

CALIFORNIA COASTAL COMMISSION

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W15c



Prepared July 2, 2010 (for July 7, 2010 hearing)

To: Commissioners and Interested Persons

From: Dan Carl, District Manager
 Susan Craig, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for W15c
 Santa Cruz County LCP Amendment SCO-MAJ-1-09 Part 2 (Timber Harvesting in
 Agricultural Zones)**

The purpose of this addendum is to modify the staff recommendation for the above-referenced item to strengthen the proposed amendment language regarding Implementation Plan (IP) Section 13.10.312(b)(2) to ensure that *only* timber harvesting approved pursuant to a California Department of Forestry Timber Harvest Plan is an allowed use in the CA (Commercial Agriculture) Zoning District. Accordingly, the motion and resolution for the IP component of the amendment must be changed from approval as submitted to denial as submitted and approval if modified. Thus, the staff report is modified as shown below (where applicable, text in underline format indicates text to be added, and text in ~~strikethrough~~ format indicates text to be deleted):

A. Revise the Second Paragraph of the Summary on Page 1 of the Staff Report as follows:

The proposed amendment says that if a parcel is zoned CA and has timber on it, then timber harvesting is permissible, subject to CDF approval of a THP. This change should not have an appreciable effect on other agricultural operations or the potential for agriculture on CA zoned lands, since logging can only occur on forest land and forest land is rarely used for crops or grazing, unless it is first cleared. The proposed amendment would also constitute a streamlining measure in terms of not requiring farmers to rezone their land to Timber Production (TP) to conduct timbering operations. Such rezonings must only be consistent with the California Timberland Productivity Act of 1982, and would not be subject to Commission authority or approval. The proposed amendment is modified to clarify and ensure that only timber harvesting that is specifically approved pursuant to a California Department of Forestry Timber Harvesting Plan is an allowed use in the CA (Commercial Agriculture) Zoning District. Staff recommends approval of this component of the amendment if so modified. ~~For these reasons, staff recommends approval of this component of the amendment as submitted.~~

B. Revise the Implementation Plan Amendment Motion and Resolution on Page 3 of the Staff Report as follows:

~~2. Approval of Implementation Plan Amendment as Submitted~~

~~Staff recommends a NO vote on the motion below. Failure of this motion will result in certification of the implementation plan amendment as submitted and the adoption of the following resolution and the~~



~~findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.~~

~~Motion (2 of 2). I move that the Commission **reject** Major Amendment Number 1-09 Part 2 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County.~~

~~Resolution to Certify IP Amendment. The Commission hereby certifies Major Amendment Number 1-09 Part 2 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted and adopts the findings set forth below on grounds that Major Amendment Number 1-09 Part 2 as submitted is consistent with and adequate to carry out the certified Land Use Plan, and certification of the Implementation Plan amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment.~~

2. Denial of Implementation Plan Amendment as Submitted

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (1 of 2). I move that the Commission **reject** Implementation Plan Major Amendment Number 1-09 Part 2 as submitted by Santa Cruz County.

Resolution to Deny. The Commission hereby **denies** certification of Implementation Plan Major Amendment Number 1-09 Part 2 as submitted by Santa Cruz County and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.

3. Approval of Implementation Plan Amendment if Modified

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.



Motion (2 of 2). I move that the Commission **certify** Implementation Plan Major Amendment Number 1-09 Part 2 if it is modified as suggested in this staff report.

Resolution to Certify with Suggested Modifications. The Commission hereby **certifies** Implementation Plan Major Amendment Number 1-09 Part 2 to Santa Cruz County's Local Coastal Program if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.

C. Add Modification 1 after the Motions and Resolutions on Page 3 of the Staff Report (and renumber the Findings and Declarations and Exhibits accordingly) as follows:

II. Suggested Modification

The Commission hereby suggests the following modification to the proposed LCP amendment, which is necessary to make the requisite Land Use Plan consistency findings. If Santa Cruz County accepts the suggested modification within six months of Commission action (i.e., by January 7, 2011), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format denotes text to be deleted and text in underline format denotes text to be added.

Modify proposed Section 13.10.312(b)(2) of the Implementation Plan as follows:

2. Only ~~T~~timber harvesting and associated operations, that are approved pursuant to a California Department of Forestry requiring approval of a Timber Harvesting Plan by the California Department of Forestry, ~~is~~ are an allowed use~~d~~ in the Commercial Agriculture (CA) zone district.

D. Revise the IP Analysis and Conclusion Section on Page 10 of the Staff Report as follows:

c. Analysis and Conclusion

As discussed above, the land use plan amendment is approved to allow timber harvesting on CA-zoned land in the coastal zone. The language of proposed Section 13.10.312(b)(2), however, is modified to clarify and ensure that only timber harvesting approved pursuant to a California Department of Forestry Timber Harvesting Plan is an allowed use in the CA (Commercial Agriculture) Zoning District. See



suggested modification 1. As such modified, this component of the amendment conforms to the amended land use plan ~~as modified~~ and is approved as being consistent with and adequate to carry out the certified land use plan.

E. Modify the Second Paragraph of the CEQA Finding on page 13 of the Staff Report as follows:

Santa Cruz County, acting as the lead CEQA agency in this case, adopted a Negative Declaration for the proposed LUP and IP amendments and in doing so found that the amendments would not have significant adverse environmental impacts. This staff report has discussed the relevant coastal resource issues with the proposal, and has identified an appropriate modification to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.



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W15c



Prepared June 24, 2010 (for the July 7, 2010 hearing)

To: Coastal Commissioners and Interested Persons

From: Dan Carl, District Manager
Susan Craig, Coastal Planner

Subject: Santa Cruz County LCP Major Amendment Number 1-09 Part 2 (Timber Harvesting in the Commercial Agricultural Zoning District). Proposed major amendment to the Santa Cruz County certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's July 7, 2010 meeting to take place at the Sonoma County Board of Supervisors Chambers at 575 Administration Drive in Santa Rosa.

Summary

Santa Cruz County is proposing to amend its certified Local Coastal Program (LCP) Land Use Plan (LUP) and Implementation Plan (IP, also known as the LCP zoning code) to allow timber harvesting (that has been approved through a California Department of Forestry (CDF) timber harvest plan (or THP)) as a principally permitted use on land zoned Commercial Agriculture (CA). The proposed amendment also sets standards for staging and loading activities and service areas for timber operations involving the use of helicopters.

The proposed amendment says that if a parcel is zoned CA and has timber on it, then timber harvesting is permissible, subject to CDF approval of a THP. This change should not have an appreciable effect on other agricultural operations or the potential for agriculture on CA zoned lands, since logging can only occur on forest land and forest land is rarely used for crops or grazing, unless it is first cleared. The proposed amendment would also constitute a streamlining measure in terms of not requiring farmers to rezone their land to Timber Production (TP) to conduct timbering operations. Such rezonings must only be consistent with the California Timberland Productivity Act of 1982, and would not be subject to Commission authority or approval. For these reasons, staff recommends approval of this component of the amendment as submitted.

The proposed amendment would also ensure that helicopter facilities are located near the site of the logging that they support, that helicopters would only be allowed where timber harvest is allowed, and that helicopter uses must be located within the boundaries of an approved THP. Each of the three provisions of this component of the proposed amendment helps implement the LUP's requirements that helicopter logging activities minimize environmental and neighborhood impacts. Thus, this proposed amendment component is consistent with and adequate to carry out the certified land use plan.



Staff recommends that the Commission find that the proposed amendments are consistent with and adequate to carry out the policies of the Coastal Act and certified LUP, and that the Commission approve the LCP amendments as submitted.

LCP Amendment Action Deadline: This proposed LCP amendment was filed as complete May 13, 2009. The proposed amendment affects both the LUP and the IP, and the original 90-day action deadline was August 11, 2009. On July 9, 2009, the Commission extended the action deadline by one year to August 11, 2010. Thus, the Commission has until August 11, 2010 to take a final action on this LCP amendment.

Staff Report Contents

	page
II. Findings and Declarations	3
A. Timber Litigation Background	4
B. Timber Harvesting on Commercial Agricultural Lands	5
1. Standard of Review.....	6
2. Land Use Plan Amendment	6
3. Implementation Amendment	9
C. Timber Harvest Helicopter Provisions	10
1. Standard of Review.....	10
2. Implementation Plan Amendment	11
D. California Environmental Quality Act (CEQA)	13
III. Exhibits	
Exhibit A: County Location Maps	
Exhibit B: Proposed LCP text changes	
Exhibit C: Certified IP Section 13.10.375 Text	

I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed amendment as submitted. The Commission needs to take two actions, one on the LUP component and one on the IP component, to effect this recommendation, and the required motions and resolutions follow.

1. Approval of Land Use Plan Amendment as Submitted

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Motion (1 of 2). I move that the Commission **certify** Major Amendment Number 1-09 Part 2 to the Santa Cruz County Local Coastal Program Land Use Plan as submitted by Santa Cruz



County.

Resolution to Certify LUP Amendment. The Commission hereby certifies Major Amendment Number 1-09 Part 2 to the Santa Cruz County Local Coastal Program Land Use Plan as submitted by Santa Cruz County and adopts the findings set forth below on the grounds that the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

2. Approval of Implementation Plan Amendment as Submitted

Staff recommends a **NO** vote on the motion below. Failure of this motion will result in certification of the implementation plan amendment as submitted and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (2 of 2). I move that the Commission **reject** Major Amendment Number 1-09 Part 2 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County.

Resolution to Certify IP Amendment. The Commission hereby certifies Major Amendment Number 1-09 Part 2 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted and adopts the findings set forth below on grounds that Major Amendment Number 1-09 Part 2 as submitted is consistent with and adequate to carry out the certified Land Use Plan, and certification of the Implementation Plan amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment.

II. Findings and Declarations

The Commission finds and declares as follows:



A. Timber Litigation Background

In 1998, Santa Cruz County submitted LCP Amendment 3-98 Part 1, which proposed a series of changes to the County LCP regarding timber harvesting. These changes included provisions prohibiting timber harvesting in most land use designations and zones except lands zoned Timber Production; Parks, Recreation, and Open Space; or Mineral Extraction. The County also proposed rules regarding riparian setbacks and helicopter timber harvesting. On July 14, 1999, the Commission approved the submittal with suggested modifications. Two of the suggested modifications required changes to LUP policies to prohibit rezoning certain areas as TP (Timber Production). Other suggested modifications to the zone district ordinance required proposals to rezone land as TP or M-3 (Mineral Extraction) to be submitted to the Commission as LCP amendments, added criteria regarding land proposed to be rezoned as TP in the coastal zone, and prohibited timber harvesting on lands zoned PR (Parks, Recreation, and Open Space) in the coastal zone. The Commission also proposed suggested modifications to the ordinance regarding riparian setbacks and deletion of a proposed ordinance that would have provided restrictions on helicopter timber harvesting.

On December 14, 1999, the County accepted the suggested modifications with respect to the LUP and the zoning district ordinance, but opted not to accept the suggested modifications regarding siting standards for timber harvesting with respect to riparian setbacks, and also opted not to accept a modification that affirmatively stated that timber harvesting was not an allowed use in the commercial agricultural zoning district. The Commission concurred with the Executive Director's determination that the County's acceptance of the Commission's modifications was legally adequate because the County's decision not to accept the above-mentioned modifications did not result in a substantive change to the LCP or the Commission's action on the LCP amendment. Because the County did not accept the suggested modifications regarding the setbacks and commercial agricultural zoning district, those ordinances were not incorporated into the LCP.

In March 2000, Big Creek Lumber Company and the Central Coast Forest Association filed lawsuits against the County and the Commission, alleging, among other things, that the County and the Commission lacked authority to regulate the location or conduct of timber harvesting activities by virtue of the Forest Practice Act (California Public Resources Code Section 4511 *et seq.*) and lacked authority, as a consequence of the Timberland Productivity Act (California Government Code Section 51100 *et seq.*) to impose additional criteria for rezoning parcels to TP. The trial court upheld the LCP amendment and the County's ordinances to the extent that they limited timber harvesting to land zoned TP, PR (outside the coastal zone), or M-3. The court also ruled, however, that the Timberland Productivity Act prohibits the County and the Commission from imposing any criteria regarding TP rezonings beyond those specified in Government Code Section 51113, including the requirement that TP rezonings be submitted to the Commission as LCP amendments. Finally, the court invalidated the County's uncertified ordinances regarding riparian setbacks and helicopter timber harvesting.

All the parties appealed the trial court decision. On February 17, 2004, the court of appeal ruled that the



LCP amendment and the uncertified ordinances were invalid.¹ The court of appeal agreed with the trial court that the Timberland Productivity Act prohibits the County and the Commission from imposing criteria regarding TP rezonings beyond those specified in Government Code Section 51113. The court further held that the Forest Practice Act prohibits the County from regulating the conduct of timber harvesting and that the restrictions on the location of timber harvesting fall within the scope of that prohibition. The court of appeal thus invalidated provisions restricting timber harvesting to specified zones as well as the County's uncertified ordinances regarding riparian setbacks and helicopter timber harvesting on the grounds that they impermissibly regulated the conduct of timber operations.

The County filed a petition for review with the California Supreme Court challenging the court of appeal's ruling that the Forest Practice Act prohibits the County from regulating the location of timber harvesting activities. Neither the County nor the Commission sought review of the court of appeal's decision that the County and the Commission lack authority to impose requirements regarding TP rezoning beyond those specified in the Timberland Productivity Act. The County also did not seek review regarding the riparian setback ordinance.

On August 30, 2006, the California Supreme Court ruled that the Forest Practices Act does not prohibit local governments from regulating the location of timber harvesting activities with respect to land that is not zoned TP pursuant to the Timberland Productivity Act (see *Big Creek Lumber Co. v. County of Santa Cruz* (2006) 38 Cal. 4th 1139). Based on this conclusion, the Supreme Court upheld the ordinance limiting timber harvesting to the TP, M-3, and (outside the coastal zone) PR zones, as well as the ordinance restricting the location of helicopter logging. The Supreme Court remanded the case for further proceedings consistent with the Court's decision. On remand (see Exhibit 5 for this decision), the court of appeal issued a decision that summarized the outcome of the litigation.² The trial court subsequently issued a writ of mandate directing the County to repeal invalid provisions of the LCP and the uncertified ordinances and issued a writ of mandate directing the Commission to review the County's LCP amendment in conformity with the court decisions in the litigation.

On June 13, 2007, the Commission adopted Santa Cruz County LCP Major Amendment 1-07 Part 1, the purpose of which was to comply with the recent court decisions regarding TP zones. Specifically, that amendment repealed the Commission's previously suggested LCP modifications regarding: 1) additional criteria for TP rezoning; 2) the requirement that TP rezonings be submitted as LCP amendments; 3) imposing limitations on what land is eligible to be rezoned TP, and; 4) references to the riparian setback ordinance. Additionally, to ensure consistency between the certified IP and the Timberland Productivity Act, the amendment revised the IP to track more precisely the wording of Government Code Section 51113 regarding TP rezonings.

B. Timber Harvesting on Commercial Agricultural Lands

¹ The court of appeal modified its opinion on March 20, 2004, but those modifications did not alter the judgment in the case.

² The court of appeal decisions in this case are unpublished and thus generally may not be cited as legal precedent in future litigation.



1. Standard of Review

The standard of review for proposed modifications to the County's LUP is consistency with the Coastal Act. The standard of review for proposed modifications to the County's IP is that they must be consistent with and adequate to carry out the policies of the LUP. The proposed amendment includes a land use component and a zoning component. Therefore, the standard of review for the LUP component is the Coastal Act and the standard of review for the IP component is the amended LUP.

Since the standards of review are different, each component of the amendment is discussed separately.

2. Land Use Plan Amendment

a. Description of Proposed Land Use Plan Amendment

Certified LUP Policy 5.13.5 describes the principally permitted uses on CA-zoned land. As currently certified, LUP Policy 5.12.14 allows timber harvesting that is regulated by the Department of Forestry through Timber Harvest Plans only in the Timber Production (TP), Parks, Recreation, and Open Space (PR) (outside of the coastal zone only), Mineral Extraction Industrial (M-3), and Commercial Agriculture (CA) (outside the coastal zone only) zoning districts. Thus, the LCP limits such timber harvesting in the coastal zone to the TP and M-3 districts. The proposed amendment would modify the LUP to allow timber harvesting that has been approved through a Timber Harvest Plan in the Commercial Agriculture (CA) district as a principally permitted use in the coastal zone.

The County's stated purpose for this part of the amendment is to retain commercial agricultural land by augmenting the economic situation of farmers by allowing them to harvest timber on areas of their land where sufficient stands of timber exist. According to the County, this will decrease the pressure on these lands for conversion to non-agricultural uses by giving farmers an alternative source of capital during lean years of crop/livestock production.

The LCP does not currently allow timber harvesting on CA-zoned land in the coastal zone. By making this use a principally permitted use in the CA zoning district, timber harvesting could be pursued without rezoning, if such harvesting were subject to the approval of a Timber Harvesting Plan by the California Department of Forestry. Although the public process would change -- that is there would no longer be a local hearing process for a rezoning -- the County currently has no discretion over such rezonings, if the criteria of the Government Code 51113 are met.

See page 1 of Exhibit B for the proposed changes to the LUP.

b. Coastal Act Consistency Requirement

The standard of review for land use plan amendments is the Coastal Act. Under the Coastal Act, land use plans are to indicate the kinds, locations, and intensities of uses that are allowable in various locations. The substantive policies of Chapter 3 of the Coastal Act are the primary basis for making these determinations. In this case, the most relevant governing sections of the Coastal Act are:



Section 30241: *The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following: (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses. (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development. (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250. (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands. (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality. (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.*

Section 30241.5: *(a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of "viability" shall include, but not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements: (1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program. (2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program. For purposes of this subdivision, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program. (b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.*

Section 30242: *All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with*



Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30243: The long-term productivity of soils and timberlands shall be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size shall be limited to providing for necessary timber processing and related facilities.

The proposed amendment says that if a parcel is zoned CA and has timber on it, then timber harvesting is permissible, but only if such harvesting is approved through a Timber Harvesting Plan (THP) by the California Department of Forestry (CDF). This amendment should not have an appreciable effect on other agricultural operations or the potential for agriculture on CA zoned lands, since logging can only occur on forest land and forest land is rarely used for crops or grazing, unless it is first cleared. Additional land could be subject to this amendment's provision if either trees are planted (Christmas tree farming is currently a principle permitted use on agriculturally zoned land) or the land is left fallow and trees grow. In either of these cases, tree removal would be necessary for any renewed row crop or other agriculture to occur. The County's Negative Declaration indicated that there would be little economic incentive to convert productive crop land to tree farms for eventual harvesting. The only potential effect of the proposed amendment on row crops or grazing would be if the ancillary timber operations (e.g., staging areas) are located on these lands. However, such ancillary operations are likely to be located adjacent to the forest area and be temporary and hence not have a significant or long-term impact on the adjacent grazing or crop land.

According to the County, this amendment may create an economic incentive for farmers to keep their remaining land in production. Specifically, the Negative Declaration determined that the proposed amendment would decrease the pressure on these lands for conversion to non-agricultural uses by giving farmers an alternative source of capital during lean years of crop/livestock production.

Because the amendment should not result in significant timber harvest conflicts with traditional agricultural pursuits, as discussed above, consistency with Coastal Act Sections 30241 and 30242 can be demonstrated.

The proposed amendment would also constitute a streamlining measure in terms of not requiring farmers to rezone their land to TP to conduct timbering operations. When rezoning to TP, a landowner must only demonstrate that his property meets the criteria specified in Government Code Section 51113 (California Timberland Productivity Act of 1982). In 2007, the Commission approved an amendment to the County's LCP to add these criteria to the LCP (IP Section 13.10.375 – see Exhibit C). These criteria are specific to timber harvesting requirements, such as requiring submittal of a Timber Management Plan, requiring that the property meets the State's timber stocking standards, etc. These criteria do not include any considerations regarding environmentally sensitive habitat, scenic resources, or other Coastal Act concerns. In this case, the Commission could deny the proposed amendment based on locational concerns (the "where") because of potential impacts of timber harvests on CA-zoned lands



that are environmentally sensitive habitat or visually significant. In this case the County has indicated that approximately 67 acres³ of CA-zoned land has timber resources on it; these specific locations do not appear to raise significant coastal resource concerns. In addition, the effect of a denial would be that farmers who wish to perform timber harvesting on their property would use the process outlined in IP Section 13.10.375 (which the Commission has no authority over) to rezone their property to TP. As such, a denial of the proposed LUP amendment would simply require farmers to go through more procedures to perform timber harvests on their property, over which the Commission would not have authority.

The proposed amendment is a departure from the way in which the LCP sets up its hierarchy of land use designations because the LCP currently envisions timber production as separate from agricultural production, and includes separate LUP and IP sections for these distinct uses. The amendment would blur that distinction, and would reduce the effectiveness of this hierarchy in terms of the way the LCP is organized. However, the effect of this impact would seem less than significant in light of the timber context previously described and the way in which the County and the Commission can regulate timber harvest.

In addition, by eliminating the need to rezone to TP from CA, the amendment would reduce the level of public participation in the process inasmuch as there would no longer be the need for a public hearing on the rezone. Of course, interested parties could participate through CDF's THP process, but that is different and separate from the County's land use process. That said, the effect of this diminution in potential public participation is hard to predict.

Finally, as evidence by the recent litigation history, the timber harvest regulatory arena is somewhat tumultuous, and it is possible that this context may change in the future. In that respect, the proposed LCP amendment may change the LCP in ways that future regulatory changes (and/or litigation) may also affect. It is hard to predict, however, how such changes might be understood in terms of the amendment before the Commission today.

Thus, the Commission finds that this portion of the proposed LUP amendment is consistent with the Chapter 3 policies of the Coastal Act.

3. Implementation Amendment

a. Description and Background

The proposed IP amendment would make timber harvesting on CA-zoned land a principally permitted use, as long as such timber harvesting were approved through a CDF THP (See pages 2-3 of Exhibit B with respect to IP Section 13.10.312(b)).

³ According to the County, this acreage was determined using Resources and Constraints maps created for the County's Parks, Recreation, and Open Space Plan in 1973.



b. Applicable LUP Policies

The most applicable LUP policies are those that were proposed to be amended in the Land Use Plan amendment finding above:

5.12.14 - Zone Districts Where Timber Harvesting is Allowed: *Allow timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, only in the Timber Production (TP), Parks, Recreation and Open Space (PR) (except in the coastal zone), Mineral Extraction Industrial (M-3), and the Commercial Agriculture (CA) (except in the coastal zone) zone districts.*

5.13.5 - Principal Permitted Uses on Commercial Agricultural (CA) Zoned Land: *Maintain a Commercial Agricultural (CA) Zone District for application to commercial agricultural lands that are intended to be maintained exclusively for long-term commercial agricultural use. Allow principal permitted uses in the CA Zone District to include only agricultural pursuits for the commercial cultivation of plant crops, including food, flower, and fiber crops and raising of animals including grazing and livestock production and, outside the coastal zone, timber harvesting operations.*

Among other relevant provisions are Objectives 5.12 and 5.13:

Objective 5.12 – Timber Production: *Encourage the orderly economic production of forest products on a sustained yield basis under high environmental standards, to protect the scenic and ecological values of forested areas, and to allow orderly timber production consistent with the least possible environmental impacts.*

Objective 5.13 - Commercial Agricultural Land: *To maintain for exclusive agricultural use those lands identified on the County Agricultural Resources Maps as best suited to the commercial production of food, fiber and ornamental crops and livestock and to prevent conversion of commercial agricultural land to non-agricultural uses. To recognize that agriculture is a priority land use and to resolve policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands.*

c. Analysis and Conclusion

As discussed above, the land use plan amendment is approved to allow timber harvesting on CA-zoned land in the coastal zone. As such, this component of the amendment conforms to the land use plan as modified and is approved as being consistent with and adequate to carry out the certified land use plan.

C. Timber Harvest Helicopter Provisions

1. Standard of Review

The standard of review for proposed modifications to the County's IP is that they must be consistent



with and adequate to carry out the policies of the LUP. The proposed amendment regarding helicopter facilities includes an IP component only. Therefore, the standard of review for this IP component is the LUP.

2. Implementation Plan Amendment

a. Description and Background

This proposed amendment component proposes the addition of a new section (Section 13.10.378) to the County Code to limit the location of helicopter staging and loading activities, and service areas, to:

- parcels being timbered or to adjacent parcels;
- zoning districts that allow timber harvesting, and;
- areas within the boundaries of an approved timber harvest plan.

See page 3 of Exhibit B for the proposed amendment text.

The purposes of this component of the amendment are to reduce noise impacts from helicopters on residences near logging operations and to help promote safety. Specifically, the proposed amendment addresses the concerns of County residents who wish to live in the Santa Cruz Mountains without the fear of logs falling on their families and property and without unnecessary noise from helicopter logging.

According to the County, the General Plan restricts the use of helicopters to a very limited number of uses. The allowed use of helicopters for commercial agricultural purposes infers that the activities necessitating the use of helicopters (typically spraying) will occur only on property with active agricultural operations and that adjacent properties will be subject only to incidental over-flights of helicopters. By extension, this same inference was the basis for the County's proposed helicopter logging amendment. Under the proposed amendment, the use of helicopters for logging operations would be limited to those areas directly involved in the staging, harvesting and loading of timber, and would be prohibited over adjacent properties where timber harvesting is either not allowed by the zoning district or is not included in the approved THP or Non-industrial Timber Management Plan (NTMP). The proposed ordinance implements the General Plan by limiting the use of helicopters to those areas where the helicopter activity is allowed by the zoning ordinance.

In other words, by directing where helicopter facilities are located (to timber harvest areas), the amendment has the effect of limiting the instances where laden helicopters are flying over residential areas (which are not designated timber harvest areas).

The Commission denied a proposal related to helicopter logging under LCP amendment 3-98. This new proposal differs significantly from the one previously denied. This current amendment request responds to the Commission's concerns that, while regulation of helicopter flight operations (as opposed to the



location of helicopter facilities) may not be within the jurisdictional scope of the Coastal Act, that the use of helicopters may be an environmentally superior way of log transport in some instances.

The scope of this proposed amendment component is locational and objectively verifiable, not regulatory. Helicopters are used as an alternative (or actually as a supplement) to trucks, where road access to the area being logged would be more expensive or is not allowed for some reason (e.g., environmental constraints). Helicopters hover over the area to pick up the cut logs for transport to a landing for further ground or water transport to a mill (or possibly, if a mill is close by, to the mill itself). The process of gathering up the cut logs is termed “yarding.” Helicopters would also need a base of operation for refueling, maintenance and the like. Thus, the path of the helicopter would be between the base of operation, the cut area, and the landing. Under the proposed amendment, these would all occur on the timber harvest site or an adjacent site, if timber harvests were also allowed on it. Timber harvest parcels are a minimum of 5 acres, therefore there should be room for these facilities. Since helicopter yarding is a comparatively expensive means of transport, there is a very strong economic incentive to minimize the distance that the helicopter needs to travel. The only constraints would be if the parcels in a particular case have no level areas for landing or are landlocked without road access for logging trucks.

b. LUP Consistency Requirement

The following Santa Cruz LUP policy requires minimization of timber harvest impacts and states:

5.12.12. Review of Timber Harvest *Require strict review of all timber harvests subject to County regulation to assure minimal environmental and neighborhood impacts. Deny applications which cannot meet those standards.*

The following LUP Timber Resource Program is also applicable:

e(3): *Continue to apply the following policies when reviewing timber harvest plans:...(3) allow for selecting the haul route which minimizes neighborhood impacts.*

Also germane are the various policies related to erosion control listed under Objective 6.3, the various habitat protection policies listed under Objective 5.1, and a basic plan goal of protecting the public safety and welfare (Chapter 2).

c. Analysis and Conclusion

The first provision of this amendment component would ensure that helicopter facilities are located near the site of the logging that they support. Such facilities would generate noise which could impact neighbors. The cited land use plan policies seek to avoid such impacts.

The second provision of this amendment helps ensure internal consistency within the implementation plan. Helicopter facilities are akin to industrial type uses and hence are not allowed uses in most zoning districts, given the noise associated with them. Because the facilities subject to these provisions are part



of the timber harvest operation, they can only be allowed where timber harvest is allowed (i.e., be part of the timber harvest use).

The third provision requires that the helicopter uses be located within the boundaries of an approved timber harvest plan. This ensures that that impacts from helicopter logging are limited in scope and do not infringe on areas that are not subject to a timber harvest plan, such as residential areas.

Each of the three provisions of the proposed amendment component helps implement the LUP. The Commission notes that these proposals would not have the effect of prohibiting helicopter logging. In addition, this method of logging may be preferable in terms of minimizing environmental impacts and furthering County erosion control and habitat protection policies.

In conclusion, the proposed amendment component is approved as being consistent with and adequate to carry out the certified land use plan.

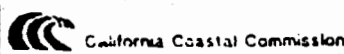
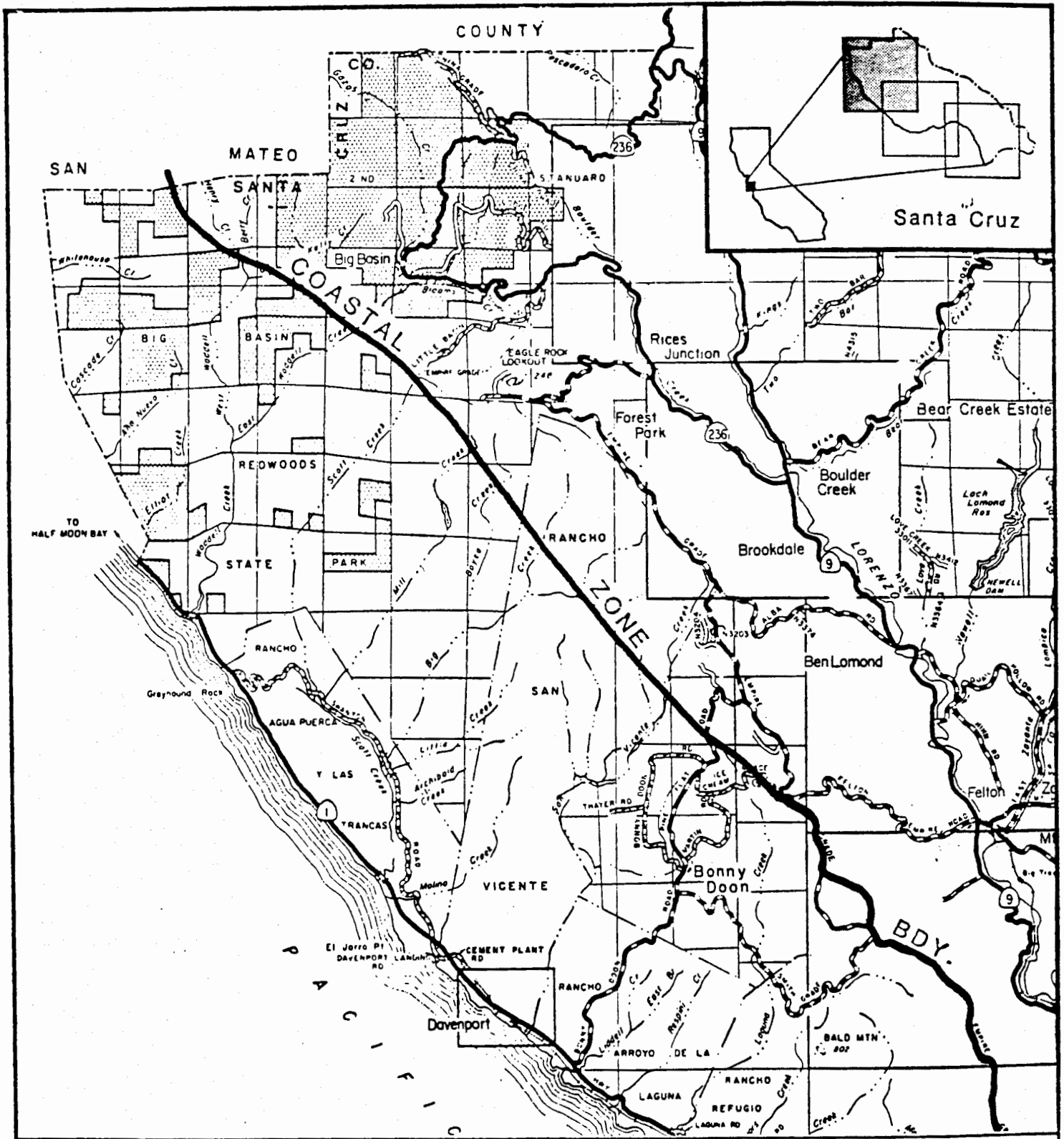
D. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

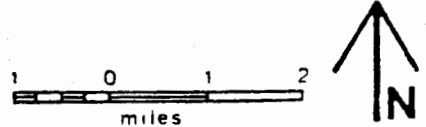
Santa Cruz County, acting as the lead CEQA agency in this case, adopted a Negative Declaration for the proposed LUP and IP amendments and in doing so found that the amendments would not have significant adverse environmental impacts. This staff report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



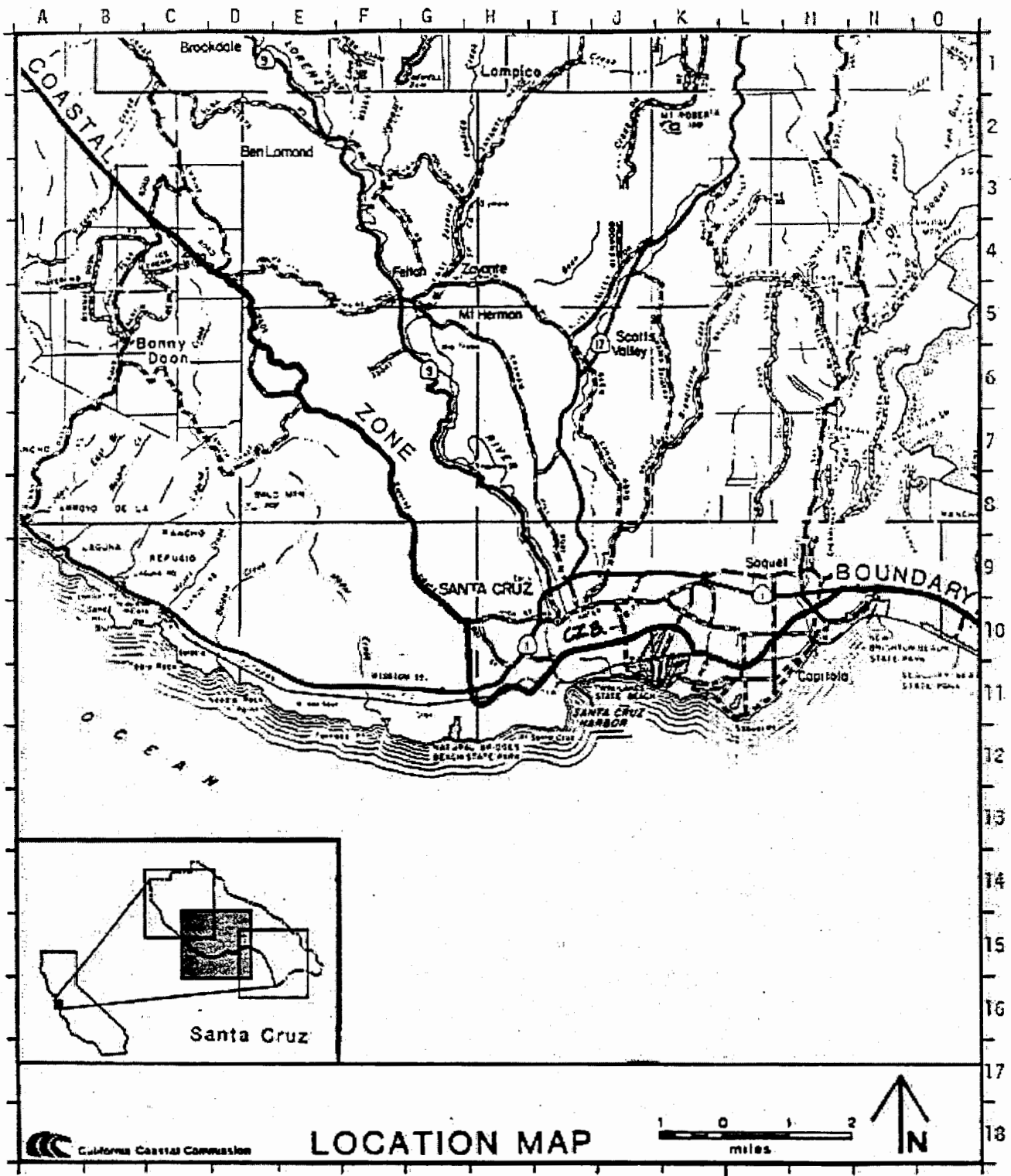


LOCATION MAP



County of Santa Cruz

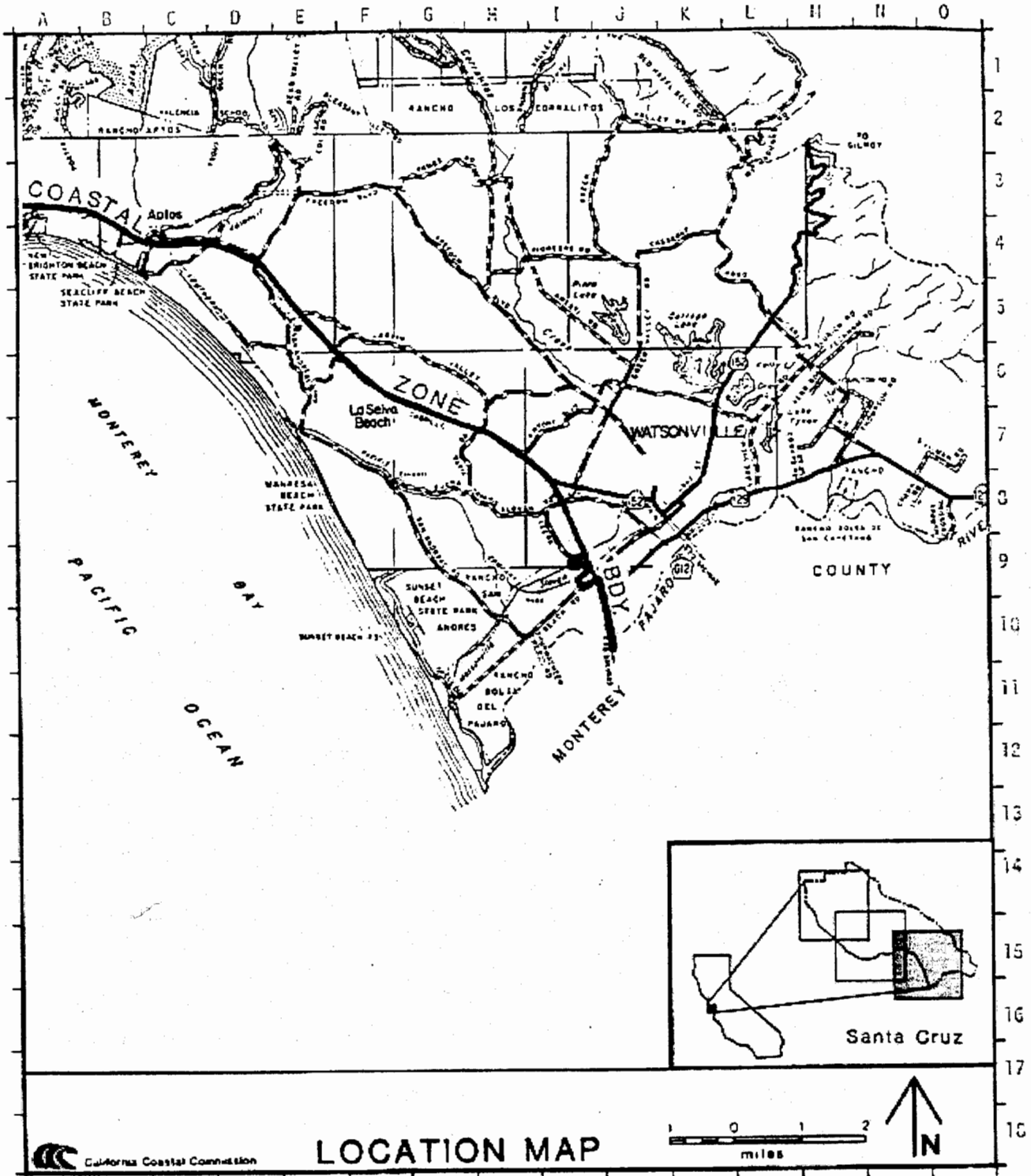
CCC Exhibit A Sheet 1 of 3
 (page 1 of 3 pages)



County of Santa Cruz

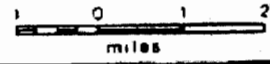
Sheet 2 of 3

CCC Exhibit A
 (page 2 of 3 pages)



California Coastal Commission

LOCATION MAP



County of Santa Cruz

Sheet 3 of 3

CCC Exhibit A
 (page 3 of 3 pages)

Proposed General Plan Amendments:

New language underline/~~strikeout~~

Amend Policy 5.12.14, as follows:

5.12.14 Zone Districts Where Timber Harvesting is Allowed

Allow timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, only in the Timber Production (TP), Parks, Recreation and Open Space (PR) (except in the coastal zone), Mineral Extraction Industrial (M-3), and the Commercial Agriculture (CA) (~~except in the coastal zone~~) zone districts.

Revise the following section of the General Plan/Local Coastal Program Land Use Plan, as follows:

Section 5.13.5 Principal Permitted Uses on Commercial Agricultural (CA) Zoned Land

Maintain a Commercial Agricultural (CA) Zone District for application to commercial agricultural lands that are intended to be maintained exclusively for long-term commercial agricultural uses. Allow principal permitted uses in the CA Zone District to include only agricultural pursuits for the commercial cultivation of plant crops, including food, flower, and fiber crops and raising of animals including grazing and livestock production and, ~~outside the coastal zone~~, timber harvesting operations.

ORDINANCE 4578

ORDINANCE AMENDING COUNTY CODE SECTIONS 13.10.312(b) - ALLOWED USES IN THE AGRICULTURAL ZONES AND SECTION 16.20.180 - DESIGN STANDARDS FOR PRIVATE ROADS, DRIVEWAYS AND BRIDGES, AND ADDING COUNTY CODE SECTION 13.10.378 - TIMBER HARVESTING RELATED HELICOPTER REGULATIONS AND SECTION 13.10.695- LOCATIONAL CRITERIA FOR TIMBER HARVESTING

SECTION I

Subsection (b) of Section 13.10.312 - Uses Allowed in Agricultural Districts of the County Code is hereby amended to read as follows:

(b) Allowed Uses.

1. The uses allowed in the agricultural districts shall be as provided in the Agricultural Uses Chart below. A discretionary approval for an allowed use is known as a "Use Approval" and is given as part of a "Development Permit" for a particular use. The type of permit processing review, or "Approval Level", required for each use in each of the agricultural zone districts is indicated in the chart. The processing procedures for Development Permits and for the various Approval Levels are detailed in Chapter 18.10 PERMIT AND APPROVAL PROCEDURES. The Approval Levels given in this chart for structures incorporate the Approval Levels necessary for processing a building permit for the structure. Higher Approval Levels than those listed in this chart for a particular use may be required if a project requires other concurrent Approvals, according to Section 18.10.123. All Level V or higher Approvals in the "CA" and "AP" zone districts are subject to the special findings required by Section 13.10.314(a) in addition to those required in Section 18.10.230.
2. Timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, is an allowed use in the Commercial Agriculture (CA) zone district.

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CCC Exhibit B
(page 2 of 3 pages)

SECTION II

Subsection (b) of Section 13.10.312 of the County Code is hereby amended to add the following use to the Agricultural Uses Chart to read as follows:

AGRICULTURAL USES CHART

USE	CA	A	AP
<u>Timber harvesting and associated operations</u>	P	=	=

SECTION III

Chapter 13.10 is hereby amended by adding Section 13.10.378 to read as follows:

13.10.378 Timber Harvest Related Helicopter Operations

(a) Staging and loading activities, and service areas, for timber operations involving the use of helicopters shall be prohibited unless the staging, loading or service area:

- i) is on the parcel or on a parcel which is contiguous to the parcel from which the timber is being harvested.
- ii) is within a parcel that is either zoned TP or is zoned in another zone district where timber harvesting is permitted, and
- iii) is within the boundaries of the Timber Harvest Plan (THP) or the Non-industrial Timber Management Plan (NTMP), and the THP or NTMP is approved by the California Department of Forestry and Fire Protection.

SECTION IV

Chapter 13.10 of the County Code is hereby amended by adding Section 13.10.695 to read as follows:

13.10.695 Locational Criteria for Timber Harvesting

(a) Timber harvesting requiring approval of a Timber Harvesting Plan or a Non-industrial Timber Management Plan by the California Department of Forestry is allowed only in those zone districts which specifically list timber harvesting as an allowed use.

Code section deleted -

see Board Action of 5/15/07

13.10.375 Special standards and conditions for the Timber Production "TP" District.

(a) Required Special Findings for Nontimber Growing and Harvesting Uses. The following special findings shall be made in addition to the findings required by Chapter 18.10:

(1) The proposed uses will be physically compatible with the growing and harvesting of Productivity Act of 1982 and the purposes of Chapter 13.10.371.

(2) The proposed use is supported by a Compatibility Analysis, as defined in section 13.10.700-C, submitted as a part of the application for such proposed use, and which Compatibility Analysis has been approved as submitted, or as amended by the County, as a condition upon any permit granted.

(b) Agricultural Resource Protection. The regulations and requirements of Chapter 16.50 Agricultural Land Preservation and Protection and the General Plan and Local Coastal Program Land Use Plan policies pertaining to agricultural resource lands shall apply to all agricultural resource lands designated pursuant to Chapter 16.50 and located within the "TP" District.

(c) Zoning to the "TP" District. An owner may petition to rezone land to the Timber Production District. The Board of Supervisors shall, by ordinance, upon the advice of the Planning Commission pursuant to Government Code section 51110.2, and after public hearings, zone as Timber Production parcels submitted to it by petition pursuant to Government Code section 51113, which meet all of the following criteria:

(1) Submittal of a map with the legal description or assessor's parcel number of the property to be zoned.

(2) Submittal of a Timber Management Plan for the property that has been prepared, or approved as to content, by a Registered Professional Forester. Such Plan shall provide for the eventual harvest of timber within a reasonable period of time, as determined by the preparer of the Plan.

(3) The parcel must either currently meet the timber stocking standards as set forth in Section 4561 of the Public Resources Code and the Forest Practice Rules adopted by the Board of Forestry for the Southern Subdistrict of the Coast Forest District, or the owner must enter into an agreement with the Board of Supervisors that the parcel shall meet such stocking standards and Forest Practice Rules by the fifth anniversary of the signing of the agreement. Failure to meet such stocking standards and Forest Practice Rules within this time period shall constitute grounds for rezoning the parcel.

(4) Upon the fifth anniversary of the signing of the agreement, the Board shall determine whether the parcel meets the timber stocking standards in effect on the date that the agreement was signed. If the parcel fails to meet the timber stocking standards, the Board shall immediately rezone the parcel and specify a new zone for the parcel, which is in conformance with the General Plan/Local Coastal Program Land Use Plan and whose primary use is other than timberland.

(5) The parcel is timberland as defined in subdivision (f) of Government Code section 51104.

(6) Use of the parcel complies with the Timber Production Zone uses set forth in Section 13.10.372.

(7) The land area to be rezoned shall be in the ownership of one person, as defined in Section 38106 of the Revenue and Taxation Code, and shall be comprised of single or contiguous parcels consisting of at least forty acres in area.

(d) Rezoning to Another District. Rezoning of the land from Timber Production (TP) to another zone district shall conform to the requirements of the Forest Taxation Reform Act of 1976, in addition to any other applicable rezoning requirements.