building Code Part 2.7 (commencing with Section 18950 and any successor provisions) of Division 13 of the Health and Safety Code) for work on qualified historical buildings or structures;
- (iv) The County Zoning Ordinance, so long as the predamage size and number of dwelling units are not exceeded;
- (v) State Architectural regulations and standards of County Code Chapter 13.11, so long as the predamage size and number of dwelling units are not exceeded; and

Reference to the standards of County Code Chapter 13.11 have been added and will be applicable to projects of three or more units.

- (vi) A building permit which shall be obtained within two years after the date of the damage or destruction and construction diligently pursued.

The phrase "and construction diligently pursued" is added to ensure that proper demolition and cleanup will occur in a timely manner.

5. An application made pursuant to this subsection shall be denied if the Approving Body makes one or more of the following findings:

The following findings are from Senate Bill 2 I 12.

- (i) That the reconstruction, restoration or rebuilding will be detrimental or injurious to the health, safety or general welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvement in the neighborhood; or
- (ii) That the existing nonconforming use of the building or structure would be more appropriately moved to a zone in which the use is permitted; or

(iii) That the building is located in an industrial zone district.

6. Factors that the Approving Body shall take into consideration in making the findings referred to in subsection 5(i) or 5(ii) of this subsection include, but are not limited to, the following:

(i) Whether the multifamily residential use, as defined in subsection (e)2 of this subsection, is significantly nonconforming;

(ii) Compatibility with the existing land use patterns and densities of the surrounding neighborhood;

(iii) The availability of off and on-street parking, both on the subject property and in the surrounding neighborhood; and

(iv) The adequacy of light, air and privacy on both the subject property and adjacent properties.

This subsection gives the Approving Body guidance in the factors that should be considered when making the above findings.

7. An application to reconstruct, restore or rebuild a multifamily dwelling to its predamaged size and number of dwelling units that has been denied pursuant to subsection 5. of this subsection may be resubmitted and approved if it is revised, including but not limited to reducing the size and/or number of units, such that the basis for making the findings for denial no longer apply.

8. This subsection shall not apply if, prior to the damage or destruction, the multifamily dwelling use had lost its nonconforming status due to cessation of use as shown in Section 13.10.261 Table 3.

This subsection provides a reminder that the use must have significantly nonconforming or nonconforming status at the time of damage to qualify for reconstruction. Uses that have ceased for more than 12 continuous months prior to the damage may not be considered under this subsection.

Tables 1, 2 and 3 in the proposed ordinance set forth the specific regulations for each category of nonconforming and significantly nonconforming use.

SECTION 13.10.261 TABLE 1		
RESIDENTIAL NONCONFORMING USE: SINGLE FAMILY DWELLING		
TYPE OF ALTERATION	SIGNIFICANTLY NONCONFORMING: Parcel has Commercial or Industrial General Plan designation and a residential use only on site	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation
Ordinary maintenance and repair in kind or structural alteration for imminent threat	Yes	Yes
Structural alteration	No	Yes, maximum of 50% of exterior walls within 5 year period
Extend use throughout building	Yes, with Level V no intensification	Yes, with Level III
Physical Expansion	No	Yes, with Level III, 500 square feet expansion one time only
Reconstruction	No	Yes, with Level III, 500 square feet expansion one time only
Reconstruction up to 75% after disaster	Yes, with Level V no intensification	Yes, may expand 500 square feet one time only with Level III
Reconstruction 75% or greater after disaster	No	Yes, with Level III, 500 square feet expansion one time only
Loss of nonconforming status due to cessation of use	12 continuous months* *	No restriction
** unless cessation caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued		

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SECTION 13.10.261 TABLE 2				
RESIDENTIAL NONCONFORMING USE: ACCESSORY STRUCTURE				
TYPE OF ALTERATION	SIGNIFICANTLY NONCONFORMING: Parcel has Commercial or Industrial General Plan designation and a residential use only on site	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation and accessory structure does not meet use restrictions	NONCONFORMING: Structure meets zoning and General Plan designations but does not meet USC restrictions or does not have required Development Permit	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation and accessory structure meets use restrictions
Ordinary maintenance and repair in kind or structural alteration or imminent threat	Yes	Yes	Yes	Yes
Structural alteration	No	Yes, with Level III, maximum of 50% of exterior walls within a 5 year period	Yes, with Level III, maximum of 50% of exterior walls within a 5 year period	Yes, with Level III
Extend USC throughout building	Yes, with Level V	Yes, with Level IV	Yes, with Level IV	Yes, with Level III
Physical expansion	No	No	No	Yes, with Level III
Reconstruction	No	No	No	Yes, with Level III
Reconstruction up to 75% after disaster	Yes, with Level V; no intensification	Yes, with Level IV; no intensification	Yes, with Level IV; no intensification	Yes, with Level III
Reconstruction 75% or greater after disaster	No	No	No	Yes, with Level III
Loss of nonconforming status due to cessation of use	12 continuous months**	12 continuous months**	12 continuous months**	No restriction

** unless cessation caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued

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SECTION 13.10.261 TABLE 3				
RESIDENTIAL NONCONFORMING USE: DWELLING GROUPS				
TYPE OF ALTERATION	SIGNIFICANTLY NONCONFORMING: Parcel has General Plan designation that prohibits primary residential use and dwelling group is not part of a legal mixed use	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built before Development Permit requirements, does not meet zone district use, density, and/or standards	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built with Development Permit, does not meet zone district use, density, and/or standards	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built before Development Permit requirement, does meet zone district use, density, and standards
Ordinary maintenance and repair in kind or structural alteration for imminent threat	Yes	Yes	Yes	Yes
Structural alteration	No	Yes, maximum of 50% of exterior walls within a 5 year period	Yes, maximum of 50% of exterior walls within a 5 year period	Yes, maximum of 50% of exterior walls within a 5 year period
Extend USC throughout building	Yes, with Level V, no intensification	Yes, with Level IV, no intensification	Yes, amend Development Permit (per Section 18.10.134), no intensification	Yes, with Level III; Level V if intensifies
Physical expansion	No	No	No	No
Reconstruction without expansion	No	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes, if work commenced within 12 months no intensification	Yes, with Level V
Reconstruction up to 100% after disaster: multifamily attached only, with no expansion*	Yes 1-4 units: Level V 5+ units: Level VI, no intensification	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes no intensification	Yes, with Level V

Reconstruction up to 75% after disaster: detached units, with no expansion	Yes no intensification	Yes no intensification	Yes no intensification	Yes Level V if intensifies
Reconstruction 75% or greater after disaster: detached units, with no expansion	No	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes no intensification	Yes, with Level V
Loss of nonconforming status due to cessation of use	12 continuous months**	12 continuous months**	12 continuous months**	12 continuous months**
* except for properties zoned M-1, M-2, M-3				
** unless cessation caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued				

SECTION 111

Chapter 13.10 of the County Code is hereby amended to add Section 13.10.262 to read as follows:

13.10.262 NONRESIDENTIAL NONCONFORMING USES

Since revised regulations for commercial, industrial, and agricultural uses are proposed for Phases 2 and 3, this section gathers all existing regulations for these uses together. No policy changes are proposed in this ordinance. This section will be replaced as revised language is adopted by your Board in Phases 2 and 3 (unless your Board chooses to not revise the existing regulations).

(a) Allowed Changes to Nonresidential Uses.

Only ordinary maintenance and repair in kind not involving structural repairs may be made to a nonresidential nonconforming use, except as provided in 13.10.262(b) below.

(b) Reconstruction of Involuntarily Damaged or Destroyed Nonresidential Uses.

If any building or structure which does not conform to the use of the district in

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which it is located is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy to the extent that the reconstruction or repair of the structure will require more than 75% of the total length of the exterior walls (exclusive of the foundation or roof) to be moved, replaced or altered in any way, except that the replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be counted in this calculation, the land and structure shall be subject to all regulations specified by this Chapter for the district in which such land and structures are located. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that the portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based upon a reasonable estimate of the cost to the County for making such determination.

This language currently is found in the Nonconforming Structure regulations (Section 13.10.265). It is illogical that a regulation affecting nonconforming uses is located in an unrelated section and, therefore, if is being relocated to the appropriate section.

(c) Loss of Nonconforming Status.

If the nonconforming use of land or buildings ceases for a continuous period of six months, then without further action by the County, the building or land shall be subject to all of the regulations of this Chapter for the district in which said land is located.

(d) Nonconforming Greenhouses.

Regulations regarding several types of nonconforming uses are located in other parts of the County Code. Subsection d through i create cross references to these various sections.

Regulations regarding the replacement of nonconforming greenhouses are found in Section 13.10.636(c).

(e) Nonconforming Farm Worker Housing.

Regulations regarding repair and replacement of nonconforming farm worker housing are found in Section 13.10.63 1(c).

(f) Nonconforming Recycling Collection Facilities

Regulations regarding nonconforming recycling collection facilities are found in Section 13.10.658(b).

(g) "M-1" Zone District Uses Not in Compliance with Section 13.10.345(a)

Uses in the "M-1" zone district which are not in compliance with the provisions of Section 13.10.345(a)1 through 6 are subject to Sections 13.10.345(a)7 and 8.

(h) Lands designated with a "P" Combining District

Modification or expansion of uses on lands designated with a "P" Combining District shall be processed as set forth in Section 13.10.473.

(i) Expansion of Organized Camps with Nonconforming Densities

Expansion of organized camps with nonconforming densities shall be processed as set forth in Section 13.10.353(b)3.

SECTION TV

Section 13.10.265(g) is hereby amended to read as follows:

(g) If any building or structure which does not conform to the site and structural dimension regulations of the district in which it is located is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy to the extent that the reconstruction or repair of the structure will require more than 75% of the total length of the exterior walls (exclusive of the foundation or roof) to be moved, replaced or altered in any way, except that the replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be counted in this calculation, the land and structure shall be subject to all regulations specified by this Chapter for the district in which such land and structures are located. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense

to certify that the portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based on a reasonable estimate of the cost to the County for making such determination.

This section of the Nonconforming Structure regulations is amended to delete the word "use". These regulations for nonconforming uses are being relocated to the Nonconforming Use regulations, as discussed above.

SECTION V

The last sentence of the "Commercial Change of Use" category of Section 13.10.332(b) is hereby amended to read as follows:

(For legal, nonconforming uses,
see Sections 13.10.260 and ,262
for additional requirements)

This subsection is amended to include a reference to the new Section 13.10. 262.

SECTION VI

The second use specified in the "Residential Use" category of Section 13.10.332(b) of the County Code is hereby amended to read as follows:

Repair, alteration, expansion,
or reconstruction of dwelling
units and accessory structures
which are consistent
with the General Plan, subject
to Sections 13.10.260 and
13.10.261

Nonconforming Uses

BP-6 BP-6 BP-6 BP-6 BP-6 BP-6

This adds a new category for residential uses that have a residential General Plan designation and commercial zoning.

Repair, alteration, expansion,
or reconstruction of dwelling
units and accessory structures

which are inconsistent
with the General Plan, subject
to Sections 13.10.260
and 13.10.261
Nonconforming Uses

BP-6 BP-6 BP-6 BP-6 BP-6 BP-6

This category refers to residential uses that have a General Plan designation which precludes primary use (such as commercial) and commercial zoning. These uses are proposed to be significantly nonconforming. The proposed language amends the existing language to add a reference to new Section 13.10.261, deletes the possibility of expansion, and indicates the various levels of review required.

SECTION VII

The “Residential Use” category of Section 13.10.342(b) of the County Code is hereby amended to read as follows:

Repair, alteration, expansion,
or reconstruction of dwelling
units and accessory structures
which are consistent
with the General Plan, subject
to Sections I 3.10.260
and 13.10.261
Nonconforming Uses

BP-6 BP-6 BP-6

This adds a new category. for residential uses that have a residential General Plan designation and industrial zoning.

Repair, alteration, expansion,
or reconstruction of dwelling
units and accessory structures
which are inconsistent
with the General Plan, subject
to Section 13.10.261
Nonconforming Uses

BP-6 BP-6 BP-6

This category refers to residential uses that have a General Plan designation which precludes primary use (such as commercial) and industrial zoning. These uses are proposed to be significantly nonconforming. The proposed language amends the existing language to add a reference to new Section 13. 10.261, deletes the possibility of expansion, and indicates the various levels of review required.

SECTION VIII

Section 13.10.510(h) of the County Code is hereby repealed.

The previous regulations regarding preexisting parcels is repealed

SECTION IX

Section 13.10.658(b) of the County Code is hereby amended to read as follows:

Reference to new Section 13.10.262 and the actual effective of the ordinance creating this Section are added.

- b. The following recycling collection facilities, which were in existence on July 23, 1987, are legal nonconforming uses in the zone district in which they are located and are subject to Section 13.10.260, 13.10.262, and 13.10.265 of the Santa Cruz County Code, provided that all such collection facilities are associated with a legal conforming use and can demonstrate permission from the property owner to occupy the site:
- (i) Mobile buy-back or drop off multi-material recycling collection in one location for less than eight (8) hours in any seven (7) day period;
 - (ii) Stationary drop off of newspapers utilizing placement of an unattended covered or closeable drop box or bin;
 - (iii) Stationary drop off of household goods or clothes for resale or recycle through a charitable organization such as the Salvation Army or Goodwill Industries.

SECTION X

Section 13.10.700-I of the County Code is hereby amended by changing the definition of Intensification of Use to read:

Intensification of Use, Commercial. Any change of commercial use which will result in a 10% increase in parking need or traffic generation from the prior use, or which is determined by the Planning Director likely to result in a significant new or increased impact due to potential noise, smoke, glare, odors, water use, and/or sewage generation shall be an "intensification of use" for purposes of this Chapter.

Currently, the title of this definition is "Intensification of Use". It is being amended to clarify that it refers to commercial uses. A grammatical error is also being corrected.

SECTION XI

Section 13.10.700-T of the County Code is hereby amended by adding the definition of Intensification of Use, Residential to read:

Intensification of Use, Residential. Any change to a residential use which results in an increase of its number of bedrooms, as defined in Section 13.10.700-B, shall be considered an “intensification of use” for purposes of this Chapter.

SECTION XII

Section 13.10.700-N of the County Code is hereby amended to change the definition of Nonconforming Use to read:

Nonconforming Use. The use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of this Chapter, conforms to the present General Plan/Local Coastal Program land use designation, and:

1. Has not lost its nonconforming status due to cessation of use, as outlined in Sections 13.10.260, 13.10.261, or 13.10.262; and
2. No longer conforms to the present use, density, or development standards of the zone district in which it is located; or
3. Does not have a valid Development Permit as required by the present terms of this Chapter.

(See also 13.10.700-S definition of Significantly Nonconforming Use)

SECTION XIII

Section 13.10.700-O of the County Code is hereby amended by adding the definition of Ordinary Maintenance and Repair In Kind to read as follows:

Ordinary Maintenance and Repair in Kind. Any work, whether structural or non-structural, that is done to a structure in kind to preserve its current condition or restore to its original condition. Structural repairs in kind may not exceed the aggregate of 10% of the exterior walls, roof, or foundation within any one year period. Structural repairs in kind that result in greater than the aggregate of 10% of the exterior walls, roof, or foundation being repaired within any one year period shall be deemed a structural alteration. The replacement of the interior or exterior wall coverings or the replacement of the windows or doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered

engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that portions of the structure which the plans show as proposed not to be structurally repaired are in fact structurally sound and that it will not be necessary to repair or alter such portions of the structure during the course of construction. 647

SECTION XIV

Section 13.10.700-R of the County Code is hereby amended by adding the definition of Reconstruction to read:

Reconstruction. The rebuilding of a structure or portion(s) of a structure. A structural alteration or repair that involves greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction.

SECTION XV

Section 13.10.700-S of the County Code is hereby amended by adding the definition of Significantly Nonconforming Use to read:

Significantly Nonconforming Use. The use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of Chapters 13.10. Or 13.11, does not conform to the present General Plan/Local Coastal Program land use designation, and has not lost its nonconforming status due to cessation of use as outlined in Sections 13.10.260, 13.10.261, or 13.10.262.

SECTION XVI

Section 13.10.700-S of the County Code is hereby amended by changing the definition of Structural Alteration to read:

Structural Alteration. Any change, whether in kind or not, in the supporting members of a building, such as the foundation, bearing walls, columns, beams, girders, floor, ceiling or roof joists, and roof rafters or structural repairs in kind greater than 10% but less than 50% of the exterior walls. Roofs and foundations may be replaced. No physical expansion shall be permitted unless expressly authorized in Sections 13.10.261 or 13.10.262. Structural alterations that result in greater than 50% of the exterior walls being altered within any five year period shall be deemed a reconstruction. The replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the applicant's expense to certify that portions of the structure which the plans show as proposed to remain are in fact

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structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction.

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SECTION XVII

If any section, subsection, division, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not effect the validity of the remaining portions of this ordinance. The Board of Supervisors of this County hereby declares that it would have adopted this ordinance and each section, subsection, division, sentence, clause, phrase, or portion thereof, irrespective of any such decision.

Planned Unit Development permits which **were** adopted by ordinance ~~and~~ which must be administered in the same manner as existing ordinances. (Ord. 3432, **8/23/83**)

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13.10.250 INTERPRETATION. The Zoning Administrator shall be respon-

sible for the interpretation of the provisions of this Chapter for their application to any specific case or situation, interpretation of whether a proposed use is essentially the same as a use allowed in the zone district, or interpretation of the boundary location of a zone district, based on the following guidelines, subject to appeal to the Board of Supervisors pursuant to Chapter 18.10:

- (a) In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare.
- (b) Whenever the district boundary is indicated as being a road or a property line, then, unless otherwise definitely indicated on the Zoning Plan map, the centerline of the road or the property line shall be assumed to be the district boundary.
- (c) Where the location of district boundary lines is not indicated by dimensions, the boundaries shall be located by use of the scale to which the map is drawn.

13.10.260 NONCONFORMING USES.

(a) Any nonconforming use within the County is detrimental to the orderly development of the County and to the general welfare. **It** is the intent of this Chapter that nonconforming uses shall be eliminated as rapidly as possible. In addition to the definition given in Section 13.10.700-N, any existing use for which a Use Approval is required by the terms of this Chapter shall be considered a nonconforming use unless and until the required permit is obtained.

(b) The lawful use of land existing on the effective date of a change of zoning designation or of the zoning regulations may be continued, even if such use no longer conforms to the regulations specified by this Chapter for the district in which such land is located, provided that no such use shall be enlarged, increased, or extended to occupy a greater area than that occupied by such use at the time of the change in zoning designation or change of the zoning designation except that:

1. The nonconforming use of a portion of a building may be changed to a use of the same or more restricted nature provided that in each case a Use Approval is obtained.

2. The nonconforming use of a portion of a building may be extended throughout the building provided that in ~~each case~~ ⁵⁴² a Use Approval is obtained.

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(c) Where two or more residential dwelling units exist on a parcel of land as nonconforming units because the zoning of the property no longer allows more than one dwelling unit, the largest of the units, or one ~~of~~ two or more units of similar size, may be considered as conforming to the zone district. **Accordingly**, that unit only may be enlarged, extended, **reconstructed**, or structurally altered in accordance with the site coverage, yard, and height restrictions of this Chapter. Notwithstanding the foregoing limitation, the roof line of the other units not deemed conforming to the zone district may be structurally altered (with a Level 4 approval) provided, however, that the cubic habitable space of the structure or structures containing the other units is not increased by the alteration of the roof line, and such structural alterations of the roof line are in accordance with the height and other applicable restrictions of this Chapter.

(d) If the nonconforming use of land or buildings ceases for a continuous period of six months, or is abandoned, then without further **action** by the County, said building or land shall be subject to all of the regulations of this Chapter for the district in which said land is located.

(e) Whenever property for which a Use Approval has been granted is placed in a district in which the use is no longer allowed either as a permitted **or** as a **discretionary** use, the use for which the permit was granted **shall** be considered nonconforming. Such nonconforming use shall be subject to the provisions of this section.

(f) A nonconforming use may be ordered to be terminated by the Board of Supervisors by an Order of the Board of Supervisors upon recommendation of the Planning Commission within a period to be specified in such Order. Such an Order shall be issued only after a public hearing by the Planning Commission after 15 days' written notice to the nonconforming user. If the nonconforming user has not made a substantial investment in furtherance of such use, or if the **investment can** be substantially **utilized or recovered** through a then permitted use, such Order may require complete termination of the nonconforming use within a minimum of one year **after the** date of the Order. In making its recommendation, the Planning Commission shall consider the total cost of land and improvements, the length of time the use has continued, adaptability of the land and improvements to a then permitted use, the cost of moving and **reestablishing** the use elsewhere, and other relevant factors.

(g) Where a nonconforming use involves the removal of natural earth products, any order for termination shall be considered in accordance with Chapter 16.54, **Mining** Regulations, of the

Santa Cruz County Code.

(~~543~~)

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(h) When a use has become nonconforming because it does not comply with the requirements of Section 13.10.345 (Industrial Special Standards and Conditions), any permit subsequently issued shall set a reasonable time schedule for conformance to such requirements. In no case shall the time set for full **compliance exceed** five years. The time schedule **for** compliance shall be in addition to any other conditions to the permit.

(i) Failure to comply with a Board of Supervisors' Order to terminate a nonconforming use shall constitute a violation of this chapter and is a public nuisance subject to abatement in accordance with Chapter 1.08 of this Code.

(j) Regulations regarding the replacement of nonconforming greenhouses are found in Section 13.10.636(c) of this Code.

(k) Notwithstanding any other provisions of this section, whenever a nonconforming use of land or buildings outside of the California Coastal Zone is terminated by reason of an acquisition of the property or portion thereof by a public agency by eminent domain or an acquisition under threat of the use of eminent domain, the **nonconforming** use may be relocated to another location on the property or to an adjacent parcel, including a **parcel** which is near or close to the subject parcel, provided that:

- 1) Any structure reconstructed and/or relocated for the nonconforming use will not exceed the floor area, height, or bulk of the replaced structure;
- 2) The use will remain the same;
- 3) A Level V approval is obtained based on a finding that the relocated use and any structure for the use will not be detrimental to the health, safety, or welfare of persons residing or working in the vicinity **or** the general public, nor be materially injurious to properties or improvements in the vicinity, and that any relocated or reconstructed structure will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects of the neighborhood.

(Ord. 560, 7/14/58; 740, 12/11/61; 1704, 4/25/72; 2047, 8/20/74; 2452, 6/21/77; 2787, 10/2/79; 3186, 1/12/82; 3344, 11/23/82; 3432, 8/23/83); 3593, 11/6/85; 4217, 10/20/92; 4411, 4/16/96; 4467, 8/12/97)

13.10.265 NONCONFORMING STRUCTURES.

(a) The **lawful use** of a structure existing on the effective date of a change of zoning or of the zoning regulations may be continued even if such a structure and/or use does not conform to the change in zoning or Change of the zoning regulations specified **for** the district in which such structure is located.

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TABLE I			
RESIDENTIAL NONCONFORMING USE: SINGLE FAMILY DWELLING			
TYPE OF ALTERATION	CURRENT REGULATIONS for all nonconforming single family dwellings	SIGNIFICANTLY NONCONFORMING: Parcel has Commercial or Industrial General Plan designation and a residential use only on site	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation
Ordinary maintenance and repair in kind or structural alteration for imminent threat	Nonstructural maintenance and repair only	Yes	Yes
Structural alteration	No	No	Yes, maximum of 50% of exterior walls within 5 year period
Extend use throughout building	Yes, with Use Approval (interpreted as Level V)	Yes, with Level V no intensification	Yes, with Level III
Physical Expansion	No	No	Yes, with Level III, 500 square feet expansion one time only
Reconstruction	No	No	Yes, with Level III, 500 square feet expansion one time only
Reconstruction up to 75% after disaster	Yes	Yes, no intensification	Yes, may expand 500 square feet one time only with Level III
Reconstruction 75% or greater after disaster	No	No	Yes, with Level III, 500 square feet expansion one time only
Loss of nonconforming status due to cessation of USC	6 continuous months	12 continuous months**	No restriction

** unless caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued,

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TABLE 2

RESIDENTIAL NONCONFORMING USE: ACCESSORY STRUCTURE

TYPE OF ALTERATION	CURRENT REGULATIONS for all nonconforming accessory structures	SIGNIFICANTLY NONCONFORMING: Parcel has Commercial or Industrial General Plan designation and a residential use only on site	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation and accessory structure does not meet use restrictions	NONCONFORMING: Structure meets zoning and General Plan designations but does not meet use restrictions or does not have required Development Permit	NONCONFORMING: Parcel has Commercial or Industrial zoning and a Residential General Plan designation and accessory structure; meets use restrictions
Ordinary maintenance and repair in kind or structural alteration for imminent threat	Nonstructural maintenance and repair only	Yes	Yes	Yes	Yes
Structural alteration	No	No	Yes, with Level III, maximum of 50% of exterior walls within a 5 year period	Yes, with Level III, maximum of 50% of exterior walls within a 5 year period	Yes, with Level III
Extend use throughout building	Yes, with Use Approval (interpreted as Level V)	Yes, with Level V	Yes, with Level V	Yes, with Level IV	Yes, with Level III
Physical expansion	No	No	No	No	Yes, with Level III
Reconstruction	No	No	No	No	Yes, with Level III
Reconstruction up to 75% after disaster	Yes	Yes, with Level V; no intensification	Yes, with Level IV; no intensification	Yes, with Level IV; no intensification	Yes, with Level III
Reconstruction 75% or greater after disaster	No	No	No	No	Yes, with Level III
Loss of nonconforming status due to cessation of USC	6 continuous months if no Development Permit, 12 continuous months with Development Permit	12 continuous months* *	12 continuous months**	12 continuous months**	No restriction

** unless caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued

TABLE 3

RESIDENTIAL NONCONFORMING TJSE: **DWELLING GROUPS**

TYPE OF ALTERATION	CURRENT REGULATIONS for all nonconforming dwelling groups	SIGNIFICANTLY NONCONFORMING: Parcel has General Plan designation that prohibits primary residential use and dwelling group is not part of a legal mixed use	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built before Development Permit requirements, does not meet zone district USC, density, and/or standards	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built with Development Permit, does not meet zone district use, density, and/or standards	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built before Development Permit requirement, does meet zone district use, density, and standards
Ordinary maintenance and repair in kind or structural alteration for imminent threat	Nonstructural maintenance and repair only	Yes	Yes	Yes	Yes
Structural alteration	No	No	Yes, maximum of 50% of exterior walls within a 5 year period	Yes, maximum of 50% of exterior walls within a 5 year period	Yes, maximum of 50% of exterior walls within a 5 year period
Extend use throughout building	Yes, with Use Approval (interpreted as Level V)	Yes, with Level V, no intensification	Yes, with Level IV, no intensification	Yes, amend Development Permit (per Section 18.10.134), no intensification	Yes, with Level III; Level V if intensifies
Physical expansion	No	No	No	No	No
Reconstruction without expansion	No	NO	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes, if work commenced within 12 months, no intensification	Yes, with Level V
Reconstruction up to 100% after disaster: multifamily attached only, with no expansion*	No, up to 75% only	Yes 1-4 units: Level V 5+ units: Level VI, no intensification	Yes 1-4 units: Level V 5+ units: Level VI no intensification	Yes no intensification	Yes, with Level V
Reconstruction up to 75% after disaster: detached units, with no expansion	Yes	Yes no intensification	Yes no intensification	Yes, no intensification	Yes, Level V if intensifies

TABLE 3 (Continued)

RESIDENTIAL, NONCONFORMING USE: DWELLING GROUPS

	CURRENT REGULATIONS for all nonconforming dwelling groups	SIGNIFICANTLY NONCONFORMING: Parcel has General Plan designation that prohibits primary residential use and dwelling group is not part of a legal mixed use	NONCONFORMING: Parcel has residential General Plan designation that allows primary residential use and built before Development Permit requirements, does not meet zone district use, density, and/or standards	NONCONFORMING: Parcel has General Plan designation that allows primary residential use and built with Development Permit, does not meet zone district use, density, and/or standards	NONCONFORMING: Parcel has residential General Plan designation and built before Development Permit requirement, does meet zone district use, density, and standards
Reconstruction 75% or greater after disaster: detached units, with no expansion	No	No	Yes 1-4 units: Level 5 5+ units: Level 6 no intensification	Yes no intensification	Yes Level V if intensifies
Loss of nonconforming status due to cessation of use	6 continuous months if no Development Permit; 12 continuous months if Development Permit	12 continuous months**	12 continuous months* *	12 continuous months**	12 continuous months**

* except for properties zoned M-1, M-2, M-3

** unless caused involuntarily by fire, other catastrophic event, or the public enemy, in which case a building permit must be obtained within 2 years and construction diligently pursued



518

AT THE BOARD OF SUPERVISORS MEETING
On the Date of December 9, 1997

CONSENT AGENDA Item No. 053

(ACCEPTED AND FILED report on proposed ordinance
(amendments regarding nonconforming uses and approved
(related actions, with additional directive...

656
ATTACHMENT 9

Upon the motion of Supervisor Belgard, duly seconded by Supervisor Beautz, the Board, by unanimous vote, accepted and filed report on proposed ordinance amendments regarding nonconforming uses and approved related actions, with additional directive to the Commissions to consider Level IV review

cc:

- CAO
- Coastal Commission
- Planning Department
- Housing Advisory Commission
- Planning Commission

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Er-officio Clerk of **the** Board of Supervisors of **the County of Santa Cruz, State** of California, **do** hereby certify **that the foregoing is a true** and correct copy **of the order** made and **entered in the Minutes Of said Board** of Supervisors. In witness **thereof** I have hereunto set my **hand** and **affixed** the seal **of** said Board **of** Supervisors, **on** December 12, 1997.

Susan A. Mauriello, Deputy Clerk

65

COUNTY OF SANTA CRUZ

STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING
On the Date of May 6, 1997

ATTACHMENT 10

REGULAR AGENDA Item No. 087

849

(Continued consideration to adopt resolution
(amending the County Local Coastal Program Implementing
(Ordinances; adopt Ordinance amending Chapter 13.10 of
(the County Code relating to residential uses,
(accessory structures and accessory dwelling units; and
(related actions;
(ad-~~pted~~ RESOLUTION NO., 205-97 adopting an ordinance
(~~amending~~ the County Local Coastal Program Implementing
(Ordinances; adopted ORDINANCE NO. 4457, as amended,
(amending County Code Sections 13.10.322 relating to
(residential uses, Section 13.10.611 relating to
(accessory structures, and Section 13.10.681 relating
(to accessory dwelling units; directed Planning staff
(to submit these ordinance amendments to the California
(Coastal Commission for certification as part of the
(First Round of 1997; further directed Planning staff
(to develop specific ordinance amendments to allow the
(rehabilitation and reconstruction of accessory
(structures made non-conforming by adoption of these
(ordinance amendments, and to include these in the
(Second Round of 1997; and directed the Planning
(Director to include a program in the 1997-98 Planning
(Department Work Program to process revisions to County
(Code that would substitute the term "second unit" for
("accessory dwelling unit"...

Continued consideration to adopt resolution amending the County
Local Coastal Program Implementing Ordinances; adopt Ordinance
amending Chapter 13.10 of the County Code relating to residential
uses, accessory structures and accessory dwelling units; and
related actions;

Upon the motion of Supervisor Belgard, duly seconded by Super-
visor ~~Almquist~~, the Board, with Supervisor Symons and Wormhoudt,
adopted ~~Resolution~~ No. 205-97 adopting an ordinance amending the
County Local Coastal Program Implementing Ordinances; adopted Ordi-
nance No. 4457, as ~~amended~~, amending County Code Sections 13.10.322
relating to residential uses, Section 13.10.611 relating to accesso-
ry structures, and Section 13.10.681 relating to accessory dwelling
units; directed Planning staff to submit these ordinance amendments
to the California Coastal Commission-for certification as part of
the First Round of 1997; further directed Planning staff to develop

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of **the Board** of Supervisors of **the County of Santa Cruz, State**
of California, **do hereby certify that the** foregoing is **a true and correct** copy of the order **mad-** and
entered in the **Minutes** of said Board of Supervisors. **In witness thereof I have** hereunto set my **id**
and affixed **the** seal of said Board of Supervisors.

COUNTY OF SANTA CRUZ

STATE OF CALIFORNIA



H-6

AT THE BOARD OF SUPERVISORS MEETING
On the Date of May 6, 1997

ATTACHMENT 10

REGULAR AGENDA Item No. 087

658

550

specific ordinance amendments to allow the rehabilitation and reconstruction of accessory structures made non-conforming by adoption of these ordinance amendments, and to include these in the Second Round of 1997; and directed the Planning Director to include a program in the 1997-98 Planning Department Work Program to process revisions to County Code that would substitute the term "second unit" for "accessory dwelling unit"

AMENDMENTS TO PROPOSED ORDINANCE:

Subsection 13.10.611(c)(3)(ii) and (iii): Exceptions to be approved at Level IV.

Under Section V, last page of the proposed ordinance, language added at the end of the paragraph to read: "This ordinance shall be operative to all applications for accessory dwelling units pending when the ordinance becomes effective, except as to such applications filed with the applicable application fee prior to May 6, 19.97 for which the applicants have submitted a written request on.or before July 7, 1997, to the County Planning Department that their applications be processed under the regulations in effect prior to the effective date of this ordinance."

cc:

CAO
Planning

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors, on May 12, 1997.

65 Wandy Hauert, Deputy Clerk

EXHIBIT K

§ 65852.25. Multifamily dwellings damaged or destroyed by fire, catastrophic **events**, or public enemies: reconstruction, **restoration, or rebuilding**

(a) No local agency shall enact or enforce any ordinance, regulation, or resolution that would prohibit the reconstruction, restoration, or rebuilding of a multifamily dwelling that is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy.

(b) Notwithstanding subdivision (a), a local agency may prohibit the reconstruction, restoration, or rebuilding of a multifamily dwelling that is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy, if the local agency determines that:

(1) The reconstruction, restoration, or rebuilding will be detrimental or injurious to the health, safety, or **general** welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvements in the neighborhood.

(2) The existing **nonconforming** use of the building or structure would be more appropriately moved to a zone in which the use is permitted, or that there no longer exists a zone in which the existing nonconforming use is permitted.

(c) The dwelling may be reconstructed, restored, or rebuilt up to its **predamaged** size and number of dwelling units, and its nonconforming use, if any, may be resumed.

(d) Any reconstruction, restoration, or rebuilding undertaken pursuant to **this** section shall **conform** to **all** of the following:

(1) The California Building Standards Code as that code was in-effect at the time of reconstruction, restoration, or rebuilding.

(2) Any more restrictive local building standards authorized pursuant to Sections 13869.7, 17958.7, and 18941.5 of the Health and Safety Code, as those standards were in effect at the time of reconstruction, restoration, or rebuilding.

(3) The State Historical Building Code (Part 2.7 (commencing with Section 18950) -of Division 13 of the Health and Safety Code) for work on qualified historical buildings or structures.

(4) Local zoning ordinances, so long as the predamage size and number of dwelling units are maintained.

(5) Architectural regulations and standards, so long as the predamage size and number of dwelling units are maintained.

(6) A building permit which shall be obtained within two years after the date of the damage or destruction.

(e) A local agency may enact or enforce an ordinance, regulation, or resolution that grants greater or more permissive rights to restore, reconstruct, or rebuild a multifamily dwelling.

(f) Notwithstanding subdivision (a), a local agency may prohibit the reconstruction, restoration, or rebuilding of a multifamily dwelling that is involuntarily damaged or destroyed by fire, other catastrophic event, or by the public enemy, if the building is located in an industrial zone.

(g) For purposes of this section, "multifamily dwelling" is defined as any structure designed for human habitation that is divided into two or more independent living quarters.

(Added by Stats.1994, c. 743 (S.B.2112), §1.)

PLANNING DEPARTMENT

GOVERNMENTAL CENTER



COUNTY OF SANTA CRUZ

ATTACHMENT 12

660

701 OCEAN STREET
FAX (408) 454-2131

SANTA CRUZ, CALIFORNIA 95060
(408) 454-2580

552

NEGATIVE DECLARATION AND NOTICE OF DETERMINATION

N/A COUNTY OF SANTA CRUZ

Proposal to amend Sections 13.10.260, 13.10.265, 13.10.332, 13.10.342, 13.10.510, 13.10.658, and 13.10.700 and add sections 13.10.261 and 13.10.262 of the County Code relating to Nonconforming Uses, and amend Sections 2.12.3 and 8.4.2 of the General Plan/Local Coastal Program regarding Residential Uses in Commercial Designations and Retaining Existing Housing.

APN(s): N/A Glenda Hill, planner Zone District(s): N/A

Findings:

This project, if conditioned to comply with required mitigation measures or conditions shown below, will not have a significant effect on the environment. The expected environmental impacts of the project are documented in the Initial Study on this project attached to the original of this notice on file with the Planning Department, County of Santa Cruz, 701 Ocean Street, Santa Cruz, California.

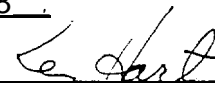
Required Mitigation Measures or Conditions:

 X None

A t t A r e c h e d

Review Period Ends March 25, 1998

Date Approved By Environmental Coordinator March 26, 1998



KEN HART
Environmental Coordinator
(408) 454-3127

If this project is approved, complete and file this notice with the Clerk of the Board:

NOTICE OF DETERMINATION

The Final Approval of This Project was Granted by _____

on _____. No EIR was prepared under CEQA.

THE PROJECT WAS DETERMINED TO NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

Date completed notice filed with Clerk of the Board: _____

COUNTY OF SANTA CRUZ
PLANNING DEPARTMENT

Date: 2/1 0/98
Staff Planner: Glenda Hill

~~553~~
661

**ENVIRONMENTAL REVIEW
INITIAL STUDY**

APPLICANT: County of Santa Cruz APN: N/A
OWNER: N/A
Application No: N/A Supervisorial District: all
Site Address: None Location: Countywide

EXISTING SITE CONDITIONS All not applicable - no site specific proposal

Parcel Size:
Existing Land USC:
Vegetation:
Slope: 0-15% __, 16-30% __, 31-50% __, 51% __ acres/sq.ft.
Nearby Watercourse:
Distance To:
Rock/Soil Type:

ENVIRONMENTAL CONCERNS All not applicable - no site specific proposal

Groundwater Supply: Liquefaction
Water Supply Watershed: Fault Zone:
Groundwater Recharge: Floodplain:
Timber and Mineral: Riparian Corridor:
Biotic Resources: Solar Access:
Fire Hazard: Solar Orientation:
Archaeology: Scenic Corridor:
Noise Constraint: Electric Power Lines:
Erosion: Agricultural Resource:
Landslide:

SERVICES All not applicable - no site specific proposal

Fire Protection: Drainage District:
School District: Project Access:
Water Supply:
Sewage Disposal:

PLANNING POLICTES All not applicable - no site specific proposal

Zone District: Within USL:
General Plan: Special Designation:
Coastal Zone:

PROJECT DESCRPTION:

Proposal to amend Sections 13.10.260, 13.10.265, 13.10.332, 13.10.342, 13.10.510, 13.10.658, and 13.10.700 and add Sections 13.10.261 and 13.10.262 of the County Code relating to Nonconforming Uses, and amend Sections 2.12.3 and 8.4.2 of the General Plan/Local Coastal Program regarding Residential Uses in Commercial Designations and Retaining Existing Housing

DISCUSSION:

The proposed amendment will create, in the County Code, a section of General Provisions that apply to all nonconforming uses and specific regulations for Residential nonconforming uses. Regulations regarding commercial, industrial, historic, and agricultural nonconforming uses are not addressed or changed in this amendment.

The purpose of the Nonconforming Use regulations is proposed to be changed to differentiate between nonconforming uses and significantly nonconforming uses. Significantly nonconforming uses are proposed to be defined as those uses which are inconsistent with their General Plan land use designation. Regulations are proposed that will accelerate their termination.

Nonconforming uses are proposed to be considered as possibly detrimental and regulations are proposed that may allow repair, alteration, and reconstruction based on the degree of nonconformity.

The proposed General Provisions will consolidate existing regulations and add: applicant's burden of proof in determining nonconforming status; regulations concerning reconstruction of nonconforming uses damaged by the Loma Prieta Earthquake; an exception allowing structural work for the sole purpose of coming into compliance with State and Federal accessibility standards; the requirement for the recordation of a Statement of Acknowledgment of nonconforming or significantly nonconforming use status.

The proposed Residential regulations are being rewritten to implement the 1994 General Plan's policies regarding retention of housing stock. Significantly nonconforming uses will be restricted to repair in kind and structural alterations to mitigate an imminent threat. Nonconforming uses will be allowed to be repaired, altered, or reconstructed upon issuance of Development Permits processed at various levels of review based on the degree of nonconformity. Physical expansion will be allowed in most cases.

Regulations are also being proposed to implement Senate Bill 2112, which allows for reconstruction of nonconforming multifamily dwellings damaged or destroyed by fire, natural disaster, or the public enemy. All allowed work must be in conformance with all other Chapters of the County Code and specific findings must be made in order to approve a Development Permit for such reconstruction,

Two Sections of the General Plan/Local Coastal Program are proposed to be amended:

Section 2.12.3 would be amended to eliminate the provision for a one time expansion of a residential use on property with a Commercial land use designation. As this use is proposed to be considered significantly nonconforming, expansion of the use would not be consistent with the proposed purpose of the significantly nonconforming use regulations. Expansions of residential uses in approved mixed use developments would remain allowable, and the provision for increased residential to commercial ratio found in the County Code would be added to bring consistency.

Section 8.4.2 would be amended to strengthen the language for retention of existing nonconforming multi family housing.

Adoption of these amendments to the County Code and General Plan/LCP will require public hearings before the Planning Commission and Board of Supervisors.

NTAL REVIEW CHECKLIST

663

PROJECT SETTING:

Proposed amendments will be effective countywide.

A. GEOLOGIC FACTORS

	Significant: No or <u>Unknown</u> <u>Mitigation</u>	Potentially Significant Unless <u>Mitigated</u>	Less Than Significant <u>Impact</u>	No <u>Impact</u>
--	---	--	---	---------------------

Could the project, or its related activities affect, or be affected by, the following:

1. Geologic Hazards: earthquakes (particularly surface ground rupture, liquefaction, seismic shaking). landslides, mud slides or other slope instability, or similar hazards?

_____ X _____

All development authorized by this amendment will be subject to Chapter 16.10, General Plan Policy 8.2.2, and required to obtain Geologic Hazards Assessments and Geologic Reports, if necessary.

2. Soil Hazards: soil creep, shrink swell (expansiveness). high erosion potential?

_____ X _____

All development authorized by this amendment will be subject to obtaining soils reports, if necessary

3. Change in topography or ground surface relief features?

_____ X _____

All development authorized by this amendment will be subject to Chapter 16.20 and General Plan Policy 8.2.2.

4. The destruction, covering or modification of any unique geologic or physical feature?

_____ _____ X _____

5. Steep slopes (over 30%)?

_____ X _____

All development authorized by this amendment will be subject to General Plan Policy 63.9.

6. Coastal cliff erosion?

_____ X _____

All development authorized by this amendment will be subject to Chapter 16.10.

7. Beach sand distribution?

_____ X _____

All development authorized by this amendment will be subject to Chapter 16.10.

8. Any increase in wind or water erosion of soils, either on

~~556~~
664

	<u>Significant: No or Unknown Mitigation</u>	<u>Potentially Significant Unless Mitigated</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
or off site?			<u>—</u>	<u>X</u>

B. HYDROLOGIC FACTORS

Could the project affect, or be affected by, the following:

- | | | | |
|---|--|----------|----------|
| 1. Water related hazards such as flooding or tidal waves? | | <u>X</u> | <u>—</u> |
|---|--|----------|----------|

All development authorized by this amendment will be subject to Chapter 16.10

- | | | | |
|------------------------------------|--|----------|--|
| 2. Private or public water supply? | | <u>X</u> | |
|------------------------------------|--|----------|--|

All development authorized by this amendment will be subject to the requirements of the Environmental Health Department.

- | | | | |
|---|--|----------|--|
| 3. Septic system functioning (inadequate percolation, high watertable, proximity to water courses)? | | <u>X</u> | |
|---|--|----------|--|

All development authorized by this amendment will be subject to the requirements of the Environmental Health Department.

- | | | | |
|-------------------------------|--|----------|----------|
| 4. Increased siltation rates? | | <u>X</u> | <u>—</u> |
|-------------------------------|--|----------|----------|

All development authorized by this amendment will be subject to the requirements of Chapter 16.24.

- | | | | |
|---|--|----------|----------|
| 5. Surface or ground water quality (contaminants including silt-urban runoff, nutrient enrichment, pesticides, etc.)? | | <u>—</u> | <u>X</u> |
|---|--|----------|----------|

- | | | | |
|--|--|----------|----------|
| 6. Quantity of ground water supply, or alteration in the direction or rate of flow of ground waters? | | <u>—</u> | <u>X</u> |
|--|--|----------|----------|

- | | | | |
|--------------------------|--|----------|----------|
| 7. Groundwater recharge? | | <u>—</u> | <u>X</u> |
|--------------------------|--|----------|----------|

- | | | | |
|--|----------|----------|----------|
| 8. Watercourse configuration, capacity, or hydraulics? | <u>—</u> | <u>—</u> | <u>X</u> |
|--|----------|----------|----------|

- | | | | |
|---|--|----------|----------|
| 9. Changes in drainage patterns or the rate and amount of runoff? | | <u>—</u> | <u>X</u> |
|---|--|----------|----------|

All development authorized by this amendment will be subject to Chapter 16.22.

	Significant: No or Unknown <u>Mitigation</u>	Potentially Significant Unless <u>Mitigated</u>	Less Than Significant <u>Impact</u>	No <u>Impact</u>
10. Cumulative saltwater intrusion?	—			<u>X</u>
11. Inefficient or unnecessary water consumption?				<u>X</u>
12. Change in the amount of surface water in any water body?	—			<u>X</u>

C. BIOTIC FACTORS

Could the project affect, or be affected by, the following:

- Known habitat of any unique, rare or endangered plants or animals (designate species if known)? X —

All development authorized by this amendment will be subject to Chapter 16.32.

- Unique or fragile biotic community (riparian corridor, wetland, coastal grasslands, special forests, intertidal zone, etc)? X

All development authorized by this amendment will be subject to Chapters 16.30 and 16.32.

- Fire hazard from flammable brush, grass, or trees? X

All development authorized by this amendment will be subject to the Fire Agencies' requirements and the requirement to utilize a fire retardant Class C or better roof covering,

- Change in the diversity of species, or number of species of plants or animals? X

D. NOISE

Will the project:

- Increase the ambient noise level for adjoining areas? — — X
- Violate Title 25 noise insulation standards, or General Plan noise standards,

Significant: No or Unknown <u>Mitigation</u>	Potentially Significant Unless Mitigated	Less Than Significant <u>Impact</u>	No Impact 660
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as applicable? X

- 3. Be substantially affected by existing noise levels? — X

E. AIR

Will the project:

- 1. Violate any ambient air quality standard or contribute substantially to an existing or projected air quality violation? — — — X
- 2. Expose sensitive receptors to substantial pollutant concentrations? — — — X
- 3. Release bioengineered organisms or chemicals to the air outside of project buildings? — — — X
- 4. Create objectionable odors? — — — X
- 5. Alter wind, moisture or temperature (including sun shading effects) so as to substantially affect areas, or change the climate either in the community in the community or region? — — — X

F. ENERGY AND NATURAL RESOURCES

Will the project:

- 1. Affect or be affected by timber resources? — — — X
- 2. Affect or be affected by lands currently utilized for agriculture or designated for agricultural USC? X —

All development authorized by this amendment will be subject to Chapter 16.50

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Encourage activities which result in the use of large

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Significant: No or Unknown <u>Mitigation</u>	Potentially Significant Unless Mitigated	Less Than Significant <u>Impact</u>	No <u>Impact</u>
--	---	---	---------------------

667

amounts of fuel, water, or energy, or USC of these in a wasteful manner?

— — X

4. Have a substantial effect on the potential use, extraction, or depletion of a natural resource (i.e., minerals or energy resources)?

— X

G. CULTURAL/AESTHETIC FACTORS

Will the project result in:

1. Alteration or destruction of historical buildings or unique cultural features?

X —

A?? development authorized by this amendment will be subject to Chapter 16.42

2. Disturbance of archaeological or palcontological resources?

X —

All development authorized by this amendment will be subject to Chapters 16.40 and 16.44.

3. Obstruction or alteration of views from areas having important visual/scenic values?

— — X

4. Being visible from any adopted scenic highway or scenic corridor?

— X —

It is possible that reconstructions authorized by this amendment would be visible from a scenic corridor; however, the projects would be evaluated for consistency with Genera? Plan Policy 5. 10. 2.

5. Tnterfrencce with established recreational, educational, religious or scientific uses of the arca?

— — — X

H. SERVICES AND UTILITIES

Will the project or its related activities result in:

1. A breach of national, state, or local standards relating to solid waste or litter management?

— — X

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	Significant: No or Unknown <u>Mitigation</u>	Potentially Significant Unless Mitigated	Less Than Significant <u>Impact</u>	No <u>Impact</u>
2. Expansion of or creation of new utility facilities (c.g., sewage plants, water storage, mutual water systems, storm drainage, etc.) including expansion of service area boundaries?		---	---	<u>X</u>
3. A need for expanded governmental services in any of the following areas:				
a. Fire protection?		---		<u>X</u>
b. Police protection?	---	---	---	<u>X</u>
c. Schools?		---		<u>X</u>
d. Parks or other recreational facilities?			---	<u>X</u>
e. Maintenance of public facilities including roads?				<u>X</u>
f. Other governmental services?	---			<u>X</u>
4. Inadequate water supply for fire protection?		---	---	<u>X</u>
5. Inadequate access for fire protection?		---	---	<u>X</u>

1. TRAFFIC AND TRANSPORTATION

Will the project result in:

1. An increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system?		---	---	<u>X</u>
2. Cause substantial increase in transit demand which cannot be accommodated by existing or proposed transit capacity?	---	---	---	<u>X</u>
3. Cause a substantial increase in parking demand which cannot				

Significant: No or Unknown <u>Mitigation</u>	Potentially Significant Unless <u>Mitigated</u>	Less Than Significant <u>Impact</u>	No <u>Impact</u>
--	--	---	---------------------

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|---|---|---|----------|
| bc accommodated by existing parking facilities? | — | — | <u>X</u> |
| 4. Alterations to present patterns of circulation or movement of people and/or goods? | — | — | <u>X</u> |
| 5. Increase in traffic hazards to motor vehicles, bicyclists, or pedestrians? | — | — | <u>X</u> |
| 6. Cause preemption of public mass-transportation modes? | — | — | <u>X</u> |

J. LAND USE/HOUSING

Will the project result in:

- | | | | |
|--|---|----------|---|
| 1. Reduction of low/moderate income housing? | — | <u>X</u> | — |
|--|---|----------|---|

It is possible that the rent charged for reconstructed multi family housing may be higher.

- | | | | |
|---|---|----------|----------|
| 2. Demand for additional housing? | — | — | <u>X</u> |
| 3. A substantial alteration of the present or planned land USE of an area? — | — | <u>X</u> | — |

Allowing repair and reconstruction of existing nonconforming residential uses will preserve present land uses and possibly impede planned land uses; however, retaining existing housing stock is strongly encouraged in the General Plan LCP.

- | | | | |
|--|---|----------|----------|
| 4. Change in the character of the community in terms of terms of distribution or concentration of income, income, ethnic, housing, or age group? | — | — | <u>X</u> |
| 5. Land use not in conformance with the character of the surrounding neighborhood? | — | <u>X</u> | — |

Proposed findings must be made that development allowed by this amendment will not be detrimental to the surrounding neighborhood.

K. HAZARDS

Will the project:

1. Involve the use, production or disposal of materials which

	Significant: No or Unknown <u>Mitigation</u>	Potentially Significant Unless <u>Mitigated</u>	Less Than Significant <u>Impact</u>	No <u>Impact</u>
pose hazard to people, animal or plant populations in the area affected?	---			<u>X</u>
2. Result in transportation of significant amounts of hazardous materials, other than motor fuel?	---	---		<u>X</u>
3. Involve release of any bioengineered organisms outside of controlled laboratories?	---	---	---	<u>X</u>
4. Involve the use of any pathogenic organisms on site?	---	---		<u>X</u>
5. Require major expansion or special training of police, fire, hospital and/or ambulance services to deal with possible accidents?	---		---	<u>X</u>
6. Create a potential substantial fire hazard?	---		---	<u>X</u>
7. Expose people to electromagnetic fields associated with electrical transmission lines?			---	<u>X</u>

L. GENERAL PLANS AND PLANNING POLICY

- I. Does the project conflict with any policies in the adopted General Plan or Local Coastal Program?
If so, how? X

The General Plan/LCP is proposed to be amended to delete conflicting language regarding expansion of significantly nonconforming residential uses in Commercial districts.

- 2. Does the project conflict with any local, state or federal ordinances?
If so, how? X

The proposed amendment will bring the County's Nonconforming Use regulations into conformance with Federal Law regarding ADA requirements and State law, specifically Senate Bill 2112 and Title 24 accessibility requirements.

MANDATORY FINDINGS OF SIGNIFICANCE

- | | <u>YES</u> | <u>NO</u> |
|--|-------------|-----------|
| 1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or pre-history? | | <u>X</u> |
| 2. Does the project have the potential to achieve short term, to the disadvantage of long term environmental goals? (A short term impact on the environment is one which occurs in a relatively brief, definitive period of time while long term impacts will endure well into the future.) | | <u>X</u> |
| 3. Does the project have impacts which are individually limited but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant. Analyze in the light of past projects, other current projects, and probable future projects.) | | <u>X</u> |
| 4. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | <u> </u> | <u>X</u> |

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ENVIRONMENTAL REVIEW ACTION

On the basis of this initial evaluation:

- _____ I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- _____ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described below have been added to the project. A **NEGATIVE DECLARATION** will be prepared.
- _____ I find the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

Date

Signature

For:
Environmental Coordinator

Attachments:

- 1.
- 2.
- 3.
- 4.
- 5.

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 10-98

On the motion of Commissioner **HOLBERT**
duly seconded by Commissioner **SHEPHERD**
the following is adopted:

PLANNING COMMISSION RESOLUTION RECOMMENDING AMENDMENT OF POLICIES 2.12.3 AND 8.4.2 OF THE GENERAL PLAN/LOCAL COASTAL PROGRAM LAND USE PLAN; ADOPTION OF AN ORDINANCE AMENDING SANTA CRUZ COUNTY CODE SECTIONS **13. 10. 260**, **13. 10. 265**, **13. 10. 332**, **13. 10. 342**, **13. 10. 510**, **13. 10. 658** AND 13.10.700; AND THE ADDITION OF SECTIONS 13.10.261 AND 13.10.262 TO THE COUNTY CODE REGARDING GENERAL NONCONFORMING USE PROVISIONS AND RESIDENTIAL NONCONFORMING USES

WHEREAS, the Board of Supervisors directed that an ordinance amendment be developed to amend nonconforming use regulations within Volume II of the Santa Cruz County Code and amendments to the General Plan/Local Coastal Program; and

WHEREAS, the Planning Commission has held a duly noticed public hearing and has considered the proposed amendments, and all testimony and evidence received at the public hearing; and

WHEREAS, the Planning Commission finds that the proposed General Plan and Local Coastal Program amendments and proposed amendments to the Santa Cruz County Code will be consistent with the policies of the General Plan and Local Coastal Program and other provisions of the County Code, and will contribute to the retention of existing housing stock;

WHEREAS, the Environmental Coordinator issued a Negative Declaration with No Mitigations associated with these amendments and the Planning Commission has reviewed the environmental document and finds that the proposed amendments have been processed consistent with applicable provisions of the California Environmental Quality Act (CEQA) and the County of Santa Cruz environmental guidelines; and

WHEREAS, the proposed amendments were submitted to the Housing Advisory Commission for their review and recommendation and were reviewed at public meetings on February 4, 1998 and April 1, 1998; and

WHEREAS, Chapter 13.10 of the County Code is an implementing ordinance of the Local Coastal Program (LCP) and the proposed amendments to Chapter 13.10 constitute an amendment

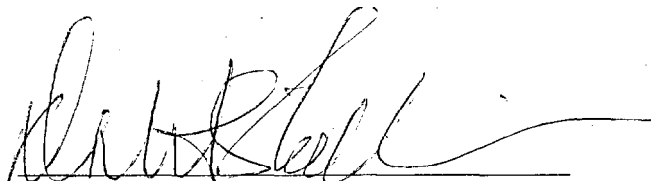
to the Local Coastal Program; and

WHEREAS, the proposed amendments are consistent with the California Coastal Act.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends the proposed amendments to Policies 2.12.3 and 8.4.2 of the General Plan and Local Coastal Program Land Use Plan as set forth in Exhibit 1 and the proposed amendments to County Code Sections 13.10.260, 13.10.265, 13.10.332, 13.10.342, 13.10.510, 13.10.658 and 13.10.700 and the proposed addition of Sections 13.10.261 and 13.10.262 as set forth in Exhibit 2 relating to Nonconforming Uses and the negative declaration as set forth in Exhibit 3, and incorporated herein by reference, be approved by the Board of Supervisors and submitted to the California Coastal Commission as part of the Local Coastal Program Update.

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this 27th day of MAY, 1998 by the following vote:

AYES: COMMISSIONERS **BREMNER, RUTH, HOLBERT,** SKILLICORN, SHEPHERD
NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS



DALE SKILLICORN, Chairperson

ATTEST:



Martin Jacobson, Secretary

APPROVED AS TO FORM:



COUNTY COUNSEL

**COUNTY OF SANTA CRUZ PLANNING COMMISSION
MINUTES.**

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DATE: S-27-98

PLACE: Board of Supervisors Chambers, Room 525
County Government Center, 701 Ocean Street, Santa Cruz, CA

COMMISSIONERS PRESENT: ROBERT BREMNER, DENISE HOLBERT, LEO RUTH,
RENEE SHEPHERD, DALE SKILLICORN(CHAIRPERSON).

STAFF MEMBERS PRESENT: SUZANNE SMITH, MICHAEL FERRY, JOAN VAN DER
HOEVEN, ROBERT STAKEM, DAVID HOPE, GLENDA
HILL, MIKE DEVER, DAVID LEE, PETER COTA-ROBLES
(CAO'S OFFICE), TOM BURNS(RDA), JOHN PRESLEIGH
(DPW), GLEN GOEPFERT(DPW), BARRY SAMUEL(POSCS)
AND DAVE MITCHELL(POSCS).

COUNTY COUNSEL PRESENT: RAHN GARCIA, DEBORAH STEEN.

All legal requirements for items set for public hearing on the Santa Cruz County Planning Commission agenda for this meeting have been fulfilled before the hearing including publication, mailing and posting as applicable.

- A. ROLL CALL:**
Commissioners Bremner, Holbert, Ruth, Shepherd and Skillicorn present at 9:00 a.m.
- B. PLANNING DIRECTOR'S REPORT:** None.
- C. COUNTY COUNSEL'S REPORT:** None.
- D. ADDITIONS AND CORRECTIONS TO THE AGENDA:** None.
- E. ORAL COMMUNICATIONS:** None.
- F. CONSENT ITEMS:**

NO CONSENT ITEMS SCHEDULED

COMMISSIONER SKILLICORN: Brochures should be created for the public.

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MOTION

COMMISSIONER HOLBERT MOVED TO APPROVE STAFF RECOMMENDATIONS
SECONDED BY COMMISSIONER SHEPHERD.

VOICE VOTE

MOTION CARRIED AND SO ORDERED. PASSED 5.0

ITEM H-6

PUBLIC HEARING ON PROPOSED GENERAL PLAN/LCP AND ORDINANCE REVISIONS
REGARDING RESIDENTIAL NONCONFORMING USE AND GENERAL NONCONFORMING
USE PROVISIONS,

PROJECT PLANNER: GLENDA HILL, 454-3216

GLENDA HILL: Gave staff presentation, reviewed history and reasons for revisions, showed slides of examples of nonconforming uses, provided Boards direction to **staff**, noted phasing of ordinance revisions, described changes proposed, and gave recommendation for action. Reviewed and responded to correspondence received today.

PUBLIC HEARING OPEN

COMMISSIONER BREMNER: Asked about nonconforming parking.

GLENDA HILL: Reviewed current parking ordinance.

COMMISSIONER BREMNER: Not sure of the one-year termination of use. Should stay at six-months.

BOB WELCH: Wants ordinance set aside for their review. Don't want a strict set of guidelines in San Lorenzo Valley; we're not part of Santa Cruz County. People don't want to be so governed or regulated. Happy with things as they are. Opposed to limited foot print. Large percentage for housing costs go to the County. Object to the testing of working septic tanks. Old houses are never conforming. New codes take away rights. Should pay to take these rights way. Object to everything in the ordinance but the title. Wants to work in groups to resolve issues. Other things the County should be doing.

CLOSED HEARING

COMMISSIONER SHEPHERD: Lots of nonconforming uses in her district; strongly in favor of changes.

COMMISSIONER SKILLICORN: Agree in part with the ordinance to relax regulations. Doesn't think multi-units should be listed as significantly nonconforming. Government made most of these houses non conforming by changing regulations.

COMMISSIONER HOLBERT: The ⁶pint is to allow maintenance and repairs to nonconforming uses

COMMISSIONER BREMNER: These are good changes including the two levels of reviews. Support proposal

MOTION

COMMISSIONER HOLBERT MOVED TO APPROVE STAFF RECOMMENDATIONS
SECONDED BY COMMISSIONER SHEPHERD.

VOICE VOTE

MOTION CARRIED AND SO ORDERED. PASSED 5.0

ITEM H-7

STUDY SESSION ON THE 199% 1999 FISCAL YEAR PLANNING DEPARTMENT BUDGET.

PROJECT PLANNER: ALVIN JAMES, 454-2180

ALVIN JAMES: Gave overview of proposed budget for the planning department. Increases based on cost of doing business: salaries, increased staffing, service and supplies. Focus on rule changes: timber harvesting. Water resources, code enforcement of trailer parks designed for transient occupancy.

COMMISSIONER RUTH: What kind of reception did County receive from **Felton** Center?

MIKE DEVER: Positive response; working at near capacity.

ALVIN JAMES: South County office based on grant application.

COMMISSIONER BREMNER: With increased permit load, how have processing times changed?

ALVIN JAMES: Hard to determine; no significant complaints received from the public.

COMMISSION ON DISABILITIES

COUNTY OF SANTA CRUZ

GOVERNMENTAL CENTER ROOM 30

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060
(408) 454-235 L LINDA MACDOUGAL- COORDINATOR

680

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

9 January 1998

RE: COMMISSION ON DISABILITIES SUPPORT FOR PROPOSED
AMENDMENT TO NON-CONFORMING USE REGULATIONS

Members of the Board:

At our Commission meeting of 12 December 1997, Planning Department staff presented proposed amendments to Section 13.10.260 of the Santa Cruz County Code, Nonconforming Uses. In particular, staff requested review and support for proposed Section 13.10.260 (c) 7, which will read:

7. Compliance with Americans with Disabilities Act or Chapter 11 of the State Building Code. Nothing in this section shall preclude structural work Performed for the sole purpose compliance with the Americans with Disabilities Act (ADA) or Chapter 11 of the State Building Code found in Volume II of Title 24, State Government Code.

As explained by planning staff, the current regulations prohibit all structural alterations to these uses, even though the work may be done for the purpose of complying with State or Federal accessibility standards. The proposed revision will allow older commercial uses to be made accessible, and it will avoid conflict with State and Federal law.

The Commission on Disabilities supports the proposed revision, and recommends that your Board adopt the ordinance revision as proposed.

Sincerely,

Michael Bush, Chairperson

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Christi Bricknell, with the Central Coast Center for Independent Living, expressed concerns about the expiration of HUD subsidies and stated that she wants to be an advocate for continuation of these subsidies. The Commission directed staff to provide the Commission and Ms. Bricknell with copies of a list of dwelling units nearing subsidy expiration.

4. STAFF REPORTS AND ANNOUNCEMENTS

- A. Deferral of Board of Supervisors hearing on amendments to County Code Chapter 17.10

Glenda Hill informed the Commission that consideration of this item by the Board of Supervisors was continued to April 28, 1998.

- C. Review of preliminary report to Board of Supervisors on County Code regulations regarding congregate care and other elderly care facilities

There was discussion of the information in the report. The Commissioners stated that they would like to review any future revisions to elder care ordinance regulations.

5. NEW BUSINESS

None

6. OLD BUSINESS

- A. Consideration of amendments to various County Code Sections regarding Nonconforming Uses

Glenda Hill presented a synopsis of the reasons for and specifics of the proposed changes. The Commission had numerous questions about specific concerns and how they will be addressed in the proposed ordinance.

Motion to support the proposed ordinance and the concepts proposed to retain existing housing stock, as presented.

Moved: Sweet

Seconded: McNeil

Passed: Unanimous

Commissioner Lopez leaves the meeting.

- B. Consideration of Housing Advisory Commission Work Program for 1998

The Commission discussed the idea of meeting with a number of managers of affordable housing projects (such as Villa San Carlos, Elizabeth Oaks, and Sunny Acres) to better understand how the projects are managed and what the

HOUSING ADVISORY
COMMISSION

GOVERNMENTAL CENTER



COUNTY OF SANTA CRUZ

573

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701 OCEAN STREET FOURTH FLOOR SANTA CRUZ, CALIFORNIA 95060
FAX (408) 454-2131 TDD (408) 454-2123 PHONE (408) 454-2580
HOUSING ADVISORY COMMISSION
COUNTY OF SANTA CRUZ
MINUTES

Wednesday, April 1, 1998
4:00 - 5:30 p.m.

Aptos-La Selva Fire Protection District
Downstairs Conference Room
6934 Soquel Drive
Aptos, CA

1. CALL TO ORDER, ROLL CALL, AGENDA CHANGES

The Commission meeting was called to order at 4:08 PM by Vice-Chairperson Stewman.

Commissioners Present: Sweet, Lopez, Pomper, Tabasa, McNeil, Stewman
Commissioners Excused: MacLean, Lawlor
Commissioners Absent: Silveira
Staff Present: Glenda Hill
Public Present: Christi Bricknell

There were no changes to the agenda. Glenda Hill advised the Commission that the presentation of the 16 unit apartment project tentatively scheduled for this meeting has been postponed pending redesign of the project.

2. APPROVAL OF MINUTES

A. Minutes of the Housing Advisory Commission Meeting of February 4, 1998

Motion to approve the Housing Advisory Commission Meeting minutes of February 4, 1998, as submitted:

Moved: Lopez

Seconded: Pomper

Passed: Unanimous

B. Minutes of the Housing Advisory Commission Meeting of March 4, 1998

Motion to approve the Housing Advisory Commission Meeting minutes of March 4, 1998, as submitted:

Moved: Tabasa

Seconded: Sweet

Passed: Unanimous

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manager's vision is for the housing project. Commissioner Sweet offered to draft a letter of invitation.

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The Commission intends to continue to investigate any impediments to providing affordable housing. The Commission directed staff to provide a report on the status of implementation of the recommendations of the Farm Worker Housing Needs Assessment Study. The Commission also directed staff to provide a report on the status of Redevelopment projects and fund balances.

The Commission intends to investigate impediments to upgrading and maintaining affordable housing.

Staff will provide a clean copy of the proposed work program for the Commission's consideration at its May 6, 1998 meeting.

7. ITEMS INITIATED BY THE HOUSING ADVISORY COMMISSION

None

8. ADJOURNMENT: 5:40 PM

SANTA CRUZ COUNTY



HISTORIC RESOURCES COMMISSION

~~576~~
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GOVERNMENTAL CENTER

 701 OCEAN STREET, ROOM 400, SANTA CRUZ, CALIFORNIA 95060
 (831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

HISTORIC RESOURCES COMMISSION

MINUTES

 July 2, 1998
 3:30 P. M.
 Public Hearing

 Room 413 Planning Conference Rm
 County Building, 4th Floor
 701 Ocean Street
 Santa Cruz, Ca 95060
I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 3:35 p.m. by Vice Chairman Fisher.

Commissioners Present: Terri Fisher, Carolyn Swift, Barbara Kennedy and Jaqui Low.

Commissioners Absent: None

Commission Vacancy: One (Second District)

Staff:
 Cherry McCormick, HRC Staff
 Alvin James, Planning Department
 John Akeman, Planning Department
 Glenda Hill, Planning Department

Members of the Public Present: Diane Larsen, Gertrude Klem, Mary Ellen Kettler, Maragret Borra, Darlene Cremins, Nanci Patterson, Reverand Peter Cruvello, Bill Bagnall, Greg Brown, and Ken Kettler.

II. AGENDA APPROVAL OR MODIFICATION

Commissioners approved the Agenda, acknowledging additional materials dispensed by Staff and their desire to discuss these items under the relevant Agenda section. Materials handed to the Commission at their meeting included:

o Letter from Greg Brown to HRC, dated 7/1/98, applicant for redesignation of Mt. Charlie Cabin (Agenda item V).

o Article from Public Investment Newsletter, 6/98, entitled: "Historic Preservation and Property Values in Indiana"

o Letter from former HRC Chairman Michael Bethke to Planning Commission, dated 5/27/98, regarding proposed revisions to County non-conforming use provisions (Agenda item VII.B).

o Article from S.C. Sentinel, entitled "Their Gentle Sleep", dated 5/98, on County Pet Cemetery.

III. APPROVAL OF MINUTES

The February 18, 1998, March 19, 1998, April 16, 1998, and May 21, 1998 minutes were unanimously approved as submitted, with absentions by relevant Commissioners for meetings unattended.

IV. PUBLIC COMMUNICATIONS

None on nonagendized items.

V. PUBLIC HEARING ON PROPOSED AMENDMENT TO HISTORIC RESOURCES INVENTORY

APN: 093-431-01

SITUS: Mt. Charlie Christmas Tree Farm, on Mt. Charlie Road, Skyline also known as Mt. Charlie Cabin

Applicant: Greg Brown, Trustee, owner

Application to amend the Historic Resources Inventory to change the designation of the Mt. Charlie Cabin, a designated historic resource, from an "NR 5" to an "NR 6".

Cherry McCormick made a brief presentation on this item. She said she had received extensive research documents on Mt. Charlie, the cabin property and vicinity from Summit resident Diane Larsen, available for HRC members upon request.

The property owner and Trustee, Mr. Greg Brown, addressed the Commission requesting that the property be redesignated an 'NR 6'. Both Staff and Mr. Brown distributed photos of the resource to the HRC. Mr. Brown indicated that he did not intend to tear down the existing structure, but attested to the cabin's poor condition. Anticipating concern about the parcel's development potential, he said that it was covered by the Williamson Act, allowing only one structure on the property.

The public hearing was opened, following the Staff and Applicant presentation. Both Diane Larsen and Darlene Crenmins addressed the HRC in support of retaining the resource as an "NR 5".

After closing the public hearing, Commissioner Fisher referred to the Context Report prepared by consultant Susan Lehman. She said that the Context document would support inclusion of the Mt. Charlie resource in the Inventory because of the cabin's past and continued role as a tourist attraction.

Commissioner Kennedy voiced her support for changing the NR rating for the cabin from "NR 5" to "NR 6", since the cabin was never really built or occupied by Mt. Charlie.

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Commissioner Low moved to retain the Mt. Charlie Cabin as an "NR 5", but to change the Historic Inventory Form so that the text description identifies the cabin as a "turn of the century cabin", and not as Mt. Charlie's Cabin.

Commissioner Swift seconded the motion. The motion passed with a vote of 3 in favor, one opposed, with Commissioner Kennedy opposed.

VI. OLD BUSINESS

A. Questers

Cherry McCormick described the Questers organization, for the benefit of Commissioners absent from the previous HRC meeting when members of Questers addressed the HRC. Commissioner Swift moved, and Commissioner Kennedy seconded, the motion to invite Questers members back to the HRC for more discussion. The motion passed unanimously.

B. Corralitos Town Plan

John Akeman of the Planning Department briefed the HRC on the status of the draft Corralitos Community Plan. A memo with draft Plan language was enclosed with the Commissioners packet. He encouraged Commissioners to provide him feedback and comments on the draft to date. Commissioners mentioned the the Community Plan may be useful as a basis for an upcoming CLG grant application. They expressed interest in including historic resources flagged by the Plan in the Historic Inventory, and in the historic landscaping component of the Plan.

VII. NEW BUSINESS

A. Election of Officers

This item was not addressed, due to time constraints.

B. Proposed Revisions to Residential Nonconforming Use and General Nonconforming Use Provisions

Alvin James, Planning Director, and Glenda Hill were introduced to the HRC. Commissioners complained about the short notice allowed them to review the proposed revisions. Mr. James asked Commissioners whether they receive their Agenda packets in a timely fashion, or whether more time should be allowed. They indicated that typically, they received their packets in sufficient time prior to the meeting.

Glenda Hill began her presentation by referring to materials in the HRC Agenda packet on this item. She proceeded to summarize the history and content of the proposed revisions, emphasizing that this Phase of proposed changes does not address historic

	Significant: No or Unknown <u>Mitigation</u>	Potentially Significant Unless <u>Mitigated</u>	Less Than Significant <u>Impact</u>	No <u>Impact</u>
3. Does the project have potentially growth inducing effect?		—	—	<u>X</u>
4. Does the project require approval of regional, state, or federal agencies? Which agencies?				

As an implementing ordinance of the Local Coastal Program, this proposed ordinance amendment will require final certification by the California Coastal Commission.

uses/ structures. Prior to much discussion, however, Commissioner Low moved and Commissioner Kennedy seconded the motion, to continue discussion of this item to a subsequent meeting. The motion passed unanimously.

In addition, Commissioner Low moved to continue discussion of and consideration of a Commission response to Michael Bethke's letter to the Planning Commission on this item. Commissioner Fisher seconded the motion. The motion passed unanimously.

C. Resurrection Church/Calvary Cemetery project Update

Reverend Peter Cruvello, pastor of Resurrection Church and Bill Bagnall, Architect, were introduced. They indicated that they would be filing an application with the County in September to expand the existing Church building; but wished to discuss their ideas with the HRC prior to filing. Mr. Bagnall indicated that the proposed building would not be built within the existing cemetery. Commissioner Fisher requested that any new structures avoid placement on existing burial sites. Mr. Bagnall asked the HRC for assistance in preparing an Historic Reconnaissance of the property. Cherry McCormick said she would provide the Cultural Resource Manager list drafted by the HRC to Mr. Bagnall, and suggested he coordinate with her on this issue. Commissioners also suggested Vincent Leonard as a resource. Ms. Gertie Klem confirmed she had records of 88 unmarked graves on the church property. The Commission asked Mr. Cruvello and Mr. Bagnall to consult with attendees and others who have historic records on the location and existence of burial sites on the site.

D. Preservation of Hayward City Hall

Not discussed.

VIII. COMMISSIONER PRESENTATIONS

IX. WRITTEN COMMUNICATIONS

- A. Letter from Friends of Historic City Hall to former HRC Chairman Michael Bethke, 6/7/98, re: Preservation of Hayward City Hall

Not discussed.

- B. Letter from Diane Larson to Cherry McCormick re: Background on Mt. Charlie

Not discussed.

- C. Letter from State Office of Historic Preservation to CLG members, 6/1/98, re: State Office Reorganization

Not discussed.

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D. Letters with attachments from USDOJ, National Park Service, Heritage Preservation Services, regarding National Preservation Program

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Not discussed.

XI. ADJOURNMENT

The meeting was adjourned at 5:39 p.m.

The next normally scheduled meeting: Thursday, August 20, 1998, from 3:30-5:00 p.m., 4th Floor, Rm 413 Planning Conference Room, County Building, 701 Ocean Street, Santa Cruz, CA.

julmin98/cdm

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 SANTA CRUZ COUNTY



 HISTORIC RESOURCES COMMISSION

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GOVERNMENTAL CENTER

701 OCEAN STREET, ROOM 400, SANTA CRUZ, CALIFORNIA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

HISTORIC RESOURCES COMMISSION

MINUTES

August 20, 1998	Room 413 Planning Conference Rm
3:30 P. M	County Building, 4th Floor
Regular Meeting	701 Ocean Street
	Santa Cruz, Ca 95060

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 3:40 p.m. by Acting Chairman Low. Commissioners present selected Commissioner Swift as acting Vice Chairman.

Commissioners Present: Carolyn Swift, Barbara Kennedy, Jaqui Low and Pat Manning

Commissioners Absent: Terri Fisher (unexcused)

Staff: Cherry McCormick, HRC Staff
Mark Deming, Planning Department

Members of the Public Present: Patricia Matejcek, Edna Kimbro and Jane Borg

II. AGENDA APPROVAL OR MODIFICATION

The Agenda was approved as submitted. Cherry McCormick passed out and briefly discussed additional materials, some of which related to agenda items. They included:

- o August 4, 1998 letter from Cheryl Widell, SHPO, on 1998 CLG Awards
- o Article on Monterey Historic Preservation Conference, July 25, 1998
- o Historic Inventory Listing Form for Castro Adobe (Agenda Item VI.B)
- o Brochure announcing CPF Workshop on Ca. Register of Historical Resources, 9/25/98, Palo Alto
- o Brochure announcing event commemorating rebirth of Gamble House, Pasadena, CA, 9/14/98

III. APPROVAL OF MINUTES

The minutes were unanimously approved as submitted, with a vote of 4-0, Commissioner Swift moving approval and Commissioner Kennedy seconding the motion.

IV. PUBLIC COMMUNICATIONS

Jane Borg, from the Pajaro Valley Historical Society, indicated she was attending the meeting chiefly because of item IV.B on the Agenda, but had to leave before consideration of the item. She stressed the importance of the Castro Adobe to South County and County-wide history.

Patricia Matejcek advised the HRC that a proposed change to the Inventory listing form for old Holy Cross Cemetery will be soon forthcoming to the Commission. Cherry McCormick provided Ms. Matejcek with a copy of the current County Cultural Resource Manager List.

V. OLD BUSINESS**A. Questers**

This item was deferred until the September meeting, at the request of Questers.

B. Proposed Revisions to Residential NonConforming Use and General Nonconforming Use Provisions

Mark Deming of the Planning Department briefly described the proposed revisions dealing with residential and general nonconforming use provisions. He indicated that the proposed changes before the HRC did not address historic uses, and that changes dealing with historic uses would be forwarded to the HRC during the next phase of work:

Following Mark Deming's presentation, Commissioner Swift moved and Commissioner Kennedy seconded the motion:

- 1) to inform the Board of Supervisors that the HRC had received the proposed Phase I changes,
- 2) that the HRC appreciated being kept informed, and
- 3) that the HRC looked forward to receiving and being involved in the Phase II revisions.

The motion was passed with a vote of 4-0.

C. Election of Officers

This item was deferred to a subsequent meeting, due to time constraints.

D. 33 Clubhouse Drive, Pasatiempo, Subcommittee Status Report

This item was deferred to a subsequent meeting, due to time constraints.

VI. NEW BUSINESS

A. Appointment of and welcome to new HRC Commissioner

Commissioners welcomed Pat Manning as a new Commissioner from the Second Supervisorial District. .

B. Preservation/Restoration of the Castro Adobe

Edna Kimbro, property owner of the Castro Adobe, addressed the HRC. She shared color photos of the Adobe, reflecting its existing condition and the damage cause by the Loma Prieta earthquake. She summarized some of the issues concerning her preservation attempts in recent years, and asked the Commission's help in seeking financial incentives to restore the Adobe.

Ms. Kimbro referenced an existing General Plan program concerning provision of incentives to help property owners preserve historically significant properties in the County. She requested that this program be implemented. In so doing, the Castro Adobe would benefit. She recommended that program implementation be included in the Planning Department's current Work Program, and be commenced on a limited basis, to address National Register (NR1) designated properties that have sustained considerable earthquake damage.

Commissioner Swift moved, and Commissioner Manning seconded the motion, to:

- 1) notify the Board of Supervisors that the HRC requests implementation of the existing General Plan program, that calls for provision of incentives to property owners to help preserve designated historic properties, and
- 2) that implementation of said General Plan program occur on a limited basis, to apply only to NR1 designated properties demonstrably affected by the Loma Prieta earthquake, and
- 3) that program implementation be made part of the Planning Department's current year (FY 98-99) Work Program

. The motion passed unanimously, with a vote of 4-0.

Commissioner Swift moved, and Commissioner Kennedy seconded the motion, to request funds from the Santa Cruz County Community Foundation for an adaptive reuse feasibility study for the Castro Adobe. The motion passed unanimously, with a vote of 4-0.

An HRC Subcommittee to address Castro Adobe preservation efforts was established, consisting of Commissioners Manning and Swift.

Commissioner Kennedy requested that copies of County Code Section 16.42, Historic Preservation, be made available to Commissioners at the next meeting. Cherry McCormick said this would be done.

C. Markers/Plaques Designating Local Historic Resources

This item was not addressed, due to time constraints.

D. State Historic Building Code

This item was not addressed, due to time constraints.

E. Update of Cultural Resource Manager List

This item was not addressed, due to time constraints.

F. Reroof of an Historic Resource, Ashcraft Residence, Corralitos

This item was not addressed, due to time constraints.

G. Notice of National Preservation Conference, 10/20-25, 1998, Savannah, Ga.

This item was not addressed, due to time constraints.

VII. COMMISSIONER PRESENTATIONS

Commissioner Swift requested that the Benjamin Parrish House, in Soquel, be placed on the HRC's September Agenda.

VIII WRITTEN COMMUNICATIONS

- 1) Memo from Alvin James, Planning Director to Board of Supervisors cancelling Public Hearing on proposed changes to Nonconforming Use Regulations
- 2) Letter from Supervisor Symons to Board of Supervisors recommending appointment of Patricia Manning to HRC
- 3) Excerpt, 8/11/98 Board of Supervisors Agenda
- 4) Cultural Resource Manager List, adopted by HRC
- 5) Letter from Edna Kimbro to HRC, dated 7/22/98, regarding restoration of the Castro Adobe
- 6) Letter to Edna Kimbro from Cherry McCormick, dated 8/3/98, regarding restoration of the Castro Adobe
- 7) Letter from Jan Beautz to Diane Cooley, dated 8/4/98, regarding restoration of the Castro Adobe
- 8) Letter from Jan Beautz to Edna Kimbro, dated 8/4/98, re-

garding restoration of the Castro Adobe 9) Letter from Jan Beutz to Nikki Silva, dated 8/11/98, regarding restoration of the Castro Adobe

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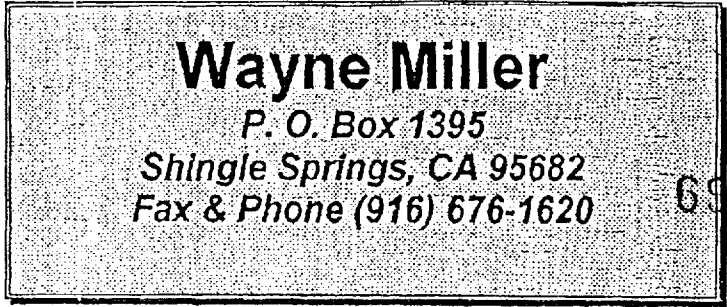
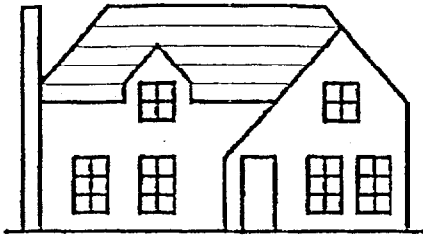
- 9) Letter from Jan Beutz to Frank Perry, dated 8/11/98, regarding restoration of the Castro Adobe
- 10) Letter from Edna Kimbro to HRC, dated 8/8/98, regarding restoration of the Castro Adobe
- 11) Memo from Michael Bethke to Cherry McCormick, with Attachments, regarding adopted changes to the State Historic Building Code
- 12) State Historic Consultant List, dated 2/23/98
- 13) Letter from Cherry McCormick to Mr. Richard Cochran regarding a reroof of an historic resource
- 14) Conference Brochure, National Preservation Conference, (excerpt)

IX. A D J O U R N M E N T

The meeting was adjourned at 5:00 p.m

The next normally scheduled meeting will be September 17, 1998, from 3:30-5:00 p.m., 4th Floor, Rm 413, Planning Conference Room, County Building, 701 Ocean Street, Santa Cruz, CA.

hrcaugmi/cdm



Wayne Miller

P. O. Box 1395
Shingle Springs, CA 95682
Fax & Phone (916) 676-1620

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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

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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"*

ATTACHMENT 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 fast 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** Con of all provisions **amending the Non-Conforming Use Ordinance**.

Please be advised that while **servicing** 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 king 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.

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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)** current **CSAC** appointment to **serve** on **the** State Historic **Building Safety** Board should be rescind+ 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.

65 I find the inclusion of "comfort and convenience" [referred to "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.

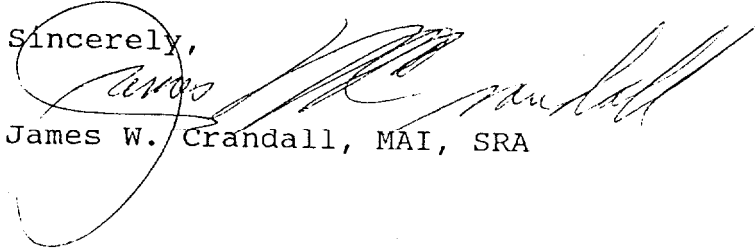
year period for applying for a permit (as opposed to ~~obtaining~~ a permit) is more reasonable due to many complications that may arise after an involuntary

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

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ATTACHMENT

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

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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.

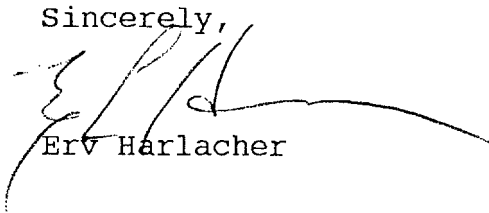
We were told five years ago that when the zoning was changed from residential to multiple residential we would have no further problems. Such is not the case because our two lots are not of sufficient size to meet the requirements of the new zoning.

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
Incorporated

☐☐☐ Doyle Street . ☐☐☐☐☐ E
Santa Cruz, CA 95082
(831) 425-5999
FAX (831) 425-1565

Masters of Architecture
Univ. of CA, Berkeley

October 30, 1998

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


IRE: **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

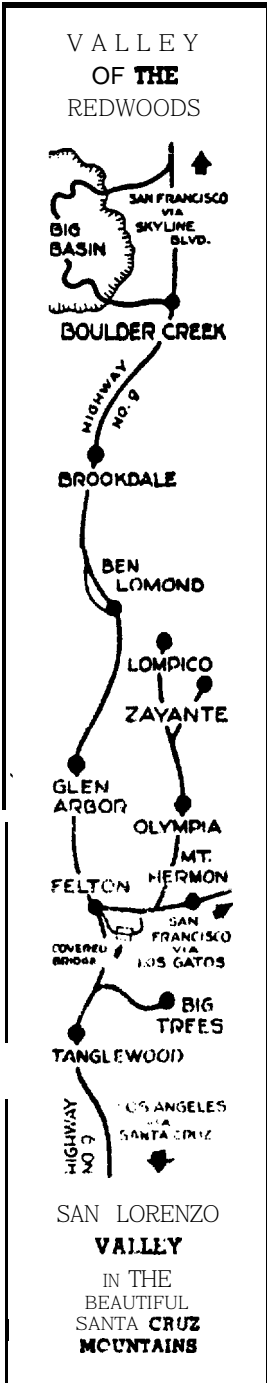
The San Lorenzo Valley Property Owner's Association, Inc. has the following objections to the SC County zoning and use codes and their current applications.

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 314 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



ROSE MARIE McNAIR • BROKER

704

MEMORANDUM

DATE: November 9, 1998

TO: *PLEASE DISTRIBUTE TO:*
Board of Supervisors
Jan Beautz, Walt Symons, Mardi Wormhoudt,
Ray Belgard, Jeff Almquist

FROM: Rose Marie McNair, Realtor

RE: Revisions of County Nonconforming Ordinance beginning with
Chapter 13.10.260

This memorandum shall indicate my support of the proposed draft ordinance written by Planner, Glenda Hill, including, but not limited to the following reasons:

- 1) Provides definitions of legal/non conforming
- 2) Provides an understanding of units that are "Significantly" nonconforming as opposed to simply nonconforming units
- 3) Provides "direction" as to what alterations, additions, replacement, expansion, intensification of use can be done
- 4) Explains the importance of the General Plan over zoning
- 5) Provides response to needed housing by allowing repair, etc.
- 6) Incorporates State law for catastrophic reconstruction

Please give positive consideration to this proposed ordinance change.

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