

**PLANNING DIRECTOR'S ADMINISTRATIVE GUIDELINES  
FOR LEGALIZATION ASSISTANCE PERMIT PROGRAM ("LAPP")**

The Santa Cruz County Board of Supervisors has authorized implementation of a Legalization Assistance Permit Program (LAPP) pursuant to Administrative Guidelines issued by the Planning Director. The Board has authorized and directed that county departments and agencies involved with land use permit processes undertake activities consistent with the LAPP for a two-year time period, as outlined below. The Board has authorized the Planning Director to issue updates as needed to these Administrative Guidelines, consistent with the overall intent of the program.

- ◆ The LAPP Program will be in effect for a two-year timeframe, starting on August 24, 2014 and ending on August 24, 2016. The timeframe is for actual *issuance* of building permits, not simply submitting applications. The Planning Director and/or Chief Building Official may allow extensions in situations where the applicant is making good faith and timely progress with the requirements of the LAPP program and permit processes.
- ◆ The LAPP Program will be available for all types of land uses and construction; residential and non-residential.
- ◆ Property owners seeking to obtain building permits to legalize unpermitted construction need to first comply with any applicable coastal permit and other applicable County Code discretionary permit requirements. If the owner desires to make a further addition or new improvements to the existing structure being legalized under the LAPP Program, then all new work must comply with current zoning, environmental and building standards. Discretionary permits are subject to CEQA environmental review.
- ◆ Projects that are voluntarily submitted by property owners under the LAPP Program are not subject to the "Construction Unpermitted – Recover Enforcement Costs" fee (the "CUREC" fee).
- ◆ Under the LAPP Program, projects will be assessed applicable Development Impact Fees based on the time the improvements were actually constructed.
- ◆ For development and building permits issued under the LAPP, permit fees will normally be charged based upon the current fee schedule, however county departments and agencies are authorized to allow fees to occur in the form of case-by-case special cost recovery fees charged on per-hour basis, with such reduction possible if there is a reduced need for plan check and inspections for existing improvements. The intent would be to recover costs associated with the building permits for eligible projects. If the current owner desires to make a further new addition or new improvements to this same home, then all new work must comply with current building standards, and current fees for plan check, processing and inspections would be charged.
- ◆ Compliance with current zoning, environmental and building standards will be required for permits issued under the LAPP, unless alternate methods are approved by the Building Official as allowed by the current building code.
- ◆ The property owner may submit documentation and/or the Building Official or designee will make a determination regarding need for any "destructive investigation" (e.g. removal of sheetrock from an area to view construction methods), and/or other requirements. The Building Official, in making the determination, may accept or reject all or a portion of data and information provided by a property owner and others seeking to obtain a building permit.
- ◆ Through participation in the LAPP Program, plan revisions and/or permit requirements may be imposed to ensure that the development corrects health and safety deficiencies, does not result in a serious threat to the environment, and does not adversely affect surrounding properties.

- ◆ Under the LAPP Program, the Planning Director or designee may review zoning permit conditions of approval that have not yet been met, and provide information to the applicant about how to meet or achieve substantial conformance with the condition. Staff may also identify options for applicants if circumstances make meeting the condition difficult. These options could include making application for a Minor Variation to modify the condition, or to pursue the required process to remove the condition or make more substantial changes.
- ◆ Under the LAPP Program, conversion of parking garages to habitable floor area will be evaluated under present zoning standards. For example, proposed legalization of a garage conversion will need to be accompanied by replacement of alternate covered or uncovered parking. Other zoning development standards, such as the maximum Floor Area Ratio (FAR) that was adopted in 1991 for zoning districts with a minimum lot size of 16,000 sq. ft. or less, may also be applicable. Under the LAPP Program, an owner may need to apply for a parking and/or FAR minor exception or variance if the property owner cannot demonstrate that replacement parking was provided or that the resultant FAR is allowed.
- ◆ For developments pursuing legality under the LAPP Program, it is possible (but not guaranteed) that a project could be determined to not have the potential for significant environmental impacts, as the "baseline condition" is assumed to be the "existing condition". This approach does not, however, waive the application of applicable Chapter 16 environmental regulations, and permit conditions or plan modifications may be required in order to meet those regulations. For example, building permit plans may need to incorporate specifications or measures to correct prior or existing significant impacts (such as restoration of riparian habitats, incorporation of measures to address evident slope stability issues, clean-up of hazardous materials, provision of appropriate septic systems, and so forth).
- ◆ Regarding Fire Code compliance, fire districts indicate that an unpermitted improvement to a structure which is to be permitted under the LAPP Program may need to be modified within a reasonable time as determined by the Fire Chief [or the Authority Having Jurisdiction (AHJ)]. It should be noted that all new buildings since 1989 (with some exceptions for agricultural buildings and minor accessory structures) have required fire sprinklers. Unpermitted residential building additions, which are less than 50% of the former square footage of a legal residential building (and remain R-3), do not require fire sprinklers. Additions of less than 500 square feet to a legal residential home (R-3) are not subject to fire review and are exempt from fire sprinklers unless the structure already has fire sprinklers. Fire department road or driveway access requirements pertain to all "facilities, buildings or portions of buildings". Depending on the nature of any given project, it may require review by the AHJ (local fire district) to ensure that the existing building or use complies with the Fire Code. The AHJ may require compliance features or mitigations to be incorporated into existing buildings within a reasonable time and prior to the finalization of the building permit, with the intention of providing the owner sufficient time to seek financing and permits, and to make repairs and upgrades.
- ◆ Regarding compliance with Environmental Health standards, EHS will work with applicants under the LAPP Program to identify ways to comply with applicable current sanitary wastewater regulations. A key objective is to improve existing situations and address health hazards, and alternate systems may be approved as permitted under current law. The Director of EHS may require compliance through conditions of approval regarding the design or operation of a septic system.
- ◆ The Planning Director is authorized to issue Administrative Practice Guidelines to provide further and more detailed guidance for operation of the LAPP. Such Administrative Practice Guidelines may include, but not be limited to, clarifying the level of detail for "as built" plans that may be required, identifying special inspection procedures for existing construction that may be able to substitute for some types of building plans, as well addressing the approach to inspections that take the place of the full inspections that would have occurred if the construction had been permitted.

**General Plan/Local Coastal Program Policies Related to Construction Legalization Program**

Goal 3 of the adopted Housing Element is to “Remove Unnecessary Governmental Constraints to Housing”. Program 3.7 of the Element is an implementation measure for that goal:

Housing Element Program 3.7 - Explore creating a construction legalization program to legalize unpermitted Second Units and other existing residential structures.

The Housing Element reflects a goal of retaining existing residential structures as part of the housing stock. Also, the Land Use Element contains certain policies that are accommodating of retaining non-residential nonconforming uses and structures in a manner that ensures the integrity and safety of structures, as presented below:

Land Use Element Policy 2.1.17 “Nonconforming Uses and Structures”

a) Nonconforming Uses: Allow existing legal nonconforming uses in use for three or more of the previous five years to continue, and require discretionary review to reestablish a nonconforming use that has lapsed. Require discretionary review for expansion, changes, or intensification of legal nonconforming uses with appropriate conditions to address potential impacts to public health, safety and welfare. Provide a process whereby the Board of Supervisors may terminate any nonconforming use that is significantly detrimental to public health, safety, welfare or the environment. For a structure accommodating a nonconforming use, encourage maintenance, repairs, and improvements. Require appropriate discretionary review for reconstruction, subject to appropriate findings and conditions to ensure that the proposed project will not be detrimental to public health, safety or welfare.

b) Nonconforming Structures: Encourage legal nonconforming structures to be maintained and improved. Allow reconstruction after a catastrophic event, and require discretionary review for voluntary reconstruction. Require an increased level of review for modifications to nonconforming structures with a greater potential to impact public health, safety or welfare.

Land Use Element Objective 2.18 “Nonconforming Commercial or Light Industrial Development”

To recognize that legally established nonconforming commercial and light industrial uses and structures may benefit the community, and that preserving and improving existing commercial and light industrial uses, structures, and the buildings accommodating these uses may further benefit the community by supporting the local economy, improving the appearance of commercial and industrial buildings, and allowing for the sustainable reuse of existing resources. Considering these community benefits, allow legal nonconforming uses to continue and to be improved, within appropriate limits established in the County Zoning Ordinance that address potential impacts to public health, safety and welfare. Phase out commercial and light industrial nonconforming uses that are determined by the Board of Supervisors to be significantly detrimental to public health, safety, welfare or the environment.

Under Objective 2.18, “Nonconforming Commercial or Light Industrial Development”, of the Land Use Element:

Land Use Element Policy 2.18.1 “Continuation of Non-conforming Commercial or Light Industrial Uses”

Allow existing legal commercial or light industrial uses in use for three or more of the previous five years to continue, and allow maintenance of and improvements to the structure in which they are located in accordance with the provisions in the building code and County Zoning Ordinance.

**Land Use Element Policy 2.18.2 "Changes to Nonconforming Commercial and Light Industrial Nonconforming Uses, or to Buildings Accommodating Non-conforming Commercial or Light Industrial Uses"**

Allow changes to a nonconforming use, including expansion of an existing nonconforming use throughout the building, change from one nonconforming use to another, or intensification of a nonconforming use; subject to discretionary review and appropriate findings and conditions to ensure that the change in the use will not be detrimental to public health, safety or welfare. Allow additions to or reconstruction of the building accommodating a nonconforming use with appropriate discretionary review, and subject to appropriate findings and conditions to ensure that the proposed project will not be detrimental to public health, safety or welfare.

**Land Use Element Policy 2.18.3 "Commercial and Light Industrial Nonconforming Structures"**

Encourage legal nonconforming structures to be maintained and improved. Allow reconstruction after a catastrophic event, and require discretionary review for voluntary reconstruction. For nonconforming structures with a greater potential to impact public health, safety or welfare due to their location relative to a property line, right of way, or riparian corridor, require discretionary review for extensive modifications to the structure and for reconstruction after a catastrophic event, subject to appropriate conditions and findings to ensure that the proposed project will not be detrimental to public health, safety or welfare.

**Community Design Element Policy 8.4.2 "Retaining Existing Housing"**

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