

**SANTA CRUZ COUNTY PLANNING DEPARTMENT POLICY/ORDINANCE
INTERPRETATION**

Interpretation No.: NC-02 (Significantly nonconforming structures)
Effective Date: 01/01/03
Originally Issued: 08/13/96 (Pete Parkinson, Nonconforming structures ordinance)

Question

Can a significantly nonconforming structure be improved beyond the limitations of Zoning Ordinance Subsection 13.10.265(e) under a Level V use approval without a variance?

Applicable Ordinance Section(s)

§13.10.265(e), §13.10.265(j), §13.10.265(k)

INTERPRETATION:

No. A significantly nonconforming structure shall not be improved beyond the limitations of 13.10.265(e) under a Level V use approval only. Proposed improvements to such a structure that exceed the limitations of 13.10.265(e) require a variance in addition to the Level V use approval.

Reason

A significantly nonconforming structure is held to a higher standard of review under the ordinance than is a structure that is not significantly nonconforming. Subsection 13.10.265(e) states, in part, that “[o]rdinary maintenance and repairs and other structural alterations, including foundation repair/replacement, may be made to the nonconforming portion of a structure which is not significantly nonconforming as defined in this Section” when required building and development permits are obtained, the nonconforming dimensions of the structure do not increase, and no more than 50 percent of the total length of the exterior walls in the nonconforming portions of the structure are replaced or altered within any five year period.

Subsection 13.10.265(k) defines a significantly nonconforming structure as a structure that is any of the following:

1. Located within five feet of a vehicular right-of-way;
2. Located across a property line;
3. Located within five feet of another structure on a separate parcel;
4. Located within 5 feet of a planned future public right-of-way improvement (i.e., an adopted plan line); or,
5. Exceeds the allowable height limit by more than 5 feet.

With the exception of a designated historic structure; a structure more than 75 percent damaged

13.10.265(e)

by fire, other catastrophic event, or public enemy; or a structure damaged or destroyed as a result of the October 17, 1989 earthquake; Subsection 13.10.265(j) prohibits the “structural enlargement, extension, reconstruction or structural alteration” of “any significantly nonconforming structure unless a Level V Use Approval is obtained. . . .”

However, to allow a significantly nonconforming structure to exceed the limitations of 13.10.265(e) with only a Level 5 use approval in circumstances where other structures that are not significantly nonconforming need a variance (e.g., the structure is located more than five feet from a vehicular right-of-way but less than the required current setback), would be contrary to the intent of the ordinance. Therefore, any improvement to a significantly nonconforming structure that exceeds the limitations set out in 13.10.265(e) requires a variance in addition to the Level 5 use approval required for all improvements to significantly nonconforming structures.

Because a significantly nonconforming structure is held to a higher standard, it does not qualify for ordinary maintenance and repair and structural alterations up to 50 percent of the exterior walls within a 5 year period, as allowed by 13.10.265(e). A variance is required for this work.

Alvin James, Planning Director