



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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June 1, 2010

AGENDA DATE: June 15, 2010

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

SUBJECT: STATUS REPORT ON LAND USE REGULATORY REFORM EFFORTS

Members of the Board:

In June of 2007, Planning staff proposed a program for reforming land use regulations in the County, focusing on streamlining aspects of the planning process while continuing to protect important community and environmental resources. At the time, three phases of reform were identified: 1) small-scale residential issues; 2) legal nonconforming structures and uses; and 3) commercial changes of use. This letter provides a status report on staff efforts in these three land use reform areas, and also describes efforts that will continue to be taken to amend the Code to further support clear, rational and consistent development standards, and straightforward and streamlined development review processes.

Phase One: Small-Scale Residential Issues

As you recall, Planning staff brought changes regarding various small-scale residential activities to your Board in December 2007. Your Board approved a number of these changes, which have been in effect since 2008 and have been appreciated by many property owners in the unincorporated County.

Staff has identified an additional area in our regulatory process that needs attention: creating a Minor Exception process for minor deviations from the established site standards (such as setbacks from property lines). This would apply to both residential and non-residential structures.

Currently, an applicant proposing to build a new structure, substantially remodel an existing structure, or construct an addition that does not fully comply with current development standards is required to apply for a variance(s). Under the County Code, approval for a variance cannot be granted unless it is found that there are special circumstances unique to the property that would require such a variation. Many communities allow for a minor exception process to allow flexibility within a 10% to 15% range of difference from the standard, such as for a side or front yard setback. There are circumstances where nothing particularly unique to the property itself exists, but there are other reasons that support a minor exception from site standards, and allowing the exception would not negatively impact adjacent properties. For example, such a process

could be used to allow a non-conforming wall to be re-built at an existing location 4 feet-8 inches from a property line where 5 feet is required, or a front wall could remain and/or be extended at 18 feet rather than 20 feet from the front property line, if findings can be made and there is no substantial impact on a neighboring property. The exception process being developed would allow applicants to apply for an exception for minor deviations from current site standards under an administrative discretionary review process. Staff believes that such an exception process would further the goals of regulatory reform, providing a more reasonable and flexible planning framework for applicants, while continuing to view projects in a community context and with a process provided to address potential impacts.

Staff intends to bring this reform amendment for your Board's consideration this fall.

Phase Two: Legal Nonconforming Structures and Uses

In January of 2010, your Board gave conceptual approval to the second phase of regulatory reform, focused on providing a more streamlined planning process for residential nonconforming structures and updating regulations for residential parking. As directed by your Board, staff is developing ordinance amendments to implement these reforms, while also addressing issues raised by your Board regarding significantly nonconforming structures. Staff will bring these ordinance amendments implementing the second phase of regulatory reform to your Board in fall of this year.

While working on these ordinance revisions, staff has realized that it would be logical to also address non-residential legal nonconforming structure regulations (commercial, industrial and agricultural categories) at this time, proposing comparable changes as those for residential structures. The following is a brief discussion of these additional reform measures.

Reforms for nonresidential nonconforming structures

The proposed reforms for non-residential structures would provide for more consistency in the County's nonconforming regulations, extending elements of the framework developed for residential structures to non-residential nonconforming structures. As is the case for residential structures, the review required for work to non-residential nonconforming structures would be appropriate to the degree of nonconformity. Planning review would continue to be required if needed to address potential impacts and protect public health, safety and welfare, while regulations would be streamlined overall to facilitate maintenance, improvements and appropriate uses of these structures.

Commercial and Industrial Nonconforming structures

Staff recognizes that some commercial and industrial nonconforming structures have the potential to impact neighboring properties, particularly nearby residences. At the same time, the current regulations can hinder investment in and upkeep of existing commercial and industrial structures, and sometimes leads to unpermitted illegal construction activity. The recommendations being developed by staff would continue to require appropriate review and permits for work to commercial and industrial nonconforming structures, but would make it less cumbersome for most nonconforming structures by allowing work with much less need for variances and through a lower level of discretionary review. This would allow these structures to be more easily maintained and repaired while still allowing

a permit process to address certain existing or potential impacts. It is anticipated that this process will assist with removing certain "economic inhibitors", and facilitate investment in facilities and jobs in our community.

Agricultural nonconforming structures

A primary purpose of agricultural zoning districts is to preserve and encourage agricultural activities, including protecting existing agricultural uses. The site standards for agricultural properties specify appropriate standards for agricultural structures, including appropriate setbacks from residential and other properties. Consistent with these purposes, the approach being developed for agricultural nonconforming structures would be similar to the framework for residential structures, streamlining the overall approach for most structures while requiring review for proposed work on structures with more extensive nonconformities.

Phase Three: Commercial Changes of Use

As the commercial regulations are currently written, staff believes it is often unduly difficult for property owners to upgrade commercial buildings, and for new businesses to open at existing sites.

Primary among these difficulties is the issue of changes of use within existing commercial structures. This is the area that your Board directed staff is focus on in this phase of regulatory reform, as it affects the largest number of County businesses. Currently, the zoning code is written in such a manner that any business opening in a new location requires some level of Commercial Development Permit. Your Board may recall that the Level 1 Change of Use administrative process was implemented in the 1990s to address the often-cumbersome process of changing businesses in commercial buildings. The Level 1 allows a simplified process to substitute for a complete review of the zoning and permit history of a property, basically looking only at the proposed use, the requirements of the zoning district, and the requirements of other permitting agencies such as Building, Fire, Sanitation, or Environmental Health. The Level 1 Change of Use can be processed in as little as a few days, depending on the applicant's ability to obtain sign-offs from the other permitting agencies.

Staff wants to build on the successes of the Level 1 process and refine the requirements for eligibility. Currently, the Level 1 process is only available on properties with a Master Occupancy Permit, which many buildings in the County do not have due to their age. Staff is preparing ordinance amendments that would expand the scope of projects eligible to use the Level 1 process.

Other issues staff hopes to address in this regulatory reform phase are certain sign and parking regulations which are out of date with regard to the needs of modern commercial properties and which hinder commercial changes of use.

Staff intends to bring these ordinance changes for your Board's consideration this fall.

Beyond the above Board-directed and related commercial regulatory reform items, staff is also working to explore a more comprehensive review and revision of commercial and

non-residential use regulations. These include possible proposals such as creating principal permitted uses in various zoning districts, lowering levels of review, and more substantial amendments to the parking and sign regulations that would allow business owners to proceed directly to the building permit stage (rather than undergo planning/zoning review) to a greater extent than is currently allowed. In the context of desire for job creation and investment in our community, and being more "open for business", these types of code changes would facilitate new and expanding commercial uses that comply with zoning land use provisions and applicable requirements, in a more streamlined manner.

Continued Regulatory Reform Efforts

Staff continues a critical review of the County Codes related to land use and building, and will from time to time bring other code amendments to the Board for consideration. Over the years, the Planning Department has drafted various "policy interpretations" to clarify the intent and administration of the code. Where there is such a lack of clarity, it is preferable that the Code itself be amended, and staff will be reviewing existing policy interpretations with the goal of greatly reducing the number. There are other portions of the code that applicants and staff "bump into" in the course of project review, some of which seem to be outdated, unnecessary or inconsistent with other portions of the Code, and staff will forward amendments of this type as well. These will be processed in no particular order of priority but as time and resources allow for work on them, with the goal being to get them considered and adopted as soon as feasible.

The Housing Element contains a number of implementation items that involve code amendments, such as for motel conversions/SRO projects, emergency shelters in the PF district, and special needs housing for farmworkers, seniors, group homes, emergency shelters, and supportive and transitional housing units. Also, a new round of changes to the California Building Code need to go into effect in January 2011, including but not limited to the new International Residential Code. Staff is also working on a water-efficient landscaping ordinance to comply with State law, and is working with the Public Works Department on amendments related to new stormwater runoff, water quality and erosion control standards.

In addition to examining the Codes, planning staff plans to reach out to other departments and agencies to "map the development process" and look for ways to clarify and streamline the review process for applicants. Some of these may lead to other code amendments, but improvement should also be possible with various "practice changes" allowable under the existing code. For example, regularly scheduled interdepartmental – interagency Development Review Committee staff meetings are proposed in order to streamline and improve coordination and communications related to the development permit review process. Already, Central Fire has expressed support for and a willingness to participate in such regular meetings.

During each stage of regulatory reform, staff will reach out to stakeholders to explain draft proposals, and take and consider input in the process of developing the recommended amendments. Staff has also initiated quarterly meetings with Coastal Commission staff,

so that code amendments that are also local coastal implementation ordinances will reflect that input as well.

Summary and Recommendation

This status report summarizes the efforts that Planning staff is taking to deliver the regulatory reform amendments as directed by your Board, as well as other complementary amendments and proposals identified by staff.

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

1. Accept and file this report; and
2. Concur with general intent and direction of the expanded and continued regulatory reform efforts as outlined by staff in this letter; and
3. Direct Planning staff to return with certain proposed ordinance amendments this Fall, as outlined in this letter, for the Board's consideration.

Sincerely,



Kathy M. Previsich
Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO
COUNTY ADMINISTRATIVE OFFICER

KP:GH:CommonDrive/BoardLetters/6-15-10