COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT
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ALVIN JAMES, DIRECTOR

March 1,2002

AGENDA: March 12,2002

Board of Supervisors
701 Ocean Street
Santa Cruz, CA 95060

CODE COMPLIANCE PROGRAM

Members of the Board:

On October 23,2001, your Board considered a report from our Department in which we presented various policy and procedural recommendations for your Board's consideration, which, we believed, would further improve the effectiveness of our enforcement effort. After considerable discussion, your Board took two actions. First, your Board requested that we enumerate the specific policy changes that staff were recommending and directed us to return to your Board on November 6, 2001 for final consideration.[1] Secondly, your Board directed that we report back at the first meeting in February on several additional policy issues. This report was deferred to today's agenda. Your Board also directed us to include further information in our February report on alternative support arrangements for the administrative hearing process. This report will address the additional directives from October 23rd, provide your Board with an update on the support arrangements for the administrative hearing process, and provide a status report on our ongoing efforts to improve the effectiveness of our Code Compliance Program, including a recommendation to amend the current Hearing Officer contract.

Discussion of Additional Policy Issues Requested by Your Board:

As noted, your Board directed us to report back on the following seven topics:

1. More detail about the process the Planning Department will use for archiving and resolving old cases;

2. Whether and to what extent the Board would like to set priorities in the enforcement of code issues beyond those mandated by state statute;

3. The process the County uses on the intake of complaints and whether it is worthwhile to evaluate a conflict resolution process that would be required before the County initiated prosecution of violations;

[1] On November 6,2001, your Board considered our report back in which we presented the five specific policy recommendations summarized from the previous report. These policy initiatives are presented and discussed in a later section of this report.

4. Setting time limits for the period within which the department is going to make a determination that a violation has or has not occurred after it receives a complaint;

5. Whether it would be appropriate to set limits on the period of time the department has to resolve cases once a violation is found to exist;

6. The limits, if any, that might be set on the power of investigators to red tag items beyond those that are the subject of the immediate complaint; and

7. Update on cases that have gone to court that could have been resolved out of Court.

A copy of the minute order from your October 23 meeting is attached. We will discuss each of these issues individually in the next section of our report.

1. More detail about the urocess the Planning; Department will use for archiving and resolving old cases.

Last June, as your Board may recall, the Planning Department reviewed all of the pending code compliance cases and separated these cases into two groups- current active cases, and inactive cases. Presently, the Code Compliance staff concentrates on the active caseload.

Staff has been attempting to slowly reduce the backlog of old cases since June, 2001. Some progress has been made in reducing the inactive cases inventory. However, that progress has been achieved, at least in part, at the expense of the active caseload inventory. In fact, the active cases inventory has increased slightly over that seven-month period.

In staffs judgment, the continuing existence of a large backlog of inactive cases is detrimental to the overall effectiveness of our enforcement effort. Time and attention gets diverted away from the higher priority current cases as we deal incrementally with older complaints and violations. Furthermore, older cases often require more staff time to resolve than the current cases because, in many instances, staff has to virtually start over (i.e. a new site visit due to the passage of time; new noticing, new compliance officer getting acquainted with the case, etc). Property owners and/or their attorneys who challenge our renewed enforcement efforts after a sometimes-long period of inaction often compound the time commitment. Therefore, it is appropriate to establish some specific policies and/or programs for dealing with the older enforcement cases.

Over the past two years, we have been engaged in a process of reviewing and classifying our enforcement caseload. We initially sorted these cases into active and inactive status. In addition, we developed criteria for ranking these cases according to their relative magnitude. The magnitudes were defined as follows:

Magnitude 1 cases present an imminent threat to public safety
Magnitude 2 cases create irreparable off-site impacts
Magnitude 3 cases create off-site impacts
Magnitude 4 cases present material violations of County policy (environmental or development regulations)
Magnitude 5 cases present a non-material violation which meet none of the above criteria.

A magnitude ranking was then assigned to each case in the inactive cases inventory. Staff cross-referenced the magnitude ranking with the amount of time a complaint has been inactive in the planning department's files. Magnitude 1 and 2 cases were converted from inactive to active status regardless of the length of time that they have been dormant because of their potential for serious consequences in terms of health and safety or significant physical damage. They are included in the 550 higher priority active cases described earlier. Magnitude **3** through *5* cases are still being evaluated to determine which are relatively minor in nature and have been inactive for a long period of time. These are the cases that provide the best opportunity to achieve significant progress in reducing the inactive case backlog.

For the remainder of this calendar year, we will continue to concentrate our attention on the inactive caseload in addition to the ongoing efforts to improve our overall effectiveness. **As** we complete our analysis, we will establish clear strategies for either dealing with the violation, or closing the investigation. While the details for handling these older cases will become clearer **as** we complete our review, we have identified certain criteria that we intend to apply to these older cases in determining the appropriate disposition for each of them:

- If any health and safety violations are uncovered that were previously overlooked, these will be moved into the active caseload.
- No further action will be taken at this time on properties where a notice of violation has been posted and recorded. These cases will become active again if a permit application is filed on the property where the violation exists.
- Complaints over two years old that that have not been posted and recorded, and which involve violations that are transient in nature, and other minor violations, will be closed unless there is evidence in the file of a continuing violation. These are violations such as over height rear or side yard fences, or violations that do not involve permanent construction that might already be corrected, such **as** improperly stored trailers, animal violations, or minor riparian violations.
- Unverified complaints over two years old will be closed.
- Complaints involving interior or exterior residential remodeling projects that do not involve expansions of the structure will be closed, unless the complaint involves a violation of a permit condition, or an intrusion into a scenic corridor or public view shed. Examples of these types of violations are skylights, re-roofs, kitchen remodels, and so forth. Taking enforcement action long after a project is completed does not seem appropriate since these types of projects do not typically create off-site impacts. The owner still has an obligation to disclose any work undertaken without a permit to a potential future buyer. If the exterior work does create an offsite public view shed impact, it will not be closed.
- **As** we review the inactive cases, we will identify and analyze those cases that involve attached or detached second units in conjunction with the development of our staff recommendations regarding a possible second unit amnesty program, which is scheduled for consideration by your Board on May 21st. Given the multiple housing policy issues which are pending before your Board, and the potential for incorporating legalized second units into our overall housing strategy, the enforcement strategy for these older second unit complaints should be considered within the context of a second unit amnesty program.

As we proceed with our comprehensive review of these older cases, we will identify other groups of violations that, we believe, should be handled in a similar fashion. The older the case, the more likely it is that the investigation will simply be closed without further administrative action. Closing the case means that no further staff time will be spent on the case, and enforcement efforts will cease. Our assumption is that if the condition is still creating an undesirable impact on an individual or a

neighborhood, then it is likely that we will receive a fresh complaint, at which time we will renew our efforts. Any closed complaint investigations will remain a permanent part of our public records.

Once again, any health and safety violations will not be closed, but instead will be moved into the active category. Other cases that do not meet the criteria for closure will remain inactive, but will be pursued if a new complaint is received, or if a permit application is filed on a property with a violation.

2. Whether and to what extent the Board would like to set priorities in the enforcement of code issues beyond those mandated by state statute.

For the most part, the Planning Department's Code Compliance Program is responsible for the enforcement of local building, zoning and environmental ordinances. These ordinances and regulations represent the adopted policies of your Board and staff has always considered them to reflect your priorities relative to code compliance. When cases are referred for legal action, County Counsel and/or the District Attorney may also pursue related violations of state statutes, such as Fish and Game Code, Regional Water Quality Control Board regulations or other state land use regulations as appropriate. Your Board has the authority and certainly may wish to establish priorities within and among the existing array of existing enforcement regulations.

In 1993, the Planning Department brought a priority system to your Board for responding to complaints regarding violations of our local land use regulations. Under this system, which your Board approved, there are three basic categories of violations (A, B, or C). Our experience with these three categories is that they have been defined too broadly to serve effectively in prioritizing according to the nature of violations we have had to process. Therefore, the three basic categories have served as the framework for the magnitude rating scheme mentioned earlier and described in greater detail below in the *summary* of our code enforcement priorities and response goals.

PRIORITY	MAGNITUDE	RESPONSE GOALS / SANCTIONS
A	**1** – Case presents an imminent threat to public health / safety **2** – Case creates irreparable off-site impacts[2]	Respond to complaints of violations within 1 working day of receipt and pursue enforcement to whatever extent necessary to achieve compliance, including immediate legal action if necessary.
B	**3** – Case creates off-site impacts **4** – Case presents material violation of County land use regulations	Respond to complaints within 15 days of Receipt and pursue enforcement through Administrative hearing and / or court
C	**5** – Case presents a non-material-violation which meets none of above criteria	Respond to complaints within **30** days of Receipt and pursue enforcement through Recordation of the Notice of Violation

Typically violations that represent an immediate threat to health and/or safety are very few in number, (unfenced swimming pools being the most common). An example of a serious case involving off-site impacts would be grading in a riparian corridor. These receive the highest level of attention.

[2] If **the site inspection reveals that the violation does not result in irreparable impacts, the complaint magnitude is lowered** from **2 to 3.**

Next in order of priority are ordinary violations that do not involve immediate threats to health and safety, but may create adverse impact to adjoining residents or the community. Examples are conversion of an accessory structure to a habitable unit, grading a road, moving more than 100 cubic yards of soil without a permit, or operation of a commercial enterprise without a development permit. This type of violation constitutes approximately 75% of all complaints received. These violations are pursued through the administrative hearing process, and the more serious violations are referred to County Counsel for legal action.

The lowest priority Complaints include most over height fences, interior remodels, minor erosion violations, and certain animal complaints. The key criterion for distinguishing between regular and minor complaints is whether the offsite impacts are relatively minor in nature or, conversely whether they affect multiple property owners or the community at large.

As your Board is aware, on November ***6,*** 2001 your Board approved the practice of not taking action beyond recordation of these minor non-material cases (Magnitude 5 violations) **.** Recordation provides constructive notice to prospective purchasers of the property, and provides documentation of the violation if the complaining party wishes to take private legal action. [3]

In addition, recordation of the violation is noted in the Planning files in the event that a property owner files a permit application with the Department. Currently, the County Code requires a property owner to resolve a violation if the owner is seeking a permit from the County. County Code Chapter 12.01.070 (c) presently states: **"** ***No*** *building permit shall be issued for a project on a property which contains a code violation until such violation is corrected, or unless the building permit is for a project which includes correction* ***of*** *such violation. The Planning Director may waive this requirement* ***if*** *this waiver will serve to correct an existing violation or address some imminent health and safety violation."* This language prohibits issuance of any permit other than under the narrow exception stated

It should be noted that a different standard is set forth in Chapter 1.12.060 of the County Code which states: *" Applications for permits pursuant to provisions* ***of*** *the Santa Cruz County Code may (emphasis added) be denied or conditionally approved* ***if*** *any related violation* ***of*** *the code or state law is found to exist on the same property."* This section of the County Code grants discretion to withhold or issue permits on properties where violations are present. But it differs from Chapter 12.01.070, which governs with respect to the issuance of <u>building</u> permits. Staff will continue to require resolution of a violation in conjunction with the issuance of a building permit. To do otherwise would require an amendment to Chapter 12.01.070(c).

3. <u>The process the County uses on the intake of complaints and whether it is worthwhile to evaluate a conflict resolution process that would be required before the County initiates prosecution of violations.</u>

Citizens of this County can file a complaint regarding a land use violation in writing, by telephone, or via the Internet. Staff requires certain information about the alleged violation, and also requires the

[3] **There is also a category of viglations that are** so **trivial** so **as not to warrant any response from the** County. **Examples** of **these types of complaints are a rear yard fence that is a few inches over height, or a small bay or garden window that encroaches into a setback area, or similar complaints. We have not typically opened a code compliance investigation for extremely minor violations, such as these.**

complainant to provide us with their name, address, and telephone number. We do not accept anonymous complaints, and, we currently do not disclose the identity of the complainant unless ordered to do so by a Court. Upon receipt of the complaint, we prepare a file, and send a letter to the owner of the property where the alleged violation exists informing them of our intent to investigate the complaint. We assign an investigator and initiate the enforcement process. **A** similar letter is sent to the complainant.

Your Board's direction to consider a conflict resolution process prior to initiation of enforcement proceedings raises several interesting issues. At the present time, we do not require a complainant to disclose their identity to the other party; nor do we require that they make a good faith effort to resolve the violation, either on their own or through a conflict resolution process such as mediation, before seeking our involvement. Sometimes individuals attempt to resolve the issue before contacting us, but it is not required.

We feel it is time to reconsider our policy of treating the complainant's identity as confidential. In general, we propose to treat the complainant's name as a public record and disclose it to any party if asked. There may, of course, be situations where it may be inappropriate to do so. However, this change in policy may discourage frivolous complaints and serve to extricate the County from what may simply be a dispute between private parties where the complaint is intended to harass rather than rectify a problem.

This shift in policy would create a favorable climate to introduce mediation or conflict resolution, especially in situations where the violation involves a dispute between only two parties. Requiring mediation to resolve a violation that impacts multiple properties or an entire neighborhood does not seem appropriate. However, in our judgment, there is merit to requiring an aggrieved individual to attempt to resolve a dispute with his or her neighbor, prior to involvement of the County, particularly for minor violations. In December we met with Consumer Affairs Specialist representatives of the District Attorney's Office to explore how their mediation process works, and whether it might be an appropriate forum to address some of the more minor land use complaints. It appears that certain minor land use complaints, such as the magnitude 5 category, might be appropriate cases for mediation.

With your Board's concurrence, we would require a complainant to attempt to resolve a low priority/magnitude ***5*** level complaint through mediation before we will accept the complaint. While we cannot require the alleged offending party to participate in mediation, we can encourage participation in mediation by advising of the fines and penalties that could result if a voluntary resolution is not reached and if the County must pursue an investigation. If mediation is declined or unsuccessful, then the County would initiate an investigation.

We are recommending that this policy be implemented on a six-month trial basis once we have developed the administrative details for a mediation program. We would also contact other conflict resolution programs to evaluate their applicability to Santa Cruz County and to ascertain how their services might be incorporated into our program.

4. Setting time limits for the period within which the department is going to make a determination that a violation has or has not occurred after it receives a complaint.

5. Whether it would be appropriate to set limits on the period of time the department has to resolve cases once a violation is found to exist;

Both of these items involve the issue of setting time limits for action by the County to either verify the existence of a violation, or to resolve violations once they are found to exist. Accordingly, we have discussed these issues together in this section.

Your Board could establish time limits for the initiation of enforcement action either by ordinance or Board policy.

Strictly speaking, these violations renew each and every day they continue to exist. The real question, then, is under what circumstances should a violation cease to be recognized as such, whether or not it is resolved. Much of the earlier discussion in this report speaks to the question within the context of very old unresolved cases and the need to stop pursuing resolution of them in order to ensure that more serious cases receive priority attention from the departments' limited code compliance resources. Here the question is framed in a way that does not distinguish between what might be categorized as more serious or less serious cases. However, we would not recommend that your Board formally restrict the County's ability to enforce its regulations. Such a limitation would undermine our ability to address serious violations and could prove more harmful in the long run.

Response time is typically a function of workload and administrative systems, etc.-- the more violations, the more time required to investigate and process, the slower average response time. Continued emphasis on methods to improve efficiencies and effectiveness, policy consensus regarding prioritization of cases, alternative ways of managing minor cases so that they don't compete for the limited enforcement staffing resources, are all ways of improving response time. We are optimistic that the implementation of the policies approved by your Board last October, the ongoing refinement of our administrative procedures, and the approval of the new policies set forth in this report can result in a more efficient and responsive Code Compliance program.

There is an area, however, that we do believe warrants consideration of a time limit for enforcement. Technically, any construction undertaken after 1956 without the benefit of a building permit is a violation of the County Code. However, initiating enforcement action on a structure that has been in place for many, many years is always problematic, difficult to justify, and very complicated to permit and inspect. We believe that your Board should evaluate whether there continues to be a public policy benefit to continue the application of such strict enforcement thresholds, particularly where it is clear that a health or safety issue does not exist. Specifically, we are suggesting a non-enforcement policy for any structure that has existed prior to 1980. Most of our current General Plan, growth management regulations, local coastal policies, environmental protection ordinances, energy codes, and many of the more stringent building code requirements were all enacted around 1980 or later. Unless the structure creates a health or safety hazard, or a serious violation, the County would not pursue a complaint regarding a structure built before 1980.

There are similar issues with respect to the enforcement of our zoning regulations, which date back to 1958. The same 1980 "cut-off' date should be applied to structures that also represent violations of site regulations, such as a storage structure in a rear yard setback. Once again, if the older structure poses a health or safety hazard, or other serious issues or present, we would investigate the complaint.

Older use violations, (in contrast to structures), can be problematic to enforce, but the issues associated with use violations are much more complex than those associated with older structures. An example of a use violation is a longstanding business operating without the required development permit. We believe

use violation is a longstanding business operating without the required development permit. We believe that there should be a "cut off" date for older use violations as well. However, there should be some additional criteria developed for non-enforcement of older use violations, which we would propose to develop in the next six months and bring to your Board in conjunction with our report back on the model building codes discussed earlier in this report.

6. The limits. if any, that might be set on the power of investigators to red tag items beyond those that are the subject of the immediate complaint.

Your Board could enact an ordinance that limits the authority of our code compliance staff to only pursue violations that are the basis of a citizen's complaint. However, we do not recommend such an approach. Oftentimes, complainants do not understand the nuances of the zoning ordinance, building code, and/or environmental protection regulations. Complaints can be very general in nature, and the Code Compliance staff, in determining whether a violation of the County Code in fact exists, may come across others that will likely require that they make a future visit to the property and initiate duplicative enforcement actions. For example, someone might complain that a neighbor is grading a new road. In the course of that inspection, it becomes obvious that the illegal grading includes clearing in a riparian area that leads to a landing where a trailer is occupied. The complaint was only about grading, but through inspection several related violations are confirmed. It would not be appropriate, in our judgment, to limit our enforcement response to only the grading violation. It is also extremely important to not restrict the authority of an inspector to address serious health, safety, and/or environmental violations that are not the subject of a complaint, but that are discovered during a site inspection. Upon inspection of a complaint regarding a room addition, for example, an investigator may find an in-ground pool that does not have the required safety fencing. Or, an investigator may find a dangerous electrical condition, fire hazard, or illegal septic discharge. These violations need to be aggressively pursued, regardless of the subject of the initial complaint, in order to protect the public health and safety.

While we do not support an ordinance that limits the authority of investigators when they are responding to complaints, it is appropriate to articulate a written policy that clearly states what we will be investigating when we are on site in response to a reported violation of the County Code. Such a policy will limit the scope of an investigation; ensure a consistent countywide response; and will result in a more efficient use of the time that they devote to the inspection function. The following is a policy that we propose to implement immediately with your Board's concurrence: *It is the policy of the Santa Cruz County Code Compliance Section to* focus *our initial site inspection on the subject of a citizen's complaint. To this end, the code compliance investigator will only inspect those areas of the property/structure that are necessary to determine whether the activity, which was the basis of the complaint, constitutes a violation of the County Code. In the course of this focused investigation, if an investigator identifies related violations, or non-related violations of the County Code that constitute an apparent threat to health, safety, or a serious violation, these will also be included in the enforcement effort.*

7. Update on cases that have gone to court that could have been resolved out of Court.

Theoretically, most cases can be resolved out of Court, if the property owner is responsive to the County's requests, or if the property owner can refute the contention that a violation does exist. Typically, we initiate court action due to the failure of an owner to correct a violation in a timely and responsive manner.

As your Board may recall, an analysis by County Counsel of 31 recent court cases indicated that the Courts have consistently confirmed the posted violation in all but one instance. That same analysis revealed that many of the appeals filed in Superior Court of the decisions of the Hearing Officer were focused on the issue of civil penalties. To address this problem, we recommended, and your Board concurred, with a change in our practice to seek civil penalties (to suspend them in routine cases, if compliance is obtained within a specified period of time). To this end, the terms and conditions set forth in recent stipulations offer complete waiver of civil penalties, except in egregious cases, if compliance is accomplished by the dates indicated. We expect that this change in policy will increase the number of cases that are resolved out of court.

Update on the Support Arrangements for the Administrative Hearing; Process

Planning staff met with County Counsel and the Hearing Officer in December and again in January to discuss the procedural details associated with shifting the administrative responsibility for the Hearing Officer process from County Counsel to Planning.

This transfer has been completed, ahead of our original target date of April 2002. Planning support staff, with assistance from County Counsel clerical staff, completed the notification and scheduling for the administrative hearings that were held in early February. This transfer will make it simpler for property owners to deal directly with the investigator handling their case. It will also afford a greater opportunity for Planning staff and County Counsel to work together to develop compliance plans, including schedules, that will facilitate County Counsel's efforts to obtain clearer guidance from the Court when favorable decisions are obtained. Another follow-up meeting is scheduled with County Counsel and the Hearing Officer for the end of March. Our budget proposal for FY 02-03 will include the necessary support costs for the Hearing Officer process. We will keep your Board apprised if there are any new policy issues that arise in connection with this transition.

Status Report On Our Ongoing Efforts To Improve The Effectiveness Of Our Code Compliance Program.

Your Board approved certain code compliance policy changes last November. These policy changes are enumerated below in italics, followed by the specific actions that we have taken to implement your Board's directives.

1. *Establish the Notice of Violation posting date as the date that starts the enforcement clock for the purposes of monitoring the 120-day legal referral goal for cases requiring further legal action.* This standard will be used to assess our success in meeting the 120-day legal referral goal for further legal action, either to the Hearing Officer or to County Counsel's Office. For cases that do not warrant legal action (minor cases where our enforcement response ends with recordation), we will use the recordation date for reporting purposes. For cases referred to the Hearing Officer, we will use the date of the Notice of Administrative Hearing. For cases referred to County Counsel, we will use the date of the referral memo.

   We are working with our Information Services Staff to develop the computer reports to monitor our performance so that we can include this data in future quarterly reports to your Board. This standard will be applied to new complaints received after January 1,2002. Inclusion of the older cases would likely skew the results and would not provide an accurate measure of our current performance.

2. *Approve the practice of not referring minor cases for administrative hearing or further legal action where there is no adverse environmental or health and safety impact, once the Notice of Violation has been recorded.*

   We have implemented this policy. Complaints are assigned a priority code early in the enforcement process, and the low priority violations will be closed once the violation is recorded on the property title.

3. *Approve, in concept, the practice of using administrative compliance agreements that would serve as the basis for referring cases for administrative hearing or further legal action. Where an owner is acting in good faith to resolve a violation, and where the violation appears to be correctable through the permit process, staff would negotiate a compliance schedule to be utilized with such agreement(s) as a basis for delaying referral for administrative hearing or further action.* This policy has been implemented as of early January by providing to the property owner the option of entering into an agreement, properly titled a Stipulation and Order, in which the previously posted violation is described, a date is indicated by which the violation is to be corrected, (usually **6-12** months), enforcement costs are calculated, and an appropriate civil penalty is included. The stipulation indicates that if the violation is corrected by the date indicated, the civil penalty will be waived. While the penalties are waived if the terms of the stipulation are met, our enforcement costs are still collected.

   The property owner is offered the choice **of** agreeing to the terms and conditions and signing the stipulation, or the matter will be referred to the Hearing Officer for a full hearing. In this way, the County can be assured that owners acting in good faith will, in fact, complete the permit process (and/or demolition or cessation of use) and will correct the violation. In doing so, the property owner will avoid payment of civil penalties. We will bring these stipulations to the Hearing Officer for ratification to ensure that all parties understand the terms, and to add the Hearing Officer as a signatory to the agreement. These are handled differently than contested cases. In fact, the property owner may choose not to appear if they have already signed the Stipulation and Order and is not contesting any of its provisions.

   The Administrative Hearing Calendar for February 6, 2002 contained 12 referrals that included signed stipulations. We will continue to emphasize these Stipulation and Orders in our future communications with property owners.

4. *De-emphasize the pursuit of significant civil penalties in routine enforcement cases, and instead seek the imposition but suspension of penalties as a tool to obtain timely compliance.*

   As indicated above, civil penalties which have averaged $2500-3500, are waived if the property owner meets the terms and conditions of the stipulation, except in egregious cases in which a penalty is still appropriate.

   As your Board may recall, research undertaken by County Counsel indicated that many appeals were being filed in court contesting the civil penalty imposed by the Hearing Officer. Our expectation is that such appeals will drop significantly as a result of our new approach. We will monitor appeal activity in conjunction with County Counsel over the next year to assess the effectiveness of this change.

5. *Direct Planning and County Counsel to develop more specific compliance plans with action milestones as part of the orders presented to and requested of the Administrative Hearing Officer and /or the courts.*

As County Counsel previously indicated in the report regarding the number of code compliance cases that had gone to litigation, the court has typically focused on the amount of penalty to be imposed and has provided little guidance in the area of compliance. The effort here is to develop a detailed itemization of the specific steps and timeline required to achieve compliance. The steps and timeline, to be reviewed and signed by the Administrative Hearing Officer, are to be incorporated into the Stipulation and Order to clarify the requirements for all parties. If litigation is necessary, the steps and timeline can be incorporated in the County's request for a determination and can serve to assist the Court in articulating the steps required to fulfill its order.

In addition to working with County Counsel, several additional actions have been taken by staff to implement this policy. First, a Building Technician position has been transferred from the Building Inspection Section to the Code Compliance Section. The incumbent in this position has 18 years experience as a private contractor and is well versed in the permit process. The assignment of this position is to meet with owners of posted properties to explain the building permit application system and to take in applications to correct violations. This service is also available at the Felton and Aptos Permit Centers. Second, the current stipulation format differentiates between violations that require the issuance of both a discretionary and a building permit, from those violations that require only a building permit. Current stipulations require correction of the violation within one year if both types of permits are required, and 6 months if only a building permit is required.

It is our intention to further refine the time allowed for correction of violations of environmental protection ordinances where mitigation is required as a part of the resolution of the violation and include this in future stipulations. We will also be developing alternate stipulations for violations that should take less than six months to correct.

Discussion/Conclusion

This letter discusses a variety of measures that respond to your Board's directives concerning the code compliance program. It is therefore RECOMMENDED that your Board:

1. Accept and file this report;

2. Approve the policy change to treat complainant's names as public records subject to disclosure to any party if asked, except if the complaint involves a serious health, safety, or environmental violation. Approve a pilot program to require that a complainant first attempt to resolve a low priority/magnitude 5 level complaint through mediation before the County will initiate enforcement proceedings, with a follow-up report back to your Board on September 17,2002;

3. Approve the implementation of a non-enforcement policy for any structure that has existed prior to 1980, unless the structure presents a health or safety risk, serious environmental problem, or constitutes a use violation;

4. Direct Planning Staff to develop further recommendations regarding non-enforcement policies for older use violations, for consideration by your Board on September 17,2002; and

5. Approve the following policy regarding code compliance site inspections which are the result of a citizen complaint: *It is the policy of the Santa Cruz County Code Compliance Section to focus our initial site inspection on the subject of a citizen's Complaint. To this end, the code compliance investigator will only inspect those areas of the property/structure that are necessary to determine whether the activity, which was the basis of the complaint, constitutes a violation of the County Code. In the course of this focused investigation, if an investigator identifies related violations, or non-related violations of the County Code that constitute an apparent threat to health or safety, or a serious violation, these will also be included in the enforcement effort.*

RECOMMENDED:

ALVIN D. AMES
Planning Director

SUSAN A. MAURIELLO
County Administrative Officer

cc: County Counsel
District Attorney's Office

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Planning 13

COUNTY OF SANTA CRUZ

STATE OF CALIFORNIA

AT THE BOARD OF SUPERVISORS MEETING

On the Date of October **23, 2001**

REGULAR AGENDA Item No. **046.3**

(ACCEPTED **AND FILED** report on Code Compliance (Investigations; with additional directions **for staff** (to report back on November **6, 2001** delineating the (changes which the Planning Department and County (Counsel are to implement, as discussed throughout the (Planning Department report dated October **11, 2001** and (list changes; report back on the first meeting in (February **2002** on the following additional topics: **(1)** (more detail about the process the Planning Department (will use for archiving and resolving old cases; **(2)** (whether and to what extent the Board would like to set (priorities in the enforcement of code issues beyond (those mandated by state statute; **(3)** the process the (County uses on the intake **of** complaints and whether it (is worthwhile to evaluate a conflict resolution (process which would be required before the County (initiated prosecution of the violations; **(4)** setting (time limits for the period within which the department (is going to make a determination that a violation has (or has not occurred after it receives a complaint; ***(5)*** (the limits, if any, that might be set on the power of (inspectors to red tag items beyond those that are the (subject of the immediate complaint; **(6)** whether it (would be appropriate to set limits on the period of (time the department has to resolve cases once a (violation is found to exist; **(7)** and an update **on** (cases that have gone to Court that could have been (resolved out of Court; and report back in October 2002 (with information on tools used for monitoring (mitigation on existing code compliance issues to (repair or bring something back to it's original (environmental condition and the effect **of** any changes (the Board has made in the civil penalty strategies (that are used in these types of cases...

Upon the motion **of** Supervisor Almquist, duly seconded by Supervisor Wormhoudt, the Board, by unanimous vote, accepted and filed report on Code Compliance Investigations; with additional directions for staff to report back on November **6,** 2001 delineating the changes which the Planning Department and County Counsel are to implement, as discussed throughout the Planning Department report dated October

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.

27

COUNTY **OF SANTA** CRUZ

STATE OF CALIFORNIA

AT THE BOARD OF SUPERVISORS MEETING

On the Date of October 23, 2001

REGULAR **AGENDA** Item No. **046.3**

11, 2001 and list changes; report back on the first meeting in February 2002 on the following additional topics: (1) more detail about the process the Planning Department will use for archiving and resolving old cases; (2) whether and to what extent the Board would like to set priorities in the enforcement **of** code issues beyond those mandated by state statute; **(3)** the process the County uses on the intake **of** complaints and whether it is worthwhile to evaluate a conflict resolution process which would be required before the County initiated prosecution of the violations; **(4)** setting time limits for the period within which the department is going to make a determination that a violation has or has not occurred after it receives a complaint; **(5)** the limits, if any, that might be set on the power' **of** inspectors to red tag items beyond those that are the subject of the immediate complaint; **(6)** whether it would be appropriate to set limits on the period **of** time the department has to resolve cases once a violation is found to exist; **(7)** and an update on cases that have gone to Court that could have been resolved out **of** Court; and report back in October 2002 with information on tools used **for** monitoring mitigation on existing code compliance issues to repair or bring something back to it's original environmental condition and the effect of any changes the Board has made in the civil penalty strategies that are used in these types **of** cases

cc:

County Counsel
CAO
Planning Department

State **of** California, County of ***Santa*** Cruz-ss.

*I, Susan **A.** Mauriello, €x-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.*

by Sharon Mitchell **,** Deputy Clerk, **ON** November **2,** 2001.