

## CALIFORNIA COASTAL COMMISSION

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W9a



**Prepared October 31, 2011 (for November 2, 2011 hearing)**

**To:** Commissioners and Interested Persons

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

**Subject: STAFF REPORT ADDENDUM for W9a  
 Santa Cruz County Local Coastal Program (LCP) Amendment Number 1-11 Part 4  
 (Fences and Retaining Walls)**

The purpose of this addendum is to modify the staff report (dated prepared October 13, 2011) for the above-referenced item. Staff had worked closely with the County on the recommended suggested modifications leading up to the staff report being released, and has continued to work with the County on potential refinements to them in the time since. This addendum reflects those refinements. In particular, suggested modification 4 has been limited to fences, retaining walls, and hedges only (as opposed to applying also to development in general). The broader suggested modification language initially identified was the product of already ongoing discussions between County and Commission staff regarding updating the LCP's coastal scenic and visual protection policies as they pertain to development in general. The County would prefer to focus on such broader viewshed topics in that future amendment context and not in this current more focused amendment context, and staff concurs. In addition, recommended suggested modification 1 is amended to refer to required findings, and new suggested modification 6 provides a definition (in the LCP's definitions section) for an "Over-Height Fence Certification".

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). As modified by this addendum, the County is in agreement with the staff report recommendation on the LCP amendment, including all modifications.

Change Suggested Modification 1 on staff report page 4 as follows:

**1. Over-Height Fence Certification ~~Defined~~ Required Findings.** Add new IP section 13.10.525(d) as follows:

(d) Over-Height Fence Certification. An over-height fence certification may be issued upon the Planning Director making the findings required by County Code Section 18.10.230(a) and, if in the coastal zone, the finding that the subject development will not adversely impact public views and scenic character.

Replace new Section 13.20.130(b)(7) in Suggested Modification 4 on staff report page 5 with the following:

Fences, walls, and hedges shall be sited and designed so that they do not block significant public views and so that they do not significantly adversely impact significant public views and scenic



character.

Add new Suggested Modification 6 on staff report page 6 as follows:

**6. Over-Height Fence Certification Definition.** Add the following definition to LCP Section 13.10.700-O:

“Over-Height Fence Certification:” An administrative approval certifying that a fence that does not require approval of a coastal development permit pursuant to Sections 13.20.060 or 13.20.070, and which is between the maximum height allowed without a development permit and the lowest height for which a Level IV development permit is required pursuant to 13.10.525(c)3, meets the purposes of the fence and retaining wall regulations in Section 13.10.525(a) and (b).



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# W9a



**Prepared October 13, 2011 (for November 2, 2011 hearing)**

**To:** Coastal Commissioners and Interested Persons

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

**Subject: Santa Cruz County Local Coastal Program (LCP) Amendment Number 1-11 Part 4  
(Fences and Retaining Walls)**

## Summary

Santa Cruz County proposes to amend the Implementation Plan (IP) component of its certified LCP to modify fence and retaining wall regulations to generally increase maximum allowable heights, and to reduce certain permit requirements. Currently, without a County development permit (different than a coastal development permit (CDP)) fences and walls are limited to 3 feet in height in front setbacks and 6 feet in height in all other setbacks. In addition, hedges are currently limited in the front setback (but not other setbacks) to a 3-foot maximum height. Through a variety of permit processes, including CDPs, fences, walls, and hedges may be allowed at heights greater than those limits provided that other County policies, including LCP policies in the coastal zone, are met (i.e., in terms of views, community character, etc.).

The proposed amendment creates a more detailed framework for fence and retaining wall maximum heights and permit requirements, explicitly eliminates references to hedges from the fence and retaining wall regulations and the IP's definitions section, and reclassifies the definition of fence as not including a hedge. The amendment eliminates permit requirements for fences that do not abut vehicular ways and that are 3 feet or less in front setbacks, and 6-8 feet in all other setbacks, and also allows fences of 6-8 feet (6 feet in urban areas and 8 in rural areas) in front setbacks and 5-8 feet in other setbacks through an administrative (staff level) sign off of an "Over-Height Fence Certification." The amendment allows archways above walkways in fences to extend to 8 feet without discretionary approval, and allows other open decorative features to extend 6 inches above maximum heights without discretionary approval. The proposed amendment also defines a "corner sight clearance triangle" area as an area where lots intersect street intersections, driveways, and alleys, and within which no fences, retaining walls, hedges, landscaping, and other impediments would be allowed to exceed three feet in height. Heights of fences, walls, and related elements could be increased above the identified maximums (subject to other constraints) through permit processes. The County indicates that the proposed changes are designed to lessen the expense and complexity of obtaining a permit through a public hearing for fences and walls that exceed the maximum allowed heights.

The proposed amendment would provide significantly more detail with regards to fence and wall siting and height requirements, and would limit situations where permits would be required for fences and walls that met the new (increased) baseline maximum height standards. Generally, the proposed changes



do not raise significant Land Use Plan (LUP) consistency questions except to the extent that fences and walls would be allowed in sensitive areas (like important public viewsheds, sensitive habitat areas, agricultural lands, etc.) without the benefit of a permit review to ensure LCP consistency, and except in relation to eliminating the regulation of hedges in these same types of areas. Moreover, the proposed permit exception could be understood to apply to CDPs, but development can only be exempted or excluded from CDPs pursuant to the criteria of Coastal Act Section 30610 and the implementing provisions of the California Code of Regulations, none of which are referenced in the proposal. Thus, the proposed changes could lead to inappropriate development in sensitive areas and resultant degradation of coastal resources, absent appropriate CDP review.

These two primary issues can be addressed in two ways. First, the proposed permit exemption cannot be allowed to extend to coastal zone development that is not exempt or excluded from CDP requirements. In that way, coastal resource issues can be appropriately analyzed and addressed through the normal CDP process to avoid resource degradation. Second, the proposal to no longer regulate hedges can be addressed in the coastal zone by retaining the LCP's hedge definition, and adding public viewshed protection language to the LCP's coastal permit chapter, including an explicit requirement that such hedges and other types of vegetation screens not result in adverse impacts to significant public views as part of any CDP review.

In addition, the County inadvertently omitted a definition of the "Over-Height Fence Certification" and inadvertently deleted certain LCP agricultural fencing requirements in the amendment. These issues can be readily rectified by: 1) adding a definition allowing the Planning Director to make an over-height determination at an administrative level if certain findings are made, including the CDP findings for coastal zone cases; and 2) reinserting agricultural fencing requirements and standards.

Thus, Staff recommends denial of the IP amendment as submitted, and approval with modifications designed to ensure appropriate CDP review for fence, wall, screen, and related development in the coastal zone, and to ensure that coastal resources, particularly public view resources, are not adversely impacted due to the proposed changes. As modified, the proposed amendment can be found consistent with and adequate to carry out the LUP, and Staff recommends that the Commission approve the LCP amendment with suggested modifications. The required motions and resolutions to implement this recommendation begin on page 3 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on June 15, 2011. The proposed amendment includes IP changes only, and the original 60-day action deadline was August 14, 2011. On August 11, 2011, the Commission extended the action deadline by one year to August 14, 2012. Thus, the Commission has until August 14, 2012 to take a final action on this LCP amendment.



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## I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed amendment if modified. The Commission needs to make two motions in order to act on this recommendation.

### 1. Denial of Implementation Plan Amendment as Submitted

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in rejection of the implementation plan amendment as submitted and the adoption of the following resolution and findings. 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** Major Amendment Number 1-11 Part 4 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County. I recommend a yes vote.

**Resolution to Deny.** The Commission hereby **denies** certification of Major Amendment Number 1-11 Part 4 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County and adopts the findings set forth below on the grounds that the amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment as submitted.

### 2. 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** Major Amendment Number 1-11 Part 4 to



the Santa Cruz County Local Coastal Program Implementation Plan if it is modified as suggested in this staff report. I recommend a yes vote.

**Resolution to Certify with Suggested Modifications.** The Commission hereby **certifies** Major Amendment Number 1-11 Part 4 to Santa Cruz County’s Local Coastal Program Implementation Plan 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.

## II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Land Use Plan consistency findings. If Santa Cruz County accepts each of the suggested modifications within six months of Commission action (i.e., by May 2, 2012), 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.

**1. Over-Height Fence Certification Defined.** Add new IP section 13.10.525(d) as follows:

(d) Over-Height Fence Certification. An over-height fence certification may be issued upon the Planning Director making the findings required by County Code Section 18.10.230(a) and, if in the coastal zone, Section 13.20.110.

**2. CDP Requirements Identified.** Modify Sections 13.10.323(d)5(A), 13.10.525(c)(3), 13.10.525(c)(4), and 13.10.525(c)(5) as follows:

**a. Section 13.10.323(d)5(A).** “...Open safety railings no more than forty-two (42) inches in height may be constructed to the property line without a development permit, except that in the coastal zone a coastal development permit will be required for all such development unless it is exempt from coastal development permit requirements pursuant to County Code Sections 13.20.060 or 13.20.070.”

**b. Section 13.10.525(c)(3).**



Maximum Height without Permit outside of Corner Sight Distance Triangles** <u>***</u>	Maximum Height with Over-Height Fence Certification outside of Corner Sight Distance Triangles** <u>***</u>	Maximum Height with a Level IV <u>or above</u> Permit <u>***</u>
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...

\*\*\* In the coastal zone, a coastal development permit will be required for all fence and retaining wall development unless it is exempt from coastal development permit requirements pursuant to County Code Sections 13.20.060 or 13.20.070.

- c. **Section 13.10.525(c)(4).** “...without a Level IV development permit. Notwithstanding the above exceptions for discretionary approval and development permits, in the coastal zone all such archways/trellises/ pergolas shall require a coastal development permit unless exempt from coastal development permit requirements pursuant to County Code Sections 13.20.060 or 13.20.070.”
- d. **Section 13.10.525(c)(5).** “...no more than 50 percent of the feature may be opaque. Notwithstanding the above exception for discretionary approval, in the coastal zone all such development shall require a coastal development permit unless exempt from coastal development permit requirements pursuant to County Code Sections 13.20.060 or 13.20.070.”

**3. Agricultural fencing.** Insert new Section 13.10.525(c)(2)(a) as follows (and renumber proposed Section 13.10.525(c)(2)(a) and the following subsections (and references to them) accordingly):

In agricultural zone districts, fencing for agricultural purposes may have heights up to 6 feet in all yards provided that such fencing, including gates, is: (a) six feet or less in height; and (b) made of wire which is spaced a minimum of 6 inches apart (i.e., typical field fencing), or made of horizontally oriented wooden members which are spaced a minimum of one foot apart (i.e., typical wooden corral fencing). Such fencing meeting these criteria shall be exempt from Development Permit approval unless such fencing is located on property adjacent to Highway One, in which case a Development Permit is required. In the coastal zone, a coastal development permit will be required for all such fencing unless it is excluded from coastal development permit requirements pursuant to County Code Sections 13.20.060 or 13.20.070.

**4. Public Viewshed Protection.** Add new Section 13.20.130(b)(7) as follows:

Development (including fences, walls, and hedges) shall not block significant public views and shall not significantly adversely impact significant public views and scenic character. Development within significant public viewsheds shall be sited and designed to avoid blocking or having a significant adverse impact on significant public views, including by situating lots, access roads, driveways, buildings and other structures, fencing, walls, hedges and other landscaping to avoid view degradation and to maximize the effectiveness of topography and landscaping as a means to



eliminate, if possible, and/or soften, if not possible, public view impacts.

- 5. Hedge Definition.** Do not delete the definition of hedge from the LCP (i.e., retain LCP Section 13.10.700-H definition of hedge).

### III. Findings and Declarations

The Commission finds and declares as follows:

#### A. Proposed LCP Amendment

The County proposes to amend the IP component of its certified LCP to modify fence and retaining wall regulations to generally increase maximum allowable heights, and to reduce certain permit requirements. Currently fence, retaining wall, and hedge heights are limited to three feet maximum height in front setbacks and other setbacks that abut a street, and fences and retaining walls are limited to six feet in rear and side setbacks that do not abut a street.<sup>1</sup> Fences, retaining walls, and hedges that meet these height restrictions are allowed without a Development Permit requirement.<sup>2</sup> Taller fences, retaining walls, and hedges may currently be allowed with either a Level III or a Level V Development Permit.<sup>3</sup>

The proposed amendment creates a more detailed framework for maximum fence and retaining wall heights and permit requirements, explicitly eliminates references to hedges from the fence and retaining wall regulations and the IP's definitions section, and reclassifies the definition of fence as not including a hedge. The amendment eliminates permit requirements for fences that do not abut vehicular ways and that are 3 feet or less in front setbacks, and 6-8 feet in all other setbacks, and also allows fences of 6-8 feet (6 feet in urban areas and 8 in rural areas) in front setbacks and 5-8 feet in other setbacks through an administrative (staff level) sign off of an "Over-Height Fence Certification." The amendment allows archways in fences above walkways to extend to 8 feet without discretionary approval, and allows other

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<sup>1</sup> The County indicates that fence heights are more restricted in front yards and other yards that abut a street for a variety of reasons, including the need for adequate sight distance for vehicles entering onto roads from other roads or driveways and the desire to maintain a harmonious and compatible street appearance. The County further indicates that side and rear yards that abut streets may present some of the same issues as front yards, but that traffic safety issues are usually less than with front yards because vehicular maneuvering mostly involves sight distance to, from, and along front yards.

<sup>2</sup> The County issues a variety of permit types, including Development Permits (including Residential Development Permits, Commercial Development Permits, and Agricultural Development Permits) as well as Coastal Development Permits. Chapter 13.20 of the LCP describes when CDPs are required for development in the County's coastal zone, as well as when development is exempt or excluded from the LCP's CDP requirements.

<sup>3</sup> Santa Cruz County has application, processing, and review requirements for any permit application, approval, or policy amendment. These requirements vary with the complexity of the project involved and the amount and type of public participation required. There are two basic types of permits and approvals: administrative permits and approvals and public hearing permits and approvals. Approval levels I through IV are considered administrative and projects that fall into use approval levels I through IV are considered principally permitted unless the use charts specify that they are not. Use approval levels V through VII require a public hearing. Projects that require a use approval of level V through level VII are considered a conditional use and may be appealed to the Commission on that basis.



open decorative features to extend 6 inches above maximum heights without discretionary approval. The proposed amendment also defines a “corner sight clearance triangle” as an area where lots intersect with street intersections, driveways, and alleys, and within which no fences, retaining walls, hedges, landscaping, and other impediments would be allowed to exceed three feet in height. Heights of fences, walls, and related elements could be increased above the identified maximums (subject to other constraints) through permit processes. The County indicates that the proposed changes are designed to lessen the expense and complexity of obtaining a permit through a public hearing for fences and walls that exceed the maximum allowed heights.<sup>4</sup>

The proposed amendment would provide more detail with regards to fence and wall siting and height requirements, would increase allowed maximum heights, and would limit situations where permits would be required for fences and walls that met the new (increased) height standards. In addition, fences and walls could exceed the baseline maximum height by up to a few feet with an administrative (non-permit) Over-Height Fence Certification. According to the County, this new administrative review category would require approval of a very basic fencing plan at a County staff level, and is envisioned by the County to be a reduced review (that is similar to the level of review currently used to certify that adequate parking exists when a new mobile home is proposed to be installed in a mobile home park). To exceed the maximum heights allowed by an Over-Height Fence Certification, the proposed amendment would require a Level IV review (i.e., no public hearing required) instead of the Level V review (i.e., public hearing required) that is required under the current regulations. The proposed amendment would also establish and define a “corner sight clearance triangle.” The County defines this as an area at street intersections, driveways, and alleys within which no structures, fences, landscaping, or other material would be allowed to exceed three feet in height. An exception to the corner sight clearance triangle would be allowed for safety railings up to 42 inches tall for parcels that slope steeply down from their access road.

In addition, under existing LCP regulations, hedges are treated the same as fences and walls in front setbacks and other setbacks abutting streets. Under the proposed amendment, hedges would no longer be subject to the fencing and wall regulations, except for corner sight clearance triangles, and the definition of hedge would be removed from the LCP.

See Exhibit A for the proposed IP changes.

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<sup>4</sup> Currently, the cost of obtaining over-height permits for fences and retaining walls that exceed the maximum allowed height without a Development Permit is comprised of several administrative and flat-rate fees, as well as other fees that are charged based on staff time to process the application. Generally, the County indicates that the cost of obtaining a Level III permit is about \$850. For a Level V permit (for a fence over 6 feet tall), the County indicates that the total fees range from approximately \$3,200 to approximately \$5,000. According to the County, the proposed Over-Height Fence Certification would entail a fee of about \$250.



## B. LUP Consistency Analysis

### 1. Applicable Policies

The proposed amendment affects the IP component of the Santa Cruz County LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP. The proposed amendment primarily affects visual resources and sensitive habitat resources. Applicable LUP policies include:

***LUP Objective 5.10.a (Protection of Visual Resources).*** To identify, protect, and restore the aesthetic values of visual resources.

***LUP Objective 5.10.b (New Development in Visual Resource Areas).*** To ensure that new development is appropriately designed and constructed to have minimal to no adverse impact upon identified visual resources.

***LUP Policy 5.10.2 (Development Within Visual Resource Areas).*** Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section....

***LUP Policy 5.10.3 (Protection of Public Vistas).*** Protect significant public vistas...from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations,... inappropriate landscaping and structure design.

***LUP Policy 5.10.5 (Preserving Agricultural Vistas).*** Continue to preserve the aesthetic value of agricultural vistas. Encourage development to be consistent with the agricultural character of the community. Structures appurtenant to agricultural uses on agriculturally designated parcels shall be considered to be compatible with the agricultural character of surrounding areas

***LUP Policy 5.10.6 (Preserving Ocean Vistas).*** Where public ocean vistas exist, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development.

***LUP Policy 5.10.7 (Open Beaches and Blufftops).*** Prohibit the placement of new permanent structures which would be visible from a public beach, except where allowed on existing parcels of record, or for shoreline protection and for public beach access. Use the following criteria for allowed structures: (a) Allow infill structures (typically residences on existing lots of record) where compatible with the pattern of existing development. (b) Require shoreline protection and access structures to use natural materials and finishes to blend with the character of the area and integrate with the landform.

***LUP Policy 5.10.11 (Development Visible from Rural Scenic Roads).*** In the viewsheds of rural scenic roads, require new discretionary development, including development envelopes in



*proposed land divisions, to be sited out of public view, obscured by natural landforms and/or existing vegetation. Where proposed structures on existing lots are unavoidably visible from scenic roads, identify those visual qualities worthy of protection (See policy 5.10.2) and require the siting, architectural design and landscaping to mitigate the impacts on those visual qualities. (See policy 5.14.10.)*

***LUP Policy 5.10.12 (Development Visible from Urban Scenic Roads).*** *In the viewsheds of urban scenic roads, require new discretionary development to improve the visual quality through siting, architectural design, landscaping, and appropriate signage.*

***LUP Objective 5.1 (Biological Diversity).*** *To maintain the biological diversity of the County through an integrated program of open space acquisition and protection, identification and protection of plant habitat and wildlife corridors and habitats, low-intensity and resource compatible land uses in sensitive habitats and mitigations on projects and resource extraction to reduce impacts on plant and animal life.*

***LUP Objective 5.2 (Riparian Corridors and Wetlands).*** *To preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance of storage of flood waters.*

***LUP Policy 5.1.6 (Development Within Sensitive Habitats).*** *Sensitive habitats shall be protected against any significant disruption of habitat values; and any proposed development within or adjacent to these areas must maintain or enhance the functional capacity of the habitat. Reduce in scale, redesign or, if no other alternative exists, deny any project which cannot sufficiently mitigate significant adverse impacts on sensitive habitats unless approval of a project is legally necessary to allow reasonable use of the land.*

***LUP Objective 5.13 (Commercial Agricultural Land):*** *To maintain for exclusive agricultural use those lands identified on the County Agricultural Resources Map 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.*

***LUP Policy 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.*



## 2. Analysis

The proposed amendment is part of an ongoing County effort to make the County's land use regulations reflect common practice and to make the regulations easier to understand, use, and apply. In this case, the proposed amendment would modify IP fence and retaining wall regulations to generally increase maximum allowable heights, and to reduce certain permit requirements. The proposed amendment generally would increase the height of fences and retaining walls that could be constructed without issuance of a permit by two to three feet over the existing regulations. The proposed amendment would also provide significantly more detail with regards to fence and wall siting and height requirements, and would limit situations where permits would be required for fences and walls that met the new (increased) height standards.

The primary issue raised with respect to this proposed IP amendment is that it could be interpreted to exempt certain types of development from CDP requirements, but development that is not otherwise exempt by the Coastal Act through the LCP may only be exempted from CDP requirements through Commission adoption of categorical exclusions. This IP amendment is not intended to be processed as a categorical exclusion. In addition, the proposed changes could raise LUP consistency questions to the extent that fences and walls would be allowed in sensitive areas (like important public viewsheds, sensitive habitat areas, agricultural lands, etc.) without the benefit of a permit review to ensure LCP consistency. Finally, the IP eliminates the regulation of hedges, which in these same coastal zone sensitive areas could adversely impact coastal resources, inconsistent with the LUP. Thus, the proposed IP amendment is inadequate to carry out the LUP and could be interpreted to attempt to inappropriately exempt development from CDP requirements. The amendment, as submitted, must therefore be denied.

These issues, however, can be readily addressed through adoption of suggested modifications. First, the proposed permit exemption cannot be allowed to extend to coastal zone development that is not exempt from CDP requirements per the Act, the Code of Regulations, and LCP sections that reflect these exemptions and exclusions.<sup>5</sup> By adding modifications clarifying that CDPs must still be obtained for this type of development in the coastal zone, coastal resource issues can be appropriately analyzed and addressed to avoid coastal resource degradation. This is particularly important along certain public thoroughfares, prominent coastal viewshed areas, areas adjacent to public paths and trails (such as portions of East Cliff Drive), open space areas, and sensitive habitat areas, where fences and walls can have a profound negative impact on public views. To ensure that the proposed amendment does not inappropriately exempt development from CDP requirements, suggested modification 2 clarifies that a CDP is required for proposed fences and retaining walls that are not otherwise exempt from the LCP's coastal permitting requirements (e.g., when the fence or retaining wall would be located on a coastal

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<sup>5</sup> The Commission notes that certain CDP exemptions identified in the LCP are not currently consistent with the governing Coastal Act and California Code of Regulations provisions from which they derive their authority. Commission and County staff are currently collaborating on an LCP amendment package designed to address these inconsistencies, among other things. Until that time, and consistent with the statutory authority for such exceptions, to the extent there are any conflicts between the current LCP exemptions and those associated with the Coastal Act and the Commission's regulations, the Coastal Act and the Commission's regulation criteria apply.



bluff area, beach, or wetland, etc.). In that way, coastal resource issues can be appropriately analyzed and addressed through the CDP process to avoid resource degradation. Second, the proposal to no longer regulate hedges must be addressed in the coastal zone. As opposed to reinserting such language here in the proposed amended fences and walls section, hedge regulation can be made most relevant in a coastal zone context by keeping the LCP's hedge definition (see suggested modification 5), and adding public viewshed protection language to the LCP's coastal permit chapter, including an explicit requirement that such hedges and other types of vegetation screens not block or result in significant adverse impacts to significant public views as part of any CDP review (see suggested modification 4).

In addition to these two primary issues, the County inadvertently omitted a definition of the "Over-Height Fence Determination" and inadvertently deleted certain agricultural fencing requirements in the amendment. These issues can be readily rectified by: 1) adding a definition that allows the Planning Director to make an over-height determination at an administrative level if certain findings are made, including the required findings for a CDP when necessary (see suggested modification 1); and 2) reinserting agricultural fencing requirements and standards into the IP (see suggested modification 3).

Thus, the Commission suggests a series of modifications designed to ensure appropriate CDP review for fence, wall, screen, and related development in the coastal zone, and to ensure that coastal resources, particularly public view resources, are not adversely impacted due to the proposed changes. As modified, the proposed amendment can be found consistent with and adequate to carry out the LUP.

### C. 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. 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.

The County, acting as lead CEQA agency, found the proposed LCP amendment to be exempt under CEQA Section 15061(b)(3). This report has discussed the relevant coastal resource issues associated 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 discussed above, the proposed amendment as modified is not expected to have a significant adverse environmental effect. As such, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment as modified would have on the environment within the meaning of CEQA. Thus, the proposed amendment as modified 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).



ORDINANCE NO. 5095

**ORDINANCE AMENDING SECTIONS 13.10.323, 13.10.525, AND 13.10.700 OF THE SANTA CRUZ COUNTY CODE TO MODIFY THE MAXIMUM HEIGHT ALLOWED FOR FENCES AND RETAINING WALLS IN REQUIRED YARDS AND THE REQUIRED LEVEL OF REVIEW FOR OVER-HEIGHT FENCES AND RETAINING WALLS.**

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The Board of Supervisors of the County of Santa Cruz ordains as follows:

**SECTION I**

Subdivision (d)5(A) of Section 13.10.323 of the Santa Cruz County Code is hereby amended to read as follows:

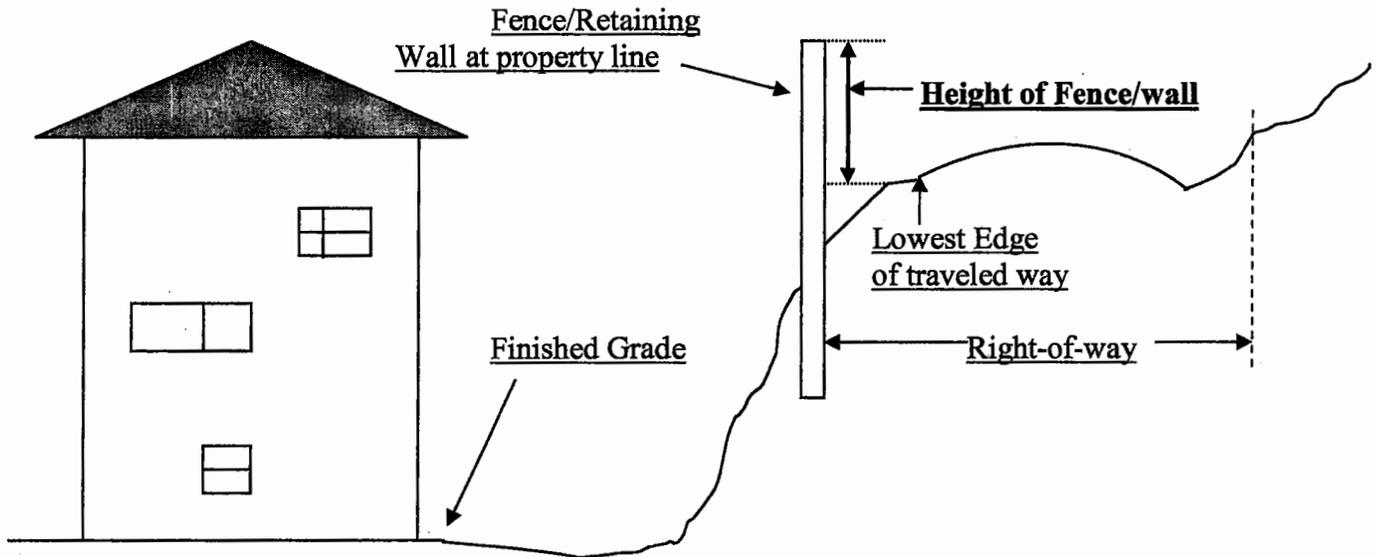
- (d) Site and Structural Dimensions Exceptions Relating to Parcels.
5. Parcels with Steep Slopes.
- (A) In all residential zone districts, if the elevation of the lot at a point 50 feet from the center line of the traveled roadway is 7 feet or more above or below the elevation of said center line, an attached or detached carport which (in the interest of public safety) is unenclosed on all sides may be built to within 5 feet of the front property line or edge of right-of-way of the lot. Open safety railings no more than forty-two (42) inches in height may be constructed to the property line without a development permit.

**SECTION II**

Section 13.10.525 of the Santa Cruz County Code is hereby amended to read as follows:

- 13.10.525 Regulations for fences and retaining walls within required yards
- (a) The purposes of fence and/or retaining wall regulations for yards abutting on streets are:
1. To ensure adequate visibility of vehicles entering the street from driveways, adequate sight distance from such vehicles, and adequate sight distance at street corners.
  2. To ensure adequate light and air for the street area, ~~and to discourage structures near the street that may conceal persons with illegal intent.~~
  3. To preserve a harmonious and compatible street front appearance.
- (b) The purposes of fence and/or retaining wall regulations for side and rear yards which do not abut on streets are:
1. To provide for privacy screening of these yard areas.
  2. To ensure that light and air of abutting properties are protected from excessively high man-made structures.

- (c) The height regulations for fences and/or retaining walls are:
1. The height of fences and/or retaining walls is determined as follows:
    - (i) By measuring the exposed face of the fence and/or wall at its tallest point, from finished grade at the base, to the top of the fence and/or wall, except as provided in (c) 4 and (c) 5 below. including all ornamental and architectural projections.
    - (ii) Where a parcel slopes down from a public or private right-of-way, the height of a fence or retaining wall shall be measured from the lowest elevation of the traveled portion of the right-of-way nearest the fence or retaining wall to the top of the fence and/or wall as shown in the diagram below, except as provided in (c) 4 and (c) 5.



Height of fence or wall on parcel sloping down from right-of-way

2. ~~Except as specified in Sections 13.10.525(c) 3, and 16.50.095, no fence and/or retaining wall shall exceed six feet in height if located within a required side or rear yard not abutting on a street, and no fence, hedge, and/or retaining wall shall exceed three feet in height if located in a front yard or other yard abutting a street, except that heights up to six feet may be allowed by a Level III Development Permit Approval, and heights greater than six feet may be allowed by a Level V Development Permit Approval. (See Section 12.10.070(b) for building permit requirements.)~~
3. ~~In agricultural zone districts, fencing for agricultural purposes may have heights up to 6 feet in all yards without the need for Development Permit approval provided that such fencing, including gates, is:
 
  - (i) ~~Six feet or less in height;~~
  - (ii) ~~Made of wire which is spaced a minimum of 6 inches apart (i.e., typical field fencing); or~~~~

~~(iii) — Made of horizontally oriented wooden members which are spaced a minimum of one foot apart (i.e., typical wooden corral fencing); provided, however, that a Development Permit approval shall be required for this type of fencing on all properties adjacent to State Route (High-way One).~~

~~iv. — If a Coastal Development Permit is required, i. — iii. do not apply and a Coastal Development Permit is required to exceed the height limit.~~

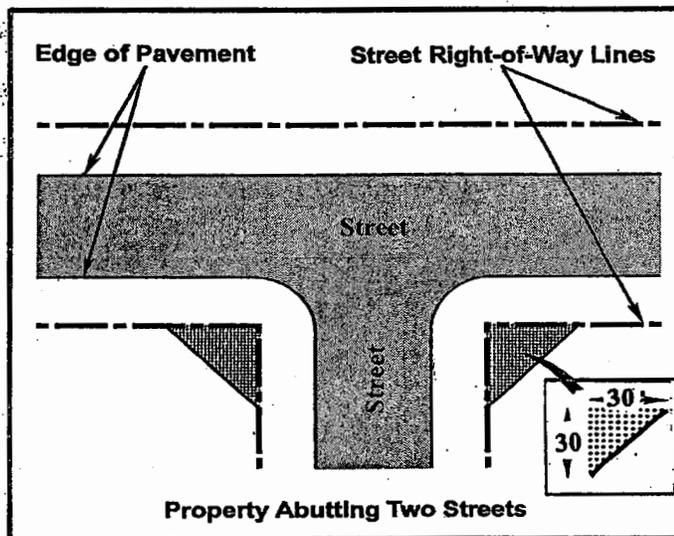
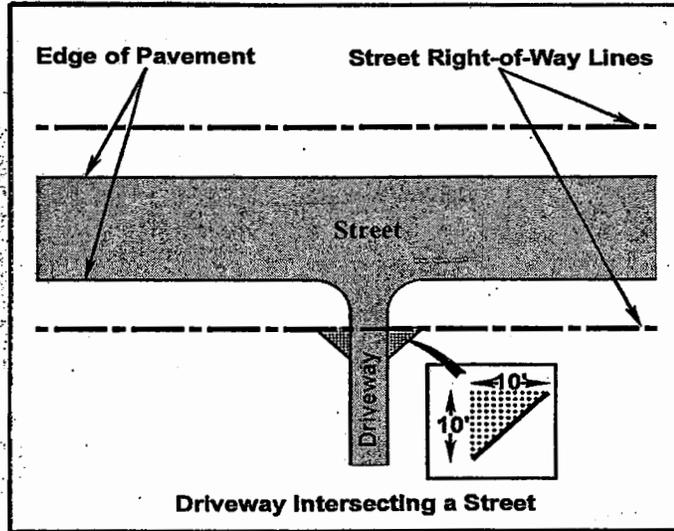
~~4. — An exemption from a Development Permit requirement for agricultural fencing does not exempt new such fencing; including gates, from Coastal Zone Permit requirements as specified in Sections 13.20.050 and 13.20.073.~~

2. Maximum fence and retaining wall heights

a. Except as provided in Section 13.10.323(d)5(A), maximum heights for fences and retaining walls not located in a Corner Sight Clearance Triangle are shown on the Fence Location and Height Table given in 13.10.525(c)3, below. Examples of Corner Sight Clearance Triangles are shown in the diagrams below.

b. Except as provided in Section 13.10.323(d)5(A), within Corner Sight Clearance Triangles, no fence or retaining wall shall exceed three feet in height, if the fence or retaining wall is:

- (i) located in a corner sight clearance triangle on a parcel located at the intersection of two local neighborhood streets for a distance of 30 feet along each street right-of-way, or
- (ii) located in a residential driveway or alley corner sight clearance triangle for a distance of 10 feet along the street right-of-way on each side of the driveway or alley; or
- (iii) located in a corner sight clearance triangle determined to be applicable by the County based on professional standards established by the American Association of State Highway and Transportation Officials (AASHTO) or other applicable technical publications. Greater sight clearance triangles may be required for front and side yards adjacent to roads that allow vehicular travel speeds of more than 25 miles per hour.



Corner Sight Clearance Triangles for local residential neighborhood streets

CCC Exhibit A  
 (page 4 of 7 pages)

3. Fence Location and Height Table

<u>Property and Fence Location</u>	<u>Maximum Height without Permit outside of Corner Sight Distance Triangles**</u>	<u>Maximum Height with Over-height Fence Certification outside of Corner Sight Distance Triangles**</u>	<u>Maximum Height with a Level IV Permit</u>
<u>Front Yard inside Urban Services Line (USL) and Rural Services Line (RSL)</u>	<u>3 feet*</u>	<u>6 feet</u>	<u>As determined through permit process</u>
<u>Front Yard outside USL and RSL</u>	<u>3 feet*</u>	<u>8 feet</u>	<u>As determined through permit process</u>
<u>Side/Rear Yard Abutting on a Street</u>	<u>6 feet</u>	<u>8 feet if fence at least 5 feet back from property line</u>	<u>As determined through permit process</u>
<u>Side/Rear Yard Not Abutting on a Street</u>	<u>8 feet</u>	<u>N/A: already at 8 feet; would need Level IV to go higher</u>	<u>As determined through permit process</u>
<u>The following would be allowed without any discretionary approval in all locations, except for Corner Sight Clearance Triangles:</u>			
<ol style="list-style-type: none"> <li><u>1. Archways/trellises/ pergolas up to 8 feet tall associated with a walkway through a fence and not making up more than 25% of the length of the fence along the applicable property line.</u></li> <li><u>2. Open decorative features such as lattice that does not exceed the given maximum fence heights by more than 6 inches.</u></li> </ol>			
<u>*Except as allowed by Section 13.10.323(d)5(A)</u>			
<u>**County Public Works Department guidelines establish applicable Corner Sight Clearance Triangle requirements</u>			

4. Walkway fence openings, with or without gates, may have associated archways/trellises/pergolas up to a maximum height of 8 feet without a discretionary approval, except in corner sight clearance triangles, where no fence or retaining wall shall exceed three feet in height. Archways/trellises/pergolas may not make up more than 25 percent of the length of the fence along a given property line without a Level IV development permit.
5. Open architectural, decorative, and ornamental features such as lattice may exceed the given maximum fence heights by no more than six (6) inches without a discretionary approval, except in corner sight clearance triangles, where no fence or retaining wall shall exceed three feet in height. Open means that no more than 50 percent of the feature may be opaque.

### SECTION III

Section 13.10.700-C "C" definitions of the Santa Cruz County Code is hereby amended to add the definition "Corner sight clearance triangle" to read as follows:

Corner sight clearance triangle. A triangular area formed by two lot lines abutting upon a street, alley, or driveway and a line connecting them at points equally distant from their intersection within which, for vehicular and pedestrian visibility and safety purposes, no fence, hedge, landscaping, wall, structure, or material that exceeds 3 feet in height may be placed.

### SECTION IV

Section 13.10.700-F "F" definitions – definition of "Fence" - of the Santa Cruz County Code is hereby amended to read as follows:

Fence. Any construction of wood, metal, plastic, earth or other materials obstructing the clear view, but not including a structure as defined herein or a hedge.

### SECTION V

Section 13.10.700-H "H" definitions – definition of "Hedge" - of the Santa Cruz County Code is hereby deleted, as follows:

~~Hedge. Any arrangement of plants or trees obstructing the clear view.~~

### SECTION VI

This ordinance shall take effect on the 31<sup>st</sup> day after the date of Final Passage, or upon certification by the California Coastal Commission, whichever date is later.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this 17<sup>th</sup> day of May, 2011, by the following vote:

AYES: SUPERVISORS Pirie, Coonerty, Leopold, Caput, Stone  
NOES: SUPERVISORS None  
ABSENT: SUPERVISORS None  
ABSTAIN: SUPERVISORS None

**MARK W. STONE**

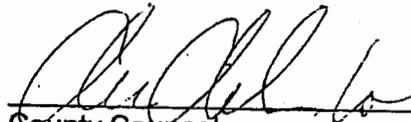
CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: **TESS FITZGERALD**  
Clerk of the Board

**CCC Exhibit** A  
**(page** 6 **of** 7 **pages)**

0470

APPROVED AS TO FORM:

  
County Counsel

Copies to: Planning  
Public Works  
County Counsel

I HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT  
IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THE  
OFFICE ATTEST MY HAND AND SEAL THIS 25<sup>th</sup> DAY  
OF May 20 11  
SUSAN A. MAURIELLO, COUNTY ADMINISTRATIVE OFFICER  
AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CRUZ, CALIFORNIA  
BY  DEPUTY