

## CALIFORNIA COASTAL COMMISSION

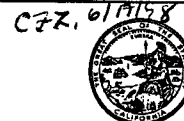
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Th6a

June 17, 1998

TO: Commissioners and Interested Persons

FROM: Tami Grove, Deputy Director  
Charles Lester, District Manager  
Rick Hyman, Coastal Program AnalystSUBJECT: **SANTA CRUZ COUNTY: LOCAL COASTAL PROGRAM MAJOR  
AMENDMENT NO. 1-98.** For public hearing and Commission action at its meeting of July  
9, 1998, to be held at Hyatt Regency, No. 5 Embarcadero, San Francisco.**SUMMARY OF STAFF REPORT**Description Of Amendment Request

Santa Cruz County is proposing to amend the Implementation portions of its Local Coastal Program to:

- A. eliminate density credit for floodplains (Section 13.10.700-D);
- B. change local appeal periods from 10 to 14 calendar days (Sections 18.10.131; 18.10.320; 18.10.330; 18.10.340).

This amendment was filed on June 12, 1998. These two items are part of a much larger package; all the other components have been deemed "minor" and addressed in a companion staff report. The standard of review of this Implementation Plan amendment is that it must be consistent with and adequate to carry out the policies of the certified Coastal Land Use Plan.

Summary Of Staff Recommendation

Staff recommends that the Commission **approve, only if modified**, the proposed amendment as submitted by the County for the reasons given in the recommended findings. The purpose of both amendments is acceptable, however, some clarifications are necessary to maintain internal document consistency and conformance with the California Code of Regulations.

Summary Of Issues And Comments

At the County hearings, the proposed amendments elicited no comments.

Additional Information

For further information about this report or the amendment process, please contact Rick Hyman or Charles Lester, Coastal Commission, 725 Front Street, Suite 300, Santa Cruz, CA 95060; Tel. (408) 427-4863.

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I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS**A. DENIAL OF IMPLEMENTATION PLAN MAJOR AMENDMENT #1-98 AS SUBMITTED****MOTION:**

*"I move that the Commission **reject** Major Amendment #1-98 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by the County."*

Staff recommends a "YES" vote which would result in **denial** of this amendment as submitted. Only an affirmative (yes) vote on the motion by a majority of the Commissioners present can result in rejection of the amendment (otherwise the amendment is approved as submitted).

**RESOLUTION:**

The Commission hereby **rejects** Major Amendment #1-98 to the Implementation Plan of the Santa Cruz County LCP, as submitted, for the specific reasons discussed in the following findings, on the grounds that the amendment is not consistent with and not adequate to carry out the certified *Land Use Plan*.

**D. APPROVAL OF IMPLEMENTATION PLAN MAJOR AMENDMENT #1-98 IF MODIFIED****MOTION :**

*"I move that the Commission **approve** Major Amendment #1-98 to the Santa Cruz County Local Coastal Program Implementation Plan, if part A is modified according to Suggested Modification A and if part B is modified according to Suggested Modification B."*

Staff recommends a "YES" vote which would result in **approval** of this amendment if modified. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

**RESOLUTION:**

The Commission hereby **approves** Major Amendment #1-98 to the Implementation Plan of the Santa Cruz County Local Coastal Program, for the specific reasons discussed in the following findings, on the grounds that, as modified by Suggested Modifications A and B, the amendment conforms with and is adequate to carry out the certified *Land Use Plan*. Approval of the amendment will not cause significant adverse environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

**II. SUGGESTED MODIFICATIONS**

The Commission hereby suggests the following changes to the proposed Local Coastal Program amendments which are necessary to make the requisite findings. If the local government accepts each the suggested modifications within six months of Commission action, by formal resolution of the Board of Supervisors, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

**A. Density Credit**

1. *Revise 100 Year Floodplain Density Requirements entry in Figure 2-2 of the Santa Cruz County 1994 General Plan and Local Coastal Program (p. 2-14) by replacing text crossed-out with that underlined:*

~~Density consistent with General Plan designation excluding floodway area~~  
No density credit (policy 6.4.6)

2. *Revise definition of "Density Credit" in the Glossary of the Santa Cruz County 1994 General Plan and Local Coastal Program (page G-7) by deleting part B as shown in Attachment A; in other words delete the identical language in the Glossary proposed for deletion in Section 13.10.700-D of the County Code, so that the two definitions will remain identical.*

3. *Revise Section 16.10.080d of the County Code by deleting the same language proposed for deletion in Section 13.10.700-D of the County Code.*

**B. Appeal Periods**

*Revise Section 18.10.131(c) of the County Code as follows by adding the underlined wording:*

Levels V (Zoning Administrator) through VII (Board of Supervisors) Permits processed at Levels V (Zoning Administrator) through VI (Planning Commission) are issued after an appeal period of fourteen (14) calendar days (except in the cases of tentative map approvals which require 10 calendar days and extensions of tentative maps which require 15 days) from the date of determination, unless an appeal is filed. Permits processed at Level VII (Board of Supervisors) outside the Coastal Zone or inside the coastal zone, but not appealable to the Coastal Commission pursuant to Section 13.20.122, are final on the date of Board action. Permits processed at Level VII (Board of Supervisors) inside the coastal zone and appealable to the Coastal Commission are final the day after the appeal period to the Coastal Commission has ended, unless an appeal to the Coastal Commission is has been filed. Actions to approve or deny projects are made by the appropriate approving body and may be appealed in accordance with the procedures in Section 18.10.300 et.seq. If an appeal is filed, an approval or denial shall not become effective until the appeal has been resolved. Permits which require Coastal Zone approvals shall not be issued until notice of the ending of the Coastal Zone appeal period is received.

**III. RECOMMENDED FINDINGS**

The Commission finds and declares for the following two parts of Santa Cruz County Major Amendment # 1-98:

**A. DENSITY CREDITS: eliminate density credit for floodplains (Section 13.10.700-D)**

The proposed amendment to the *Implementation Plan* would delete a provision that governs calculating density in floodplains. The current definition has a provision that allows some density credit for the portion of a property in a floodplain in very limited cases. The proposed amendment deletes this allowance, in essence no longer allowing floodplain areas to receive credit when calculating allowable density for new subdivisions. This amendment is proposed to be consistent with the Land Use Plan. In 1994 the Land Use Plan was amended to delete a similar provision (Amendment #2-94). Certified Policy 6.4.6 of the *General Plan and Local Coastal Program* now states, "In all areas exclude the portion of the property designated within the 100 year floodplain from density calculations." Therefore, on its face, the amendment is consistent Land Use Plan policy.

However, at that time the County failed to amend the Glossary section of its Land Use Plan and the land division density table (Figure 2-2). Therefore, this exception provision continues to exist in these two parts of the Land Use Plan. The County staff

indicates that a future update will address this oversight (see Attachment B). However, because this outdated provision remains certified at this time, the proposed Implementing amendment can not be approved, since it would be inconsistent with the certified Land Use Plan language.

Normally, the Commission would not recommend Land Use Plan changes to achieve consistency with zoning changes. However, in this case, the intent of the zoning change is consistent with Land Use Plan policy and with the Coastal Act itself, which under Section 30253 says that new development shall minimize risks to life and property in areas of high flood hazard. In other words, this is a desirable change, despite this technical flaw. Therefore, the Commission will be able to approve this amendment, if the County modifies the corresponding Land Use Plan definition and table as well, according to Suggested Modification A. Also needing a corresponding change is Section 16.10.080(d)2 of the County Code which contains the exact same language. With this modification, the proposed amendment would be fully consistent with the Land Use Plan and there would be internal consistency between both documents with regard to this floodplain density issue.

**B. LOCAL APPEAL PERIODS: changes local appeal periods from 10 to 14 calendar days (Sections 18.10.131; 18.10.320; 18.10.330; 18.10.340).**

The proposed amendment would change local appeal periods from 10 to 14 days. Under the California Coastal Act and Code of Regulations local governments have discretion as to their local processes; either a 10 day or 14 day local appeal period (i.e., from Zoning Administrator to Planning Commission or from Planning Commission to Board of Supervisors) is acceptable. However, one provision being amended to accomplish this (Section 18.10.131(c) also mentions appeals to the Coastal Commission. The California Code of Regulations has definitive time periods and procedures specified for such appeals. In order for an Implementation Plan to be considered adequate to carry out the local Land Use Plan, it must contain these minimum requirements. In this case, the revised language is ambiguous and may lead to confusion or disagreements regarding appeals to the Coastal Commission; therefore, it can not be approved as written.

The proposed text can be easily clarified so as to ensure that state regulations are followed and no local coastal permits are prematurely issued. If so modified according to Modification B, the amendment would be approved as being adequate to carry out the Land Use Plan.

**C. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The County processed these items as clean-up and procedural matters which are exempt from CEQA. The Commission concurs, finding that there will be no adverse effect from these amendments.

**SANTA CRUZ COUNTY: LOCAL COASTAL PROGRAM MAJOR  
AMENDMENT NO. 1-98**

**ATTACHMENT A**

**FULL TEXT OF PROPOSED AMENDMENTS**

PORTIONS WHICH ARE NEW ARE SHADED

DELETIONS ARE SHOWN BY STRIKE-OUTS

# A. Density Credits

## SECTION LXIII

Section 13.10.700-D "definition of Density Credit" of the County Code is hereby amended to read as follows:

Density Credit. The number of dwelling units allowed to be built on a particular property determined by applying the designated General Plan and LCP Land Use designation density and implementing zone district to the developable portions of the property and to those non-developable portions of the property for which credit may be granted (see definition of Developable Land). Where credit is allowed for a non-developable portion of the property, the dwelling units must be located in the developable portion of the property. The following areas which are not developable land shall be granted density credit for development density.

Outside the USL and RSL:

- a) Land with slopes between 30 and 50 percent.

Inside the USL and RSL:

- a) Land with slopes less than 30 percent in the required buffer set back from the top of the arroyo or riparian corridor, up to a maximum of 50 percent of the total area of the property which is outside the riparian corridor.

~~b) The Board of Supervisors may allow a credit of up to 50 percent of the property within the 100-year floodplain if the proposal is: served by sewers; bordered by existing similarly developed lots; not at a density higher than the surrounding area; consistent with the character of the surrounding area; and will not increase the likelihood of downstream or upstream flooding. The property designated as floodway does not qualify for density credit.~~

Countywide Credits

The following areas are subject to special site and/or development criteria and shall be granted full density credit:

- a) Rare and endangered plant and animal habitats.
- b) Archaeological sites.
- c) Critical fire hazard areas.
- d) Buffer areas established between non-agricultural land uses and commercial agricultural land.
- e) Landslide areas determined by a geological study to be stable and suitable for development.
- f) Historic Sites.

## SECTION LXIV

SCCo#1-98

# B. Local Appeal Periods

ATTACHMENT 3

## ORDINANCE \_\_\_\_\_

### ORDINANCE AMENDING COUNTY CODE SECTIONS 12.12.020, 18.10.131, 18.10.320, 18.10.330 AND 18.10.340 CHANGING THE LENGTH OF APPEAL PERIODS FROM TEN CALENDAR DAYS TO FOURTEEN CALENDAR DAYS

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

#### SECTION I

Section 12.12.020(a) of the Santa Cruz County Code is hereby amended to read as follows:

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amend-  
ment
- (a) Appeals to the Building Appeals Board shall be taken by filing a written Notice of Appeal with the Building ~~Inspection Chief of the Planning Department~~ Official within ~~ten~~ fourteen calendar days after the day on which the act or determination appealed from was made.

#### SECTION II

Section 18.10.131(b) of the Santa Cruz County Code is hereby amended to read as follows:

- (b) Level IV (Public Notice). Permits processed at Level IV (Public Notice) are issued after an appeal period of ~~ten (10)~~ fourteen (14) calendar days from either the date of publication of the public notice of pending action or the date the notices are mailed, whichever is later, unless an administrative appeal is filed in accordance with the procedures in Section 18.10.300 et seq. Actions to approve or deny projects at Level IV (Public Notice) are made by the Planning Director or his or her designee. If an appeal is filed, an approval or denial shall not become effective until the appeal has been resolved.

#### SECTION III

Section 18.10.131(c) of the Santa Cruz County Code is hereby amended to read as follows:

- (c) Levels V (Zoning Administrator) through VII (Board of Supervisors). Permits processed at Levels V (Zoning Administrator) through VI (Planning Commission) are issued after an appeal period of ~~ten (10)~~ fourteen (14) calendar days (except in the cases of ~~tentative map approvals which require 10 calendar days and extensions for land divisions of tentative maps which require 15 days~~) from the date of determination, unless an appeal is filed. Permits processed at Level VII (Board of Supervisors) outside the Coastal Zone are final. Permits processed at Level VII (Board of Supervisors) inside the Coastal Zone ~~are issued after an appeal period of ten calendar days (except in the case of time extensions for land divisions which required 15 days) from the date of determination, are final,~~ unless an appeal to the Coastal Commission is filed. Actions to approve or deny



projects are made by the appropriate approving body and may be appealed in accordance with the procedures in Section 18.10.300 et seq. If an appeal is filed, an approval or denial shall not become effective until the appeal has been resolved. Permits which require Coastal Zone approvals shall not be issued until notice of the ending of the Coastal Zone appeal period is received.

#### SECTION IV

Section 18.10.320(a) of the Santa Cruz County Code is hereby amended to read as follows:

(a) Who May Appeal. Any decisions or actions of any staff person charged with the administration of this Chapter may be administratively appealed to the Planning Director. Such an appeal may be initiated by the applicant by submitting a written request to the Planning Director within ~~ten~~ fourteen calendar days of the decision, in the case of permits issued pursuant to Levels I (No Plans through Level III (Field Visit), and by any aggrieved person or the applicant by submitting a written request to the Planning Director within ~~ten~~ fourteen calendar days from the date of the publication of the notice of pending action, or the date the notices are mailed, whichever is later, in the case of permits issued pursuant to Level IV (Public Notice).

#### SECTION V

Section 18.10.330(a) of the Santa Cruz County Code is hereby amended to read as follows:

(a) Who May Appeal. Any person whose interests are adversely affected by any act or determination of the Zoning Administrator under this Chapter may appeal such act or determination to the Planning Commission. Appeals from any action of the Zoning Administrator shall be taken by filing a written notice of appeal with the Planning Department not later than the ~~tenth~~ fourteenth calendar day after the day on which the act or determination appealed from was made.

#### SECTION VI

Section 18.10.340(a) of the Santa Cruz County Code is hereby amended to read as follows:

(a) Who May Appeal. Any person whose interests are adversely affected by any act or determination of the Planning Commission, or by the Agricultural Policy Advisory Commission, acting pursuant to Chapter 16.50, may appeal such act or determination to the Board of Supervisors; provided, however, that where the determination made by the Commission is given in the form of a recommendation or report addressed to the Board of Supervisors, no appeal may be taken, but any interested party shall be entitled to appear before the Board of Supervisors at the time of consideration of such recommendation or report and to be heard thereon. Appeals to the Board shall be taken by filing a written notice of appeals with the Clerk of the Board of Supervisors not later than the ~~tenth~~

fourteenth calendar day (10 calendar days for tentative maps and 15 calendar days for time extensions of ~~land divisions~~ tentative maps) after the day on which the act or determination appealed from was made. The Clerk of the Board shall send notice of such appeal to the Planning Department within one day of the filing of the appeal.

### SECTION VII

If any section, subsection, division, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors of this County hereby declares that it would have adopted this Ordinance and each section, subsection, division, sentence, clause, phrase, or portion thereof, irrespective of any such decision.

### SECTION VIII

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

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this \_\_\_\_\_ day of \_\_\_\_\_, 1998, by the following vote:

AYES:

NOES:

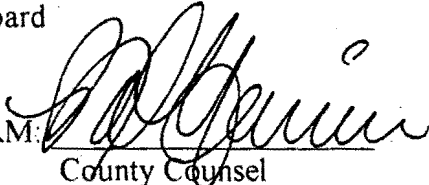
ABSENT:

ABSTAIN:

\_\_\_\_\_  
CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: \_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM: \_\_\_\_\_

  
County Counsel

PLANNING DEPARTMENT

GOVERNMENTAL CENTER



COUNTY OF SANTA CRUZ

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060  
FAX (408) 454-2131 TDD (408) 454-2123 PHONE (408) 454-2580

May 4, 1998

**RECEIVED**

MAY 05 1998

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Rick Hyman  
Coastal Planner  
California Coastal Commission  
Central Coast Area Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

Dear Rick:

This letter is in response to your letters of April 13 and April 24, 1998 regarding proposed ordinance amendments. I will address the concerns you raised in those letters.

**PROPOSED COUNTY CODE ERROR CORRECTION ORDINANCE**

Your one concern is with the proposed correction regarding density calculations in floodplains. You state that while the proposed correction is consistent with General Plan/LCP policy 6.4.6, it is not consistent with the General Plan/LCP's definition of "Density Credit". You are correct that the General Plan/LCP is internally inconsistent. We are aware of this and will be proposing a complementary "General Plan/LCP correction cleanup" as part of our FY 1998/1999 Work Program (our current work program only addresses corrections to the County Code). Since the proposed County Code correction is consistent with the correct density calculation section of the General Plan/ LCP and we will be proposing a correction of the inconsistent section, it seems logical to allow this correction to take place.

**PROPOSED COUNTY CODE APPEAL PERIOD ORDINANCE**

Your letter was received too late to incorporate your proposed changes into the Board of Supervisors staff report. Although the County's proposed wording is sufficient, staff has no problem with your proposed wording change to Section 18.10.131(c). Perhaps your Commission will choose to require its inclusion as part of certification of the amendment.

As to your proposed wording of Section 13.20.122(c) and (d), this change is beyond the scope of this amendment that is merely changing the appeal period length. I appreciate the information and will incorporate it as part of a future "County Code cleanup".

Sincerely,

Glenda Hill  
Supervising Planner

EXHIBIT NO. 2
APPLICATION NO.
County Response
SCC. May Amend 1-98