

October 10, 2006

Honorable Chairman and Members of the
Hermosa Beach Planning Commission

Regular Meeting of
October 17, 2006

**SUBJECT: PROPOSED AMENDMENT TO CHAPTER 17.52 REGULATING REBUILDING
AND PERCENTAGE OF DESTRUCTION OF NONCONFORMING BUILDINGS.**

Recommendation:

To adopt the attached resolution recommending changes to 17.52.070 - Reconstruction of a damaged nonconforming building.

Background:

On September 12, 2006, the City Council directed staff to address reconstructing nonconforming commercial buildings damaged more than 50% with the subject text amendment. The issue came to light in connection with Sharkeez restaurant which was substantially fire damaged in May 2006. Sharkeez is nonconforming to current parking requirements and may be exempt from some or all parking requirements with the proposed code changes. The City Council felt that it was fair to apply the exemption provisions of the nonconforming ordinance currently applicable to residential property to commercial property.

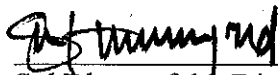
Existing regulations allow the rebuilding of damaged residential buildings which do not conform to one or more Zoning Code standards back to its previous level of nonconformity, regardless of the amount that the building has been damaged, up to and including complete destruction (see attached). However, if a nonresidential nonconforming building is damaged by more than 50%, the Code requires that any reconstruction of the building conform to all Code standards, e.g. height, setbacks, parking, etc.

The City Council has proposed a code change for commercial property paralleling the exemption for residential property. The proposed code change is shown underlined as follows:

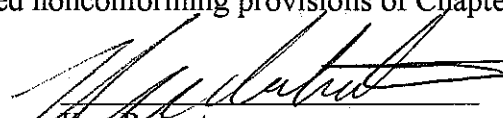
1. Residential Exceptions. Nonconforming residential buildings located in residential zones may be restored whatever the extent of the damage if approved by the planning commission based on the guidelines set forth below; provided, that the rebuilt structure is made as conforming as possible in terms of parking standards and/or other zoning standards such as setbacks; and further provided there is no increase in any nonconformity.
 - a. The density of the buildings or buildings on site does not exceed forty-five (45) units per acre;
 - b. The height of the building or buildings does not exceed twenty (20) percent more than permitted by the zone in which it is located;
 - c. The basic structural features, setbacks, floor area, room sizes can be duplicated in compliance with current building and safety codes;
 - d. ~~The cause of the destruction is not intentional through arson or other means.~~

2. Commercial Exception. Nonconforming commercial buildings located in commercial zones may be restored whatever the extent of the damage if approved by the planning commission based on the guidelines set forth below; provided, that the rebuilt structure is made as conforming as possible in terms of parking standards and/or other zoning standards such as setbacks; and further provided there is no increase in any nonconformity.
- a. The height of the building or buildings does not exceed twenty (20) percent more than permitted by the zone in which it is located;
 - b. The basic structural features, setbacks, floor area, room sizes can be duplicated in compliance with current building and safety codes;
- C. The extent of damage or partial destruction shall be based on the ratio of the estimated cost of restoring the structure to its conditions prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates shall be made or shall be reviewed and approved by the director of building and safety and shall be based on the International Conference of Building Officials data.
- D. Disputes as to the interpretation of the provisions of this section or any requested waiver of subsection B(1) for residential structures in residential zones shall be heard and resolved by the planning commission, subject to appeal to the city council. Subsection B(1)(d) cannot be waived.
- E. If damage to structures is so widespread throughout the city due to a major emergency (such as an earthquake or citywide fire) that the city council or other government authority declares a state of emergency, this section will be superseded by any action of the city council taken at that time in regards to reconstruction of damaged buildings.

The text amendment allows the Planning Commission to exercise discretion on how much a commercial nonconforming property must conform to current codes since as presently written the code provisions requires that the nonconforming building be "made as conforming as possible in terms of parking standards and other zoning standards..." If the Commission approves the proposed change, it will be necessary for a commercial property owner to submit an application to request Planning Commission approval under the revised nonconforming provisions of Chapter 17.52.



Sol Blumenfeld, Director
Community Development Department



Ken Robertson,
Senior Planner

Attachments:

1. Chapter 17.52 Nonconforming Ordinance

P:/NonconformRev

RESOLUTION P.C. 06-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, TO RECOMMEND AMENDING THE ZONING ORDINANCE PERTAINING TO RECONSTRUCTION OF NONCONFORMING COMMERCIAL BUILDINGS

The Planning Commission of the City of Hermosa Beach does hereby resolve as follows:

Section 1. The Planning Commission held a duly noticed public hearing on October 17, 2006, to consider amending the Zoning Ordinance with respect to reconstruction of nonconforming commercial buildings, and to consider allowing exceptions to the current rule that nonconforming buildings can only be restored if damaged less than 50% of reasonable replacement cost.

Section 2. Based on the evidence considered at the public hearing, the Planning Commission makes the following findings:

1. The requirements pertaining to reconstruction of nonconforming buildings (Section 17.52.070), allow reconstruction only if the building is damaged not more than 50% of its reasonable replacement cost. Buildings damaged more than 50% shall not be restored except in the full compliance with zoning requirements.

2. Section 17.52.070(B) includes an exception that residential building that meet certain criteria may be restored whatever the extent of damage, but no exception exists for commercial buildings.

3. Adding a similar exception for commercial buildings will allow reconstruction of commercial buildings more than 50% damaged that if not allowed to be reconstructed would negatively affect the character of commercial districts in the City.

Section 3. Based on the foregoing, the Planning Commission hereby recommends that the Hermosa Beach Municipal Code; Title 17-Zoning; Chapter 17.52, Nonconforming Buildings and Uses; Section 17.52.070 (B) be amended as follows:

"B. A nonconforming building damaged more than fifty (50) percent of reasonable replacement cost at the time of its destruction by fire, explosion, or other casualty or act of God, or the public enemy, shall not be restored except in full conformity with the regulations for the zone in which it is located and the nonconforming occupancy or use of such building shall not be resumed

1. Residential Exceptions. Nonconforming residential buildings located in residential zones may be restored whatever the extent of the damage if approved by the planning commission based on the guidelines set forth below; provided, that the rebuilt structure is made as conforming as possible in terms of parking standards and/or other zoning standards such as setbacks; and further provided there is no increase in any nonconformity.

a. The density of the buildings or buildings on site does not exceed forty-five (45) units per acre;

- 1 b. The height of the building or buildings does not exceed twenty (20)
2 percent more than permitted by the zone in which it is located;
3 c. The basic structural features, setbacks, floor area, room sizes can be
4 duplicated in compliance with current building and safety codes;
5 d. ~~The cause of the destruction is not intentional through arson or other
6 means.~~

7 2. Commercial Exception. Nonconforming commercial buildings located in
8 commercial zones may be restored whatever the extent of the damage if
9 approved by the planning commission based on the guidelines set forth below;
10 provided, that the rebuilt structure is made as conforming as possible in terms
11 of parking standards and/or other zoning standards such as setbacks; and
12 further provided there is no increase in any nonconformity.

- 13 a) The height of the building or buildings does not exceed twenty (20)
14 percent more than permitted by the zone in which it is located;
15 b) The basic structural features, setbacks, floor area, room sizes can be
16 duplicated in compliance with current building and safety codes;

17 VOTE: AYES:
18 NOES:
19 ABSTAIN:
20 ABSENT:

21 CERTIFICATION

22 I hereby certify the foregoing Resolution P.C. 06- is a true and complete record of the
23 action taken by the Planning Commission of the City of Hermosa Beach, California, at their
24 regular meeting of October 17, 2006.

25 _____
26 Kent Allen, Chairman

27 _____
28 Sol Blumenfeld, Secretary

29 _____
Date

F:\B95\CD\PC\2006\TARnoncon-commexception.doc