



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, SUITE 410, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
ALVIN JAMES, DIRECTOR

May 14, 2002

Agenda: May 21, 2002

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

RE: SECOND UNIT LIMITED AMNESTY PROGRAM

Members of the Board:

On November 6, 2001, your Board, as a part of the directions associated with the affordable housing action plan, directed the Planning Department to prepare a report regarding the development of a Second Unit Limited Amnesty Program, including a review of the costs and effectiveness of the previous "amnesty" program (see Minute Order, Attachment 1). The impetus of this direction was the idea that, by legalizing second units that are currently not permitted, then additional housing units could be added to the County's affordable housing inventory. In addition, on March 12, 2002, as a part of the Planning Department's report on Code Compliance activities, your Board requested a report on cases involving second units in conjunction with this report on a potential "amnesty" program (see Minute Order, Attachment 2).

Planning staff has completed its review of the previous "amnesty" program, has completed a preliminary analysis of Code Compliance data, and has developed information regarding the possible creation of a limited program directed at facilitating the legalization of second units (Attachment 3). To provide your Board with a specific program directed towards legalizing illegal second units, additional analysis of the data is needed to more precisely identify the numbers and types of illegal second units and appropriate strategies to encourage legalization of second units. To this end, staff recommends that your Board direct staff to complete the data analysis and to return in September with a report that provides more precise information regarding the number of illegal second units that are in the Code Compliance database and specific recommendations regarding an appropriate legalization program.

It is, therefore, **RECOMMENDED** that your Board:

1. Accept and file this report; and

- 2. Direct the Planning Department to return on September 17, 2002, with a report on illegal second units and recommendations regarding a program to legalize second units.

Sincerely,

Alvin James Hue
 Alvin D. James
 Planning Director

RECOMMENDED: *Susan A. Mauriello*
 Susan A. Mauriello, CAO

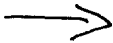
- Attachments:
- 1. Minute Order, Item no. 63, November 6, 2001 Board of Supervisors agenda
 - 2. Minute Order, Item no. 38.1, March 12, 2002 Board of Supervisors agenda
 - 3. Report on Second Unit Amnesty Issues

CC: Redevelopment Agency
 County Counsel

63. CONSIDERED report on Affordable Housing Action Plan;

(1) Accepted and filed report; (2) considered the Proposed Affordable Housing Action Plan and Implementation Schedule and took action on the following items: (a) continued to December 11, 2001 approval of a policy to require the Approving Body must make certain findings as part of approval of a residential development that is below the General Plan density range and that the proposed use is consistent with the General Plan and appropriate, given the need for housing in the community, with an additional direction to include information on the total amount of affordable housing in each district irrespective of city developments; (b/c) substituted the language contained in Supervisor Wormhoudt's letter, of October 27, 2001, item #7, for the language in 2b and c, of the County Administrative Officer's letter of November 1, 2001, as follows: "directed Planning staff to include in the work program for the upcoming General Plan Amendment process an analysis of the potential for designating additional affordable housing sites"; (d) directed staff to return on December 11, 2001 with proposed recommendations to increase the inclusionary affordability requirement from 15% to 20%; (e) directed the Chair of the Board to write to IAE'CO requesting LAFCO adopt a policy requiring a minimal level of affordability for annexed properties; (f)(i) directed the Redevelopment Agency to return on January 29, 2002 with a status report on the potential for increasing agricultural housing under the State Employee Housing Act program; (f)(ii) directed the Redevelopment Agency to return on April 9, 2002 with a status report on the Down Payment Assistance program; (f)(iii) directed the Redevelopment Agency Administrator to provide an annual budget allocation from capital projects to housing projects in an amount which would total a 25% housing set aside, based on existing formulas, and that this amount be included in future recommended Redevelopment Budgets, beginning in fiscal year 2002-03 to support the creation of low and moderate income housing opportunities countywide; (g) referred consideration of strategies to attract employers to our community that pay better wages to the Workforce Investment Board as part of their overall and on-going strategic efforts to address a variety of workforce development issues in the community; (h) directed the Planning Department to return on November 20, 2001 with a proposed ordinance amendment to permit second units on agriculturally zoned land and to initiate the public review process, with a final ordinance approval on or before April 9, 2002; and further directed staff to ensure that the ordinance does not restrict eligibility to relatives and farm workers, but does provide for the affordability restrictions; (i) directed RDA to develop a pilot program to provide subsidies to encourage the development of second units, in conjunction with the Board's consideration of the final ordinance on or before April 9, 2002 and additionally the Board directed and approved "in

concept", RDA development of a pilot program; (j) requested the PUD ordinance return on November 20, 2001 for Board consideration and action; (k) approved the following changes to the County's Affordable Housing programs and directed Planning staff to work with the CAO, RDA and County Counsel, and return on December 11, 2001 with specific changes and administrative recommendations: 1) eliminate In Lieu Fees, 2) eliminate "rounding" inclusionary unit obligation and calculate the number of affordable units to be exactly equal to the inclusionary percentage of the number of eligible market units, and 3) approved the creation of a Developer Financed Measure J Home Purchase fund as described in the letter of the CAO dated November 1, 2001, 4) expanded the inclusionary percentage requirement to projects with two units or more, 5) deleted the current provision which exempts demolished units from inclusionary requirement and encourage the imposition of replacement housing requirements for demolished units; (l) directed Planning staff to report back on April 9, 2002 on issues pertaining to 1) the impact of reducing the floor area ratio from 50% to 40%; 2) the expansion of mobile home parks and, and additionally, the purchase of mobile home parks by either public entities or park residents, (3) increased use of manufactured housing; and 4) the possibility of establishing linkage fees for non-residential development; (m) directed the Planning Department to include in the updated Housing Element information pertaining to housing needs and housing pricing issues; (n) by consensus, directed the Planning Department, the Assessor's Office and Treasurer/Tax Collector to examine whether the Board has authority to regulate residential property for short term kinds of commercial use in order to address some of the impacts of vacation versus owner occupied type of residences and report back on February 12, 2002; (o) directed County Counsel to work with the Planning Department and the County Administrative Office to develop an anti-retaliatory eviction ordinance and to return on February 5, 2002 with a proposed ordinance; (p) directed Planning staff to return on February 5, 2002, with a Second Unit Limited Amnesty program and the costs and the effectiveness of the previous amnesty program; (q) directed the Redevelopment Agency to report back on February 12, 2001 on a program to recruit and retain property owners in the Section 8 program; (r) directed staff, in consultation with the Housing Advisory Commission, to review existing vacant and underutilized commercial and industrially zoned parcels for their suitability as affordable housing sites and return with their recommendations on or before May 7, 2002; (s) approved "in concept" doubling the amount of funding allocated to the tenant eviction program and directed the Redevelopment Agency to report back in conjunction with the Continuum of Care program, in late January 2002, on the success of the current program; (t) directed County Counsel to report back on November 20, 2001 on the status of the current State Law on tenant notification for rent increases

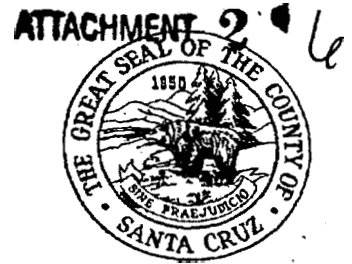


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including a report on whether the County is pre-empted from having more stringent requirements by State Law; (u) directed the County Administrative Officer to report back on April 9, 2002 on the feasibility of working with the City of Santa Cruz, private foundations and churches to finance and develop a permanent homeless shelter in the County of Santa Cruz; and (v) approved staff recommendations as amended

- (2a) BPwaC
- (2b&c) WBPac
- (h) WABPC
- (i) WCPAB
- (j) WBPAC
- (l) PWBAC
- (p) WBPAC
- (q) WPBAC
- (r) WPBAC
- (s) WBPAC
- (t) WBPAC
- (u) AWBPC
- (v) WABPC

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING

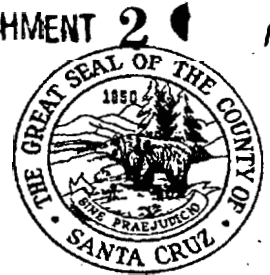
On the Date of March 12, 2002

REGULAR AGENDA Item No. 038.1

(ACCEPTED AND FILED status report on the Planning Department's Code Compliance Program; (2) this recommendation is deleted (3) approved 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) directed Planning Staff to develop further recommendations regarding non-enforcement policies for older use violations, for consideration on September 17, 2002, and include a report back on the number of cases that exist in each category of magnitude and the number of cases that are in active and inactive status; (5) approved the policy regarding code compliance site inspections which are the result of a citizen complaint, as outlined, in the letter of March 1, 2002; with an additional direction to report back on cases involving second units on May 21, 2002 in conjunction with the issue of an amnesty program for second units; (6) change the language on page four (under Priority A-2 to eliminate the words "off-site"; ((7) strike the words "over-height, rear and side yard fences and minor riparian violations" from the third bullet on page three of the report dated March 1, 2002; (8) report back on September 17, 2002 the policy change in paragraph five of the written report (compiling the cases where in other types of violations have been cited beyond that which was the subject of the complaint (9) report back on September 17, 2001 on the advisability of parallel language in Chapter 12.01.070 (c) and 1.12.060 dealing with the discretion to issue or not issue permits when other violations exist on the property; (10) report back on September 17, 2002 on regarding establishing a longer statute of limitations to challenge the propriety of a red tag; ((11) directed the County Administrative Officer to report back on May 21, 2002 regarding the facts related to the red tag in Mr. Bowden's case; (12) by consensus, the Board directed Planning to identify categories of issues requiring permits and the necessary levels of review and report back, in conjunction with the Unified Building Code updates,

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 my seal of said Board of Supervisors.



AT THE BOARD OF SUPERVISORS MEETING

On the Date of March 12, 2002

REGULAR AGENDA Item No. 038.1

(with recommendations as to how these issues may be handled from an enforcement or permitting standpoint, (as well as, the opportunity for licensed professionals (to be partners in the certification process...

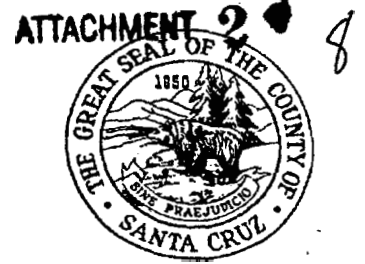
Upon the motion of Supervisor Wormhoudt, duly seconded by Supervisor Almquist, the Board, by unanimous vote, accepted and filed status report on the Planning Department's Code Compliance Program; ~~(2)~~ this recommendation is deleted ~~(3)~~ approved the implementation of a non-enforcement policy for 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)~~ directed Planning Staff to develop further recommendations regarding non-enforcement policies for older-use violations, for consideration on September 17, 2002, and include a report back on the number of cases that exist in each category of magnitude and the number of cases that are in active and inactive status; ~~(5)~~ approved the policy regarding code compliance site inspections which are the result of a citizen complaint, as outlined, in the letter of March 1, 2002; with an additional direction to report back on cases involving second units on May 21, 2002 in conjunction with the issue of an amnesty program for second units; ~~(6)~~ change the language on page four under Priority A-2 to eliminate the words "off-site"; ~~(7)~~ strike the words "over-height, rear and side yard fences and minor riparian violations" from the third bullet on page three of the report dated March 1, 2002; ~~(8)~~ report back on September 17, 2002 the policy change in paragraph five of the written report compiling the cases where in other types of violations have been cited beyond that which was the subject of the complaint ~~(9)~~ report back on September 17, 2001 on the advisability of parallel language in Chapter 12.01.070 ~~(c)~~ and 1.12.060 dealing with the discretion to issue or not issue permits when other violations exist on the property; ~~(10)~~ report back on September 17, 2002 on regarding establishing a longer statute of limitations to challenge the propriety of a red tag; ~~(11)~~ directed the County Administrative Officer to report back on May 21, 2002 regarding the facts related to the red tag in Mr. Bowden's case; ~~(12)~~ by consensus, the Board directed Planning to identify

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.

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COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING

On the Date of March 12, 2002

REGULAR AGENDA Item No. 038.1

'categories of issues requiring permits and the necessary levels of review and report back, in conjunction with the Unified Building Code updates, with recommendations as to how these issues may be handled from an enforcement or permitting standpoint, as well as, the opportunity for licensed professionals to be partners in the certification process

cc:

County Counsel
District Attorney's Office
Planning
CAO

State of California, County of Santa Cruz-ss.

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.

Page 3 of 3

by *Susan A. Mauriello*, Deputy Clerk, ON March 18, 2002.

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The following report addresses the history of the County's Construction Legalization Program and the development of information from the County's Code Compliance database.

Construction Legalization Program (CLP)

Your Board took action on May 24, 1994 to adopt the policies and ordinances to enact the Construction Legalization Program (CLP). The purpose of the Program was to provide a "window of opportunity" for people to obtain building permits for existing structures that did not receive permits at the time of construction. It must be emphasized that the CLP was a legalization program. The concept of "amnesty" was associated with the fact that people participating in the effort would not be subject to interest or penalty costs associated with continued noncompliance.

The CLP was available for a limited time -- members of the public interested in participating were required to call and make an appointment with the Planning Department between July 1, 1994 and June 30, 1995. Although no new appointments could be requested after June 30, 1995, appointments slots were filled through March 1996.

There was extensive public outreach about the CLP, including newspaper display ads, pamphlets, and mailed notices to all persons with code compliance violations that had eligible projects. It was stressed that no paperwork would be kept by the Planning Department for projects in which there was no code compliance investigation if the person decided not to continue in the Program.

Eligible projects were those that were completed prior to October 19, 1993 and were either single-family dwellings (including new, additions, or remodels) or accessory structures to single-family dwellings, including second units. Projects were not eligible if they were commercial, industrial, or other non-single-family dwelling residential uses, structures or portions of structures for multi-family or multi-family dwelling groups, structures which were within five feet of the edge of a vehicular right-of-way or encroaching over a property line (significantly nonconforming structures).

Each person entered the CLP by making an appointment to see Zoning and Building Counter staff. The person was required to bring to the appointment documentation to establish the date of construction, a floor plan, site plan, photographs, a project description, Assessor's Records and a review fee. At the appointment, Zoning Counter planners determined the date of construction, eligibility as discussed above, and whether the project met current zoning codes. If the project did not meet current codes, the person could pay an additional review fee for the planner to research if the project met the codes in effect at the time of construction. The person also met with a Building Counter Technician who determined, based on the date of construction, the current and former applicable building codes. The person was then self-directed to visit other land use reviewing agencies.

Each agency reviewed the project under the present code first, and then reviewed the project under the code at the time of construction if the project did not meet the current code (note: Environmental Health only used current codes). The applicant could choose to use either the current code or the code in effect at the time of construction whichever was more beneficial. **Also**, only those capital improvement fees (such as park and child care fees) that existed at the time of construction were charged with the building permit (if the fee existed, the current amount was charged).

Your Board, knowing that some projects could not meet current or past zoning regulations for site standards (such as setbacks or lot coverage), adopted an ordinance establishing a Minor Noncompliance Permit process. This discretionary permit, in lieu of a variance, waived noncompliance to site standards for the following types of improvements:

Structural repairs, alterations, or replacement of a nonconforming structure that did not increase the nonconformity of the structure;

Construction of a structure that did not deviate from the site and structural standards by more than 10%;

Construction of limited architectural features which encroached into the setback, such as bay windows, greenhouse windows, dormers, and decks; and

Construction of a structure which encroached into the setback by more than 10%, but for which the adjacent owner recorded a document consenting to the encroachment.

The granting of a Minor Noncompliance Permit did not confer conforming status to the structure and any future repairs, etc. are subject to the current Nonconforming Structure regulations. The permittee was required to record a document explaining the nonconforming status of the structure. The Minor Noncompliance ordinance expired on June 30, 1995, at the end of the CLP.

Planning Department statistics from May 31, 1996 stated that:

390 people had paid (\$60, equal to 1 hour of staff time) and completed a CLP appointment

122 building permit applications had been made

100 building permit had been issued

83 discretionary permit applications had been made

Additional applications and permits continued to trickle in through the late 1990's. The CLP appointments were scheduled each afternoon between July 1994 and March 1996.

Half of the Zoning and Building Counter staffs' workdays were consumed by the CLP. The appointments were lengthy (two hours on average), putting a significant strain on

staff resources. In addition, other land use reviewing agencies spent considerable time reviewing eligible projects.

Limited Second Unit Amnesty Program

While the Construction Legalization Program discussed above assisted property owners in the legalization of all types of illegally constructed structures, the Limited Second Unit Amnesty Program requested by your Board would apply only to second units that were constructed without County permits. The following material will provide your Board with information regarding the potential for the implementation of a legalization program directed solely at these types of uses. This information includes an identification of the potential number of eligible units (from the code compliance files), a preliminary assessment of the potential incentives for participation in the program, and an assessment of the impacts of the program on staffing and other Planning Department functions.

Potential Second Unit Violations - Using the Department's computer records, staff assembled a database of violations from several categories of code compliance cases. These cases included any type of violation that could be an illegal second unit (accessory structures, duplexes, triplexes, etc). This database identified over one thousand violations in the various code compliance categories, Staff analyzed this data and prepared the following discussion to give your Board a general sense of the potential order of magnitude of the number of illegal second units. The next step in staffs analysis would be to examine the individual case files to precisely identify which cases are illegal second units and to categorize them to determine the types of relief that may be necessary for their legalization.

Assuming, for the purpose of this analysis, that all of the violations identified in the database are illegal second units, staff analyzed the database of ALUS information, including lot size, zoning, General Plan designation, location within the Urban Services Line (USL), and existence of a Homeowner's Exemption. Staff then compared these characteristics to the basic regulations for second units. The current regulations for second units within the Urban Services Line include:

- ~ second units must be an allowed use in the zone district;
- ~ the parcel must meet the minimum zoning size;
- ~ the parcel must have an existing Homeowner's Exemption on file with the Assessor;
- ~ parking must be provided for the main house (tandem allowed) and the second unit (non tandem only)

The current regulations for second units outside of the Urban Services Line include:

- ~ second units must be an allowed use in the zone district;
- ~ the parcel must meet the minimum zoning size;
- ~ the parcel must have an existing Homeowner's Exemption on file with the Assessor;

- parking must be provided for the main house (tandem allowed) and the second unit (non tandem only);
- ~ the parcel must be a minimum of one acre in size (for septic reasons).

While there are additional criteria for second units beyond that detailed above, field visits of each site would be required to determine if the parcels meet these additional criteria. Applying the ALUS information to the current regulations for second units revealed the following information for the identified violations:

percent inside the Urban Services Line:	27%
percent outside of the Urban Services Line:	73%
percent of total that meet above current regulations:	30%
percent of total that meet above current regulations except for Homeowner's Exemption:	27%
percent of total that meet above current regulations except for being in a zone district that does not allow second units:	7%
percent of total outside the USL that are less than one acre in size:	31%
percent of total inside the USL but do not meet their zoning size requirement:	5%
percent of those that are smaller than 3,000 square feet and, therefore, cannot meet parking requirements:	47%

These statistics indicate that, in the event all these cases involve second units, only 30% of the illegal second units can be legalized under the current regulations (note: this is the maximum possible; actual site evaluations will reduce this number). If the Homeowner's Exemption requirement was repealed, an additional 27% could be approved. Of the violations outside of the USL, 31% do not meet the one-acre septic standard.

The main obstacles to approving second units inside the USL are the Homeowner's Exemption requirement and the minimum zoning size. Smaller parcels will have difficulty meeting the current non-tandem parking requirements. The main obstacles to approving these second units outside the USL are the Homeowner's Exemption and the one acre minimum for septic systems.

Again, to more precisely ascertain the number of illegal units associated with the Code Compliance case database cited above, a more detailed analysis is necessary. Staff also believes that there are a significant number of existing second units that are not known by the County (possibly twice the number of violations). It is not known how many of these could meet the current second unit standards.

Fiscal Incentives – As discussed above, a number of cases appear to meet the standards of the County Code and can be legalized under the current regulations (there may also be a

large pool of unknown second units that could be legalized as well). Staff has worked with the property owners of these second units to achieve compliance. Not surprisingly, one of the reasons for construction of illegal second units is the costs of obtaining the permits to meet County requirements. If it is the intent of the Board to facilitate the legalization of these illegal second units, some form of financial incentive is necessary.

To that end, on May 7, 2002, your Board approved a plan by the Redevelopment Agency to provide up to \$15,000 per unit subsidy for the purpose of reimbursing the direct cost of discretionary, building and capital improvement fees for the development of second units that are restricted to low income renters. This interim program has been funded with \$150,000 from the Redevelopment Agency's Low and Moderate Income Housing Fund for FY 2002-2003. Depending on the level of subsidies needed, this pilot program will be able to assist a number of projects.

In addition, a number of other possible financial incentives could be considered by your Board, including the following:

Code Compliance – Depending on the case, Code Compliance charges can range from less than \$100 to several hundred dollars. Also depending on the case, civil penalties can be assessed, ranging from \$500 to \$2500 per violation, if the case goes to the Hearing Officer. A waiver or reduction of the Code Compliance staff costs could be an incentive your Board may wish to consider.

Fees – Fees that are charged for permits to construct second units include: planning fees, building permit fees and capital improvement fees. Planning fees pay for the staff time to process the use permit for the second unit, including all work by project and environmental planning staffs. Building permit fees cover the cost of reviewing the building plans, issuing the permit and inspecting the structure. Capital improvement fees include those fees for park dedication, road and transportation improvement and childcare impacts. Other fees that are not discussed here include hook-up fees for sewer and water, drainage fees and fire district review fees. These fees for a second unit can range from \$11,000 to \$16,000 (or more), depending on the location and size of the proposed unit. A full or partial waiver of these fees could be a significant incentive for these property owners to proceed with the second unit permit process.

A number of property owners rely upon the rent from their second units to meet their mortgage payments and cannot afford to rent these units at the rental levels specified in the ordinance (HUD Section 8 or County rent levels per Chapter 17.10), or to lose the income from the removal of the unit. Without some form of relief, these property owners will likely not participate in the legalization program. One way to address this issue is to consider eliminating the occupancy restrictions and rental levels of the current ordinance. While this issue is the subject of a lawsuit against the County and was an unresolved issue for the Department of Housing and Community Development during the review of

the County’s Housing Element in 1994, your Board has continued to maintain these requirements as essential to the County’s second unit program.

The incentives discussed above are options your Board may wish to consider as a way to assist property owners that wish to legalize those illegal second units that are capable of meeting the current Second Unit Ordinance.

Site Standard Incentives - As discussed above, based on the preliminary data, it appears that the majority of second units in the Code Compliance database cannot meet the current standards for second units. The following discussion will address this group of illegal second units.

The preliminary data indicates that a sizable number of illegal second units that meet all of the current regulations except for not having a Homeowner’s Exemption. The requirement for a Homeowner’s Exemption was established by your Board to ensure that the property owner occupies the property. At the time of adoption of the Second Unit Ordinance, one of the main features of the ordinance was the requirement that the property owner live on the site and that there would be no absentee landlords. The reasoning behind this was that a homeowner/landlord is more likely to exert tighter control over the renters on the property. **An** owner/occupant will also be more available to neighbors with complaints or issues that need to be resolved. If your Board chose to remove the Homeowner’s Exemption as a way to legalize this group of second units, this would permit a greater number of second units and would increase the rental housing stock.

A number of second units have been identified as being on properties that have zoning that does not allow second units. About one third of these units are on land zoned for Commercial Agriculture (“CA”) or Agriculture (“A”). Your Board recently approved ordinance amendments to allow second units on land zoned “CA” and “A”. This ordinance amendment will become effective following Coastal Commission review, removing this obstacle for those second units with agricultural zoning. The remaining second units in this group are located on properties that are zoned for commercial, industrial or other zone districts that are not residential in nature. Accommodating these second units would require a significant change in the second unit ordinance.

Another large group of second units are located on properties that do not meet the minimum parcel size required by the ordinance. Most of these second units (83%) are located on parcels of less than 1 acre (outside the USL). According to the Environmental Health Service, a minimum of 1 acre is required to construct a second unit, if the existing septic system is adequate for the additional loading. If a separate septic system is required, the minimum parcel size is 2 acres. Reducing the minimum parcel size to accommodate this group of illegal second units will require review by the Regional Water Quality Control Board and amendments to the Sewage Disposal Ordinance. The remaining units in this group are located inside the USL on lots that do not meet the minimum parcel size for the zoning. Because the requirement that second units be located on parcels that meet the minimum parcel size of the zone district was enacted to

insure that the primary and second residential units were consistent with the General Plan, any change would require amendments to the zoning ordinance and General Plan, and potentially the Sewage Disposal Ordinance.

The development of second units on smaller parcels is difficult for a number of other reasons in addition to consistency with the zoning and General Plan. The biggest difficulty is meeting the site development standards for the zone district. County Code Section 13.10.681 (d) establishes the minimum site, development and occupancy standards for all second units, respectively. These standards are intended to minimize the impact of adding a 640 to 1200 square foot residential unit to a site with an existing residence. The most restrictive development standards include the required parking (1 space/bedroom), meeting the lot coverage and Floor Area Ratio limits of the particular zone district, and meeting the minimum lot size of the zone district (discussed above).

Impacts of Program- The administration of a legalization program modeled after the CLP would require a significant allocation of Planning Department staff resources, as well as resources from other departments that review building permit applications. As staff develops the program recommendations for your Board's consideration, we will include an analysis of the most cost-effective methods to administer the program.

Other Issues - As indicated above, the County is currently in a lawsuit regarding the County's ability to limit the occupancy of second units. The outcome of this legal action may affect the current occupancy restrictions. In addition, legislation is pending before the State Assembly (AB 1866) that would require the County to issue second unit permits as ministerial permits, instead of the discretionary permits currently required. If adopted, this will reduce the costs and time required to obtain permits. It will also eliminate the ability of the neighbors to comment on or protest the construction of second units in their neighborhoods.

Discussion

The Construction Legalization Program conducted by the Planning Department in the mid-1990's was an attempt to assist property owners to legalize their illegal residential structures. This program included special ordinances to allow for the approval of 'minor' variances and established specific exceptions for the legalization of eligible structures. As the information presented above indicates, the program resulted in the resolution of approximately 25% of the cases that went through the initial review process. This program was very labor intensive, requiring significant allocations of staff time to conduct the preliminary screening appointments and follow-up applications; process the discretionary permits; review and process the building permit applications; and perform the building inspections.

A program could be established to address the illegal second units identified in the Code Compliance database, as well as the unreported illegal second units. However, the program design will depend on a more complete analysis of the existing database, the

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outcome of the pending litigation, further analysis on legalization strategies and the types of incentives and ordinance changes that the County is willing to consider.

Conclusion

It appears from the preliminary data analysis that there is a potential for the legalization of a number of illegal second units. However, there is insufficient information available to develop a legalization program for second units. Additional resources must be devoted to prepare a detailed analysis of the Code Compliance database to ascertain the precise numbers of illegal second units. Using this data, a specific second unit legalization program can be developed for consideration by your Board.

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