

September 22, 2005

Honorable Mayor and Members of the  
Hermosa Beach City Council

Regular Meeting of  
October 11, 2005

**SUBJECT: TEXT AMENDMENT TO CHAPTER 17.52 REGULATING NONCONFORMING  
BUILDINGS AND USES.**

**Planning Commission Recommendation:**

To introduce the attached ordinance to amend Chapter 17.52 of the Zoning Ordinance.

**Summary:**

The attached amendments address the City Council and Planning Commission objectives to make the Nonconforming Ordinance more user friendly and easier to understand; to provide incentives for reasonable expansions and remodels to older small and moderately sized buildings that contain nonconforming conditions; to make the process for obtaining approvals of these projects less cumbersome; and to eliminate calculating percentage demolition and the need for detailed demolition plans which creates confusion in the plan check and building inspection process. The amendments also clarify the provisions nonconforming parking.

**Background:**

The City Council directed staff to revise the Nonconforming Ordinance to allow more residential expansion for nonconforming buildings which have at least one parking space per unit or which add parking. The Commission also has recommended changes to the methods for evaluating the extent of expansion and remodel and the threshold at which expansion to a nonconforming building requires Planning Commission approval. The new ordinance addresses these issues, simplifies the plan review and approval process, and makes the ordinance more understandable for homeowners and builders.

**Analysis:**

The existing rules for nonconformities may often be too restrictive and prevent what otherwise are reasonable expansion and remodeling projects. Also, the rules currently require Planning Commission review when certain thresholds are exceeded, which causes delay and greater uncertainty for a homeowner. The rules with respect to limitations on demolition, can be very complicated and difficult to interpret and implement and may conflict with Building Code requirements for upgrading older structures. As a result, homeowners are confused by the complex rules specifying what can be demolished and what can be added, and often decide either to not improve the property or to sell it to a developer, which results in the demolition of the existing dwelling unit, and the construction of a much larger structure. The Planning Commission recommends the following to address these issues:

**Proposed Amount of Remodel/Expansion Allowed**

**Nonconforming Structures:**

- Allow up to 100 % expansion in floor area without Planning Commission approval when two parking spaces per unit are provided for nonconforming structures provided the resulting square footage of each unit does not exceed 3000 square feet. Disregard interior remodeling, decks and garages or other accessory structures from allowable footage. *(Currently, anything above 50% requires Planning Commission approval based on valuation.)*

- ❑ Allow up to a 500 square-foot increase in floor area without Planning Commission approval required for nonconforming structures when there is one space per unit or when parking is added to an existing building with no parking. Disregard interior remodeling, decks and garages or other accessory structures from allowable footage. *(Currently, a 250 square-foot expansion is allowed with one space per unit)*
- ❑ Calculate the amount of expansion based on footage and omit confusing calculations based on valuation. *(Currently the extent of construction is converted from a percent of work to a valuation based upon a confusing building code multiplier)*
- ❑ Limit nonconforming remodels to a 3,000 square foot maximum to preclude excessive expansions to existing large structures. Only expansions and remodels of smaller and moderate sized homes will be possible under these new provisions, and if a property owner wants to construct a larger home (greater than 3,000 square feet) the property will have to brought into compliance with all zoning standards

#### Nonconforming Uses:

- ❑ Allow up to 50% increase in floor area for nonconforming uses (up to maximum of 3000 square feet per dwelling unit) and omit calculation of interior remodels. *(Currently, up to 50% expansion/remodel valuation calculation includes building interiors)*
- ❑ Allow up to a 500 square-foot increase in floor area without Planning Commission approval for nonconforming uses when there is one space per unit or when parking is added to an existing building with no parking. Disregard interior remodeling, decks and garages or other accessory structures from allowable footage. *(Currently, a 250 square-foot expansion is allowed with one space per unit)*
- ❑ Calculate the amount of expansion based on footage and omit confusing calculations based on valuation. *(Currently the extent of construction is converted from a percent of work to a valuation based upon a confusing building code multiplier)*

#### Proposed Structural Removal Allowed

The Commission recommends eliminating the percent removal limitation with the requirement that the existing nonconforming portion of the structure cannot be removed and the existing floor system must be retained. This permits removal of studs or other structural framing when necessary due to dry rot or other repairs without violating the Ordinance. Otherwise, if the building is completely demolished the new construction must be made to comply with the current zoning standards.

*Presently, when a nonconforming structure is expanded under the existing regulations the amount of structural removal is limited. The code states that up to 30% of existing linear feet of exterior walls and 30% of existing floor area may be removed (with a limit of 10% for nonconforming uses). These numbers can be exceeded with Planning Commission approval.*

Often, when an old building is opened up with the intent of replacing less than 30 percent of the existing wall, the entire wall may be structurally unsound (e.g. because of dry rot or termite damage) and must be replaced for Building Code and safety reasons. Thus, through no fault of their own, property owners are often compelled to remove rotted and damaged framing in violation of approved plans, or they are required to nail new studs to the adjacent old lumber to

avoid exceeding the removal requirements. In either case, the project is delayed because construction is not carried out pursuant to approved plans.


These provisions compel homeowners to submit detailed demolition floor plans which may be impossible to implement, require staff time to make a sometimes subjective determination on the 30% calculation, and inspection staff to make a judgment call on what constitutes removal which is not specified in the code (i.e. how many studs have to remain, what is counted as removal when a new window or door opening is proposed, etc.). Further when a building is in poor condition, the building must be changed in order to be constructed in compliance with Building Codes. These limitations frustrate homeowners who want a safe building and do not really understand the law, and frustrate neighbors who observe construction, which does not agree with the plans they have reviewed at City Hall.

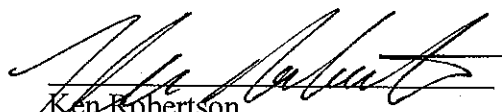
**Proposed Requirements for Buildings Nonconforming to Parking Requirements**

Additional requirements for buildings nonconforming to parking further limit the allowed expansion as noted above. In order to increase the allowable expansion for residential buildings that contain at least one parking space per unit, or for projects, which add parking, the Commission is recommending the following changes:

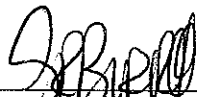
- Less than 1 per unit. 100 sq. ft. expansion, (*unchanged*).
- 1 space per unit or new parking is added. 500 sq. ft. expansion, no P.C. approval. (*Currently only 250 sq. ft. with no P.C approval is allowed and no credit for added parking.*)
- 2 spaces per unit (but insufficient guest parking). 100% max. expansion nonconforming structures and 50% max. nonconforming uses.

The Commission has also recommended relocating nonconforming parking provisions from the Parking Ordinance in Chapter 17.44 to the nonconforming regulations in Chapter 17.52 for clarification. Other changes have been added regarding driveway width and slope, interior garage stall depth and turning radius onto the site based on prior Commission actions on nonconforming project reviews.

  
\_\_\_\_\_  
Sol Blumenfeld, Director  
Community Development

  
\_\_\_\_\_  
Ken Robertson,  
Senior Planner

Concur:

  
\_\_\_\_\_  
Stephen R. Burrell,  
City Manager

Attachments:  
1. Ordinance

ORDINANCE NO. 05-

AN ORDINANCE OF THE CITY OF HERMOSA BEACH,  
CALIFORNIA, AMENDING THE ZONING ORDINANCE  
PERTAINING TO EXPANDING AND REMODELING  
NONCONFORMING BUILDINGS AND USES (CHAPTER 17.52)  
AND BUILDINGS THAT ARE NONCONFORMING TO PARKING  
REQUIREMENTS AND AMENDING THE HERMOSA BEACH  
MUNICIPAL CODE

The City Council of the City of Hermosa Beach does hereby ordain as follows:

Section 1. The Planning Commission held a duly noticed public hearings on January 18, June 21, and July 19, 2005, and recommended amending the Zoning Ordinance to modify certain provisions of Chapter 17.52 and the related section 17.44.140 with respect to the limits on expansion and remodeling for nonconforming building and uses, and pertaining to buildings nonconforming to parking requirements.

Section 2. The City Council held a duly noticed public hearing on October 11, 2005, to consider the Planning Commission recommendation to amend the Zoning Ordinance, Chapter 17.52, regarding nonconforming building and uses, and the related section 17.44.040 pertaining to buildings nonconforming to parking requirements.

Section 3. The subject text amendment is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to the general rule set forth in Section 15061(3) of the CEQA Guidelines, as there is no possibility that the proposed modifications to the text may have a significant effect on the environment.

Section 4 The City Council finds that the amendments to the Zoning Ordinance contained herein are consistent with the Hermosa Beach General Plan in that the proposed amendments modify and clarify the provisions that pertain to the allowed remodeling and expansions to existing nonconforming uses and buildings, which will continue to encourage the maintenance and improvement of the existing housing stock, and conservation of the existing character of neighborhoods, consistent policies of the Housing Element and the objectives of the Land Use Element.

Section 5. Section 17.52.010 of Title 17, Chapter 17.52 of the Hermosa Beach Municipal Code is amended to read as follows:

**“17.52.010 General Goals**

The goals of the city council related to the nonconformity that exists throughout the city as a result of zone changes and ordinance amendments are as follows:

- A. To allow buildings, whether they are occupied by a nonconforming use or nonconforming to zoning standards, to remain and be maintained, and to allow ~~some~~ limited alteration and expansion of said buildings when certain criteria are met and to encourage such alteration and expansions to incorporate architectural consistency within the project;

- 1 B. To encourage restoration and maintenance of ~~historical~~ existing residential buildings;
- 2 C. To limit expansion of nonconforming buildings and uses that are deficient as to encourage the  
~~use of the ordinance to meet current and future minimum standards of parking, open space,~~  
~~setbacks, height, etc., or significantly exceed residential density requirements.~~
- 3
- 4 ~~D. To limit remodeling and expansion of buildings which by current standards are exceptionally~~  
~~undersized, dilapidated, significantly over dense, or do not meet minimal standards for~~  
~~parking and setback.~~
- 5

6 Section 6. Section 17.52.020 of Title 17, Chapter 17.52 of the Hermosa Beach Municipal  
 7 Code is amended by amending the final paragraph thereof to read as follows:

8 “Routine maintenance and repairs, enlargement of window and door openings, repairs and/or  
 9 replacement to plumbing, electrical wiring ~~and that required by law or~~ and similar work as  
~~determined by the community development director,~~ shall not be considered structural alterations  
 10 within the meaning of this Chapter, and may be performed on a nonconforming structures and  
~~buildings containing nonconforming uses.”~~

11

12 Section 7. Section 17.52.030 of Title 17, Chapter 17.52 of the Hermosa Beach Municipal  
 13 Code is amended to read as follows:

14 **“17.52.030 Expansion, remodeling and alteration.**

15 Buildings containing nonconforming uses, and nonconforming buildings are subject to the following  
 16 standards:

17 A. Buildings Containing Nonconforming Uses.

18 1. Structural removal allowed:

- 19 a. Portions of the structure that currently conform to the provisions of this Title  
~~may be removed and replaced, as long as the foundation and floor systems~~  
~~remain intact.~~
- 20
- 21 b. Any existing nonconforming portions of the structure (e.g. a wall  
~~nonconforming to a yard requirement, or a roof non-conforming to height~~  
~~requirements) shall not be completely removed and replaced, and if completely~~  
~~removed must be brought into compliance with current requirements.~~
- 22
- 23 a. ~~Roofs may be removed to add additional stories;~~
- 24
- 25 b. ~~Up to ten (10) percent existing linear feet of exterior walls and ten (10) percent~~  
~~of floor area;~~
- 26
- 27 e. ~~Planning commission approval required to remove more than specified above.~~

28 2. Expansion/~~alteration~~ allowed:

- 29 a. Maximum of fifty (50) percent expansion/~~remodel~~ in floor area of the existing  
~~building(s) on the building site -of the current replacement cost of the existing~~

1 building(s) ~~excluding any expansion that has occurred after that~~ existed prior to  
2 October 26, 1989, provided that for residential uses the expansion does not  
3 result in greater than 3,000 square feet of floor area for each dwelling unit-The  
4 percentage increase in floor area shall be calculated by comparing the existing  
5 floor area (excluding any expansion that occurred after October 26, 1989),  
6 against the proposed increased floor area excluding garages, accessory  
7 structures, and balconies or decks. (Replacement cost based on building  
8 valuation data provided by the International Conference of Building Officials  
9 (ICBO), with remodeling computed at fifty (50) percent of the value for new  
10 construction);

- 11
- 12 b. Expansion not permitted if residential density exceeds forty-five (45) units per  
13 acre;
- 14 c. Expansion shall must conform to current codes (except existing building walls  
15 with deficient nonconforming side yards may be extended if within ten percent  
16 of current side yard standard may be continued and extended as part of the  
17 addition to the building)
- 18 d. For buildings nonconforming to current parking requirements of Chapter 17.44  
19 pertaining to off-street parking, refer to Section 17.52.235-Section 17.44.140 ;
- 20 e. ~~Any garage expansion for parking shall not be included in the allowed~~  
21 ~~expansion.~~

22 B. Nonconforming Buildings.

23 1. Structural removal allowed:

- 24 a. Portions of the structure that currently conform the provisions of this Title may  
25 be removed and replaced, as long as the foundation and floor system remain  
26 intact.
- 27 b. Any existing nonconforming portions of the structure (e.g. a wall  
28 nonconforming to a yard requirement, or a roof non-conforming to height  
29 requirements) shall not be completely removed and replaced, and if completely  
30 removed must be brought into compliance with current requirements.
- 31 a. ~~Roofs may be removed to add additional stories;~~
- 32 b. ~~Up to thirty (30) percent existing linear feet of exterior walls and thirty (30)~~  
33 ~~percent of floor area;~~
- 34 c. ~~Planning commission approval required to remove more than specified above.~~

35 2. Expansion/remodel allowed:

- 36 a. Maximum of one hundred (100) percent expansion/~~remodel~~ in floor area of  
37 the existing building(s) on the building site -of the current replacement cost of  
38 the existing building(s) excluding any expansion that has occurred after that

1 existed prior to October 26, 1989, provided that for residential uses the  
2 expansion does not result in greater than 3,000 square feet of floor area for  
3 each dwelling unit. ~~Greater than fifty (50) percent up to one hundred (100)~~  
4 percent requires planning commission approval. The percentage increase in  
5 floor area shall be calculated by comparing the existing floor area (excluding  
6 any expansion that occurred after October 26, 1989), against the proposed  
7 increased floor area excluding garages, accessory structures, and balconies or  
8 decks. (Replacement cost based on building valuation data provided by the  
9 International Conference of Building Officials (ICBO), with remodeling  
10 computed at fifty (50) percent of the value for new construction)

- 11 b. Expansion must conform to current codes (except existing building walls with  
12 deficient nonconforming side yards may be extended if within ten percent of  
13 the current side yard standard may be continued and extended as part of the  
14 addition to the building, and buildings that contain such a deficient side yard  
15 within 10% of the requirement as the only nonconforming condition on the  
16 property are not subject to the expansion limitation prescribed by this section);
- 17 c. Existing building walls with nonconforming side yards may be continued and  
18 extended as part of an addition subject to planning commission approval;
- 19 d. For buildings nonconforming to current parking requirements of Chapter 17.44  
20 pertaining to off-street parking, refer to Section 17.52.235-Section 17.44.140 ;
- 21 ~~e. Any garage expansion for parking shall not be included in the allowed~~  
22 ~~expansion.~~

23 e.f. Existing nonconforming stairways: Existing nonconforming stairways that  
24 encroach into required yard areas and that provide legally required access to legal  
25 dwelling units, may be fully reconstructed if beyond repair, provided no other  
26 reasonable location is available that does not require major reconfiguration or  
27 alteration of the structure. Said stairways, if reconstructed or replaced to allow  
28 continued access to the dwelling unit, shall be constructed in conformance with  
29 Chapter 34 of the Uniform Building Code; shall be constructed of non-combustible  
materials; shall conform to handrail, guardrail, tread depth, and riser requirements;  
and, shall not contain storage areas below. No replacement of said stairways shall  
be allowed in conjunction with an expansion and/or remodel project that exceeds a  
100% increase in floor area ~~50% increase in replacement cost to existing buildings~~  
on the site.

Section 8. Title 17, Chapter 17.52 of the Hermosa Beach Municipal Code is amended by  
adding thereto a new Section 17.52.035 to read as follows:

**17.52.035 Requirements for buildings nonconforming to parking requirements**

A. The following limitations on expansion apply to residential buildings nonconforming as to the  
number of parking spaces required on the building site, including guest parking spaces, based on

1 the number of parking spaces available that meet all the requirements of Chapter 17.44, or that  
2 meet the exceptions of sub-section B. In the event of conflict between the limitation contained in  
3 this section and Section 17.52.030, the more restrictive shall apply.

- 4 1. Building site provides less than one parking space per unit: A maximum expansion if  
5 one hundred (100) square feet of floor area may be constructed; provided, however, that  
6 up to five hundred (500) square feet may be added if one or more parking spaces are  
7 added to an existing building, even if the resulting total is less than one parking space  
8 per unit.
- 9 2. Building site provides one or more but less than two parking spaces per unit: A  
10 maximum expansion of five hundred (500) square feet may be constructed.
- 11 3. Building site provides two or more parking spaces per unit but provides insufficient  
12 guest parking: An expansion as allowed by Section 17.52.030

13 B. Exception: Existing parking spaces that do not comply with the 20-foot minimum length  
14 requirement, turning radius requirements, the minimum 9-foot driveway width requirement, the  
15 alley setback requirement, and/or the driveway slope requirement, which provide at least the  
16 following for each standard, shall be deemed conforming to these requirements and shall be  
17 considered complying parking spaces for existing residential buildings:

- 18 • Length: Minimum 18 feet (inside measurement)
- 19 • Turning Radius: Minimum 20 feet (measured from far side of alley or street)
- 20 • Driveway Width: Minimum 8 feet
- 21 • Driveway Slope: Maximum 15%
- 22 • Alley Setback: as necessary to provide a 20-foot turning radius

23 Residential buildings that have the minimum required parking spaces meeting at least the  
24 criteria contain in this exception and have no other nonconforming conditions shall be  
25 considered conforming buildings and are not subject to the expansion limitations of this  
26 chapter.

27 C. Nonresidential buildings in a C or M zone nonconforming as to parking may be expanded  
28 only if applicable parking requirements for the amount of the expansion area are satisfied.

29 D. When the use of an existing commercial, manufacturing or other non-residential building or  
30 structure is changed to a more intense use with a higher parking requirement the requirement for  
31 additional parking shall be calculated as the difference between the required parking as stated in  
32 Section 17.44.030 for that particular use as compared to the requirement for the existing or  
33 previous use, which shall be met prior to occupying the building unless otherwise specified in  
34 chapter 17.44.”

Section 9. Section 17.44.140 of Title 17, Chapter 17.52 of the Hermosa Beach Municipal Code is amended to read as follows:



1  
2 **"17.44.140 Requirements for new and existing construction.**

3 ~~A. For every residential dwelling~~ Parking spaces shall be provided, permanently  
4 maintained and available for every building hereafter erected, parking spaces shall be provided,  
5 permanently maintained and permanently available as set forth in Section 17.44.020, in  
6 compliance with this Chapter 17.44."

7  
8 Section 10. This ordinance shall become effective and be in full force and effect from and  
9 after thirty (30) days of its final passage and adoption.

10 Section 11. Prior to the expiration of fifteen (15) days after the date of its adoption, the City  
11 Clerk shall cause this ordinance to be published in the Easy Reader, a weekly newspaper of general  
12 circulation published and circulated, in the City of Hermosa Beach in the manner provided by law.

13 Section 12. The City Clerk shall certify to the passage and adoption of this ordinance, shall  
14 enter the same in the book of original ordinances of said city, and shall make minutes of the passage  
15 and adoption thereof in the records of the proceedings of the City Council at which the same is passed  
16 and adopted.

17  
18 **PASSED, APPROVED and ADOPTED** this      day of      , 2005, by the following vote:

- 19  
20 AYES:  
21 NOES:  
22 ABSTAIN:  
23 ABSENT:

24  
25 \_\_\_\_\_  
26 PRESIDENT of the City Council and MAYOR of the City of Hermosa Beach, California

27  
28 ATTEST: \_\_\_\_\_ APPROVED AS TO FORM: \_\_\_\_\_  
29 City Clerk City Attorney

30  
31 \_\_\_\_\_  
32 Date

33  
34 F:\B95\CD\CC\ordnoncon.doc

Cynthia Vix  
1787 Conejo Avenue  
San Luis Obispo, CA 93401  
(805) 544-7428

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COM. DEV. DEPT.

August 28, 2005

Mr. Sol Blumenfeld, Director  
Community Development0000  
City of Hermosa Beach  
1315 Valley Drive  
Hermosa Beach, CA 90254-3884

Dear Mr. Blumenfeld,

It is with great gratitude that I write this letter to thank and commend you and your staff for working so conscientiously in developing, for the City Council's review, the proposed text amendment regarding nonconforming buildings and uses.

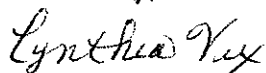
My sister, Marcia Adams, and I are the owners of a home located at 1928 The Strand. Our 1055 square foot home, with a 500 square foot detached apartment over a two car garage, has been in our family since 1927 and four generations of our family have loved and enjoyed this wonderful property. Sadly, a fire in May 2004 caused so much damage that the house was determined to be beyond repair. The current code permits an addition of only 250 square feet of new construction without Planning Commission review. The proposed code change, permitting a 500 square foot addition, allows the construction of a home that would be very comfortable and affordable, yet modest and appropriate by current Strand standards.

It is my hope that the City Council will approve the code changes that you and your staff have formulated and the Planning Commission approved at the August 16, 2005 meeting. If approved by the City Council, residents of Hermosa Beach will be able to give even greater consideration to preserving older, smaller homes that have character and integrity yet are desperately in need of being enlarged and updated.

I plan to attend the City Council meeting on September 27<sup>th</sup> and will gladly speak during the Public Hearing period to lend whatever support I can to the proposed amendment/s.

Again, thank you for the leadership you have provided in this matter. The City of Hermosa Beach is well served by you and your colleagues.

Yours truly,



Cynthia Vix