



Kurt Ellison

The county wants the third floor of this house removed.

## County wants house cut back

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The owner of a La Selva Beach mansion that ballooned to twice the size allowed on the county building permit is prepared to claim discriminatory code enforcement if the county tries to make him trim the house down to size.

Representatives speaking on behalf of Peter Viviano, the low-profile owner of the half-built house, don't deny that at 13,264 square feet the building is twice as big as that shown in the plans originally approved by the county in 1983.

But now, two years after the project was red-tagged by building inspectors, Viviano's contractors and attorney say size is no longer the issue. They say that Viviano is willing to cooperate with the county, pay any required fines, apply for any new permits or appeals, and — before driving another nail — fully landscape the site with grown trees to show the house can be shielded from view.

But they aren't willing to lop off the building's tiled dome or third story. Along with some new landscaping requirements, this is exactly what the Planning Department will advise the supervisors next week to demand of Viviano.

County planners consider this a fair compromise. It leaves Viviano a house with about 3,000 square feet more than were allowed on the original permit, with a floor plan that still reads like a Clue game board.

If the supervisors follow the

advice of their staff, Viviano's attorney is prepared to levy a charge of selective punishment. According to Attorney Doug Marshall, who worked in the Planning Department for four years, there are no comparable cases in which the county

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required substantial modifications on a structure that otherwise met the building code and other health and safety standards.

"Laws should be enforced uniformly," said Marshall. "I remember no instance of anyone being required to tear down a building that was (up to code) including whole houses that never had a permit."

Marshall said his client was being singled out by the county because of the sheer size of the house, the amount of money that appears to be involved and because the design isn't thought to "be Santa Cruz."

There's little dispute that the house, which takes its inspiration from Italian villas visited by its designers, marks an architectural innovation for the area. The wood

for the doors was imported from the Philippines, and the exterior includes columns with Corinthian capitals and other hand-crafted moldings. Inside are dozens more moldings ready to be put up once the county lifts the red-tag.

Last week, Marshall pulled off the court calendar a lawsuit that argues that the board does not even have the authority to rule on the Viviano house. Earlier, after the Planning Commission made a decision asking for removal of the top level, Viviano filed an appeal with the supervisors. He later withdrew the appeal, but the board discussed the house anyway, taking a fairly critical posture.

Because Viviano withdrew his appeal to the supervisors, Marshall says the board can't take jurisdiction and thus cannot make decisions about the house. But the County Counsel filed a response arguing that the board gained jurisdiction when Viviano's appeal was filed.

Marshall will now ask for a court hearing to amend his lawsuit and add the discrimination complaint. County Counsel Dwight Herr said he would oppose the amendment on the grounds that it was entered too late. Herr wasn't prepared to comment on the charge that other structures haven't been torn down. But he said that this case was different from others because the building is visible from overlapping scenic corridors.

These most recent developments are simply new twists in nearly a decade of building

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REFERENCE

ARTICLE [REDACTED] BY [REDACTED]

DATE [REDACTED]

WATSONVILLE  
Register-PAJARONIAN  
October 30, 1987

# HOUSE

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and development problems on a 30-acre lot in overlapping scenic corridors on an ocean bluff just off San Andreas Road near La Selva Beach.

The property was purchased in 1979 by Viviano's uncle, Antonio Cocciardi, who built a nearly equally ambitious 10,000-square-foot Mediterranean-style house. Cocciardi, a former Santa Clara Valley farmer turned developer, ran into trouble with the California Coastal Commission.

The lot can be seen from vista points on Highway 1, the beach and San Andreas Road. It took Cocciardi and the commission several years and a trip to the Attorney General's Office to settle their differences.

Then Cocciardi sold 15 acres for about \$30,000 to his nephew Peter Viviano, who runs a trucking business in the San Joaquin Valley. If the house is ever finished, Cocciardi said Viviano, who is unmarried, plans to live there with his parents and his brother and sister.

Viviano originally proposed situating his house on a low portion of the property level with San Andreas Road. His contractor, Jack Eitzen, says the Coastal Commission objected because the land was zoned for agriculture. Eitzen, who is married to Cocciardi's daughter, Caroline, said the commission asked them to move the house to its current location on top of the bluff.

The site was actually part of Cocciardi's lot, but, to ease things along, Cocciardi says he gave his nephew the easement. Much of the landscaping the builders propose to put in to shield the house will be on Cocciardi's land.

"It's a beautiful piece of land I gave so everybody could comply," Cocciardi said. "It's a nightmare. They put that house on the hill and now they say they can see it."

Visibility in the scenic corridor does seem to be the county's greatest concern.

Robley Levy, whose supervisorial district includes La Selva Beach, says her office

has had complaints about the house.

And, according to officials in the Planning Department, the building was first red-tagged in August 1985 when inspectors answered a call asking about "that big house."

"It was more than a big house," said Lou Bacigalupi, chief of county building inspections. "We went out, and voila! What do we have? Hearst Castle."

The original plans showed a house with two floors or levels visible from the ocean-side and one from the highway, with a single bedroom centered on top as a third level. What Bacigalupi found was a fully framed house with solid walls that had grown 18-feet longer, with two bedroom wings on the third level flanking a centered, tiled dome.

Exactly how the house reached these dimensions without the county noticing is not entirely clear. According to Bacigalupi, the regular building inspection schedule calls for an inspection of the foundations, with the next visit scheduled when the frame is complete.

David Lee, assistant planning director, says the department appears to have overlooked the expansion of the foundations on its earlier inspections, but that a certain measure of good faith is expected on the part of the builder.

Both contractor Eitzen and attorney Marshall are emphatic when they say that they want to solve the problems with the Viviano house amiably and quietly. Neither is willing to discuss the lawsuit, which has yet to be rescheduled in court.

But some supervisors do feel that by filing the original suit, Viviano signaled his intent to ensure that it will be expensive for the county to enforce the Planning Department recommendation.

"Absolutely," said Levy, who at the same time said she was still open to persuasion that the house could be effectively shielded from view.

But for the county to sway

to this logic, she said, would be another form of discrimination: "It would be one rule for the wealthy and one for the poor. That is not the case in Santa Cruz County."