

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863

**W15d**

**Prepared August 20, 2003 (for September 10, 2003 hearing)**

**To:** Commissioners and Interested Persons

**RECORD PACKET COPY**

**From:** Diane Landry, District Manager  
Dan Carl, Coastal Planner

**Subject:** Santa Cruz County LCP Major Amendment Number 2-03 Part 1 (Second Units - AB 1866) 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 September 10, 2003 meeting to take place at the Eureka Inn, 518 Seventh Street, in Eureka.

## Summary

Santa Cruz County is proposing to change several certified Local Coastal Program (LCP) Implementation Plan (IP, also known as the LCP zoning code) sections in response to recent legislative changes regarding second units (per AB 1866). AB 1866 amended Government Code Section 65852.2 to change the process for the review of second unit applications. Most significantly, AB 1866 requires that second unit applications in residentially designated areas received after July 1, 2003 be considered by local governments "ministerially without discretionary review or a hearing." The restriction on public hearings does not extend to the Coastal Commission.

The County proposes several processing changes to bring the LCP into conformance with respect to the review process for second units on residential properties. These changes are primarily procedural, focused on removing hearing requirements, and including parameters for appealable versus non-appealable second units. The County also proposes an unrelated (to second units specifically) clean-up change to remove an LCP section referring to the manner in which structure height is calculated.

The changes proposed are mostly straight-forward and generally narrowly focused in response to AB 1866 requirements. There are a few areas where minor clarification is necessary (making explicit certain implicit requirements, fixing typos, and making minor coastal zone-specific clarifications). More substantively, the proposed changes delete the requirement that there be adequate public services to serve second units (such as the need for water and sewer will-serve commitments). In an area where water and sewer facilities are not limitless, and in particular an impending water crisis threatens to severely curtail additional development, it is not appropriate to delete this requirement. Second unit development will draw on such services, and it must be demonstrated that such services are available before second units can be approved. To do otherwise would allow a class of development that could: (1) if public services are further curtailed, take services that are directed by the LCP to higher priority uses in times of limited supply; (2) draw on public services even if there aren't adequate services available; (3) be approved, and not built, leading to any number of "stale" approvals not necessarily responsive to current conditions in this and other respects. Removal of the public service demonstration



**California Coastal Commission**

**September Meeting in Eureka**

Staff: D. Carl Approved by: *DSL*

SCO LCPC 2-03 Part 1 2nd units (AB 1866) strfpt 9.10.2003.doc

requirement directly conflicts with LUP policies requiring demonstration of service.

In order to address these public service concerns (and the other minor issues), modifications are suggested to maintain the public service text and to make small changes designed to ensure that the proposed text is consistent with the certified LUP.

**With the identified modifications, staff recommends that the Commission find that the proposed LCP amendment is consistent with and adequate to carry out the policies of the LUP. As so modified, staff recommends that the Commission approve the LCP amendment.**

#### **Staff note**

This proposed LCP amendment was filed on August 4, 2003. Pursuant to Coastal Act Section 30513, the Commission must act on it within 60 days of the day it was filed; 60 days from August 4, 2003 is October 3, 2003 (i.e., after the September hearing but before the October hearing). Coastal Act Section 30513 provides that the amendment is deemed approved and certified by the Commission if action is not taken within the applicable time frame. However, Coastal Act Section 30517 allows the Commission to extend, for good cause, the 60-day time limit for a period not to exceed one year. Therefore, if the Commission does not act on this amendment at the September 2003 hearing, then the Commission will need to extend the deadline for Commission action or have the ordinance be approved and certified as submitted. Thus, in the event the Commission chooses to not take action on this amendment at the September hearing, Staff further recommends that the Commission extend the deadline for Commission action by one year (i.e., to October 3, 2004). The following motion is provided only for this contingency (and is not applicable otherwise):

**Motion.** I move that the Commission extend the 60-day time limit to act on Santa Cruz County Local Coastal Program Major Amendment Number 2-03 Part 1 by a period of one year.

**Staff Recommendation.** Staff recommends a YES vote. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

## **Staff Report Contents**

	<b>page</b>
I. Staff Recommendation – Motions and Resolutions.....	3
II. Suggested Modifications.....	4
III. Findings and Declarations.....	5
A. Proposed LCP Amendment.....	5
B. Consistency Analysis .....	7
C. California Environmental Quality Act (CEQA) .....	10
IV. Exhibits	
Exhibit A: Board of Supervisors' Resolution	
Exhibit B: Board of Supervisors' Staff Report	
Exhibit C: Proposed Changes to LCP Sections 13.10.681, 13.10.322(b), and 13.10.323 (Mods noted)	



## I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed amendment only if modified. The Commission needs to make 2 motions in order to act on this recommendation.<sup>1</sup>

### 1. Denial of Implementation Plan Major Amendment Number 2-03 Part 1 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** Part 1 of Major Amendment Number 2-03 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County.

**Resolution to Deny.** The Commission hereby **denies** certification of Part 1 of Major Amendment Number 2-03 to the Santa Cruz County Local Coastal Program Implementation Plan 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.

### 2. Approval of Implementation Plan Major Amendment Number 2-03 Part 1 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** Part 1 of Major Amendment Number 2-03 to the Santa Cruz County Local Coastal Program Implementation Plan if it is modified as suggested in this staff report.

**Resolution to Certify with Suggested Modifications.** The Commission hereby **certifies** Part 1 of Major Amendment Number 2-03 to the Santa Cruz County 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

<sup>1</sup> Note that the motions and resolutions refer to "Part 1 of Major Amendment Number 2-03." The reason for this is that this amendment request is part 1 of a two part LCP amendment submitted by the County. In other words, LCP amendment number 2-03 is in two parts. The other part of the amendment, regarding rezoning a specific property to the timber production zone, is also separately before the Commission at the September hearing (extension of the deadline for action only).



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 the County of Santa Cruz accepts each of the suggested modifications within six months of Commission action (i.e., by September 10, 2004), by formal resolution of the Board of Supervisors, the corresponding 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. Modify Proposed Changes to IP Section 13.10.681(b).

- (a) 100-Foot Notice: Insert the text "(not including roads)" where noted on page 2 of exhibit C.
- (b) Coastal Commission Reference: Add the text "Coastal" where noted on page 2 of exhibit C.
- (c) Extra Subsection Reference: Delete the text "(ii)" where noted on page 2 of exhibit C.
- (d) Misspelled "Shall": Replace the text "hall" with the text "shall" where noted on page 2 of exhibit C.

### 2. Modify Proposed Changes to IP Section 13.10.681(c).

- (a) Add "or": Insert the text "or" where noted on page 3 of exhibit C.
- (b) Add "and": Insert the text "; and" where noted on page 4 of exhibit C.
- (c) Applicability: Delete the text ", when applicable" where noted on page 4 of exhibit C.

### 3. Modify Proposed Changes to IP Section 13.10.681(d).

- (a) Coverage: Insert the text ", when combined with existing lot coverage and gross floor area," where noted on page 5 of exhibit C.
- (b) Other Accessory Uses: Insert the text "subject to all applicable requirements of the underlying zone district" where noted on page 6 of exhibit C.
- (c) Service Requirements: Do not delete subsection 13.10.681(d)(8) as proposed. Deleted text noted



on page 6 of exhibit C shall be reestablished.

4. **Modify Proposed Changes to IP Section 13.10.323(b) Site and Structural Dimensions Charts (Single and Multi Family):** Move the text "1-story" to the "maximum number of stories" column, and delete the text "/" and the text "max" where noted on pages 26 and 27 of exhibit C.

### III. Findings and Declarations

The Commission finds and declares as follows:

#### A. Proposed LCP Amendment

##### 1. Government Code (and AB 1866) Second Unit Requirement Background

Signed by the Governor on September 29, 2002, AB 1866 added three new provisions to Section 65852.2 of the Government Code that are particularly significant for the purposes of reviewing proposed second units in residential zones within the coastal zone. The law now:

- 1) Requires local governments that adopt second unit ordinances to consider second unit applications received on or after July 1, 2003 "ministerially without discretionary review or a hearing." (Government Code Section 65852.2(a)(3))
- 2) Requires local governments that have not adopted second unit ordinances to "approve or disapprove the [second unit] application ministerially without discretionary review." (Government Code Section 65852.2(b)(1))
- 3) Specifies that "[n]othing in [Section 65852.2] shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act ... except that the local government shall not be required to hold public hearings for coastal development permit applications for second units." (Government Code Section 65852.2(j))

Thus, AB 1866 significantly changes one component of local government procedures regarding coastal development permits for second units in residential zones (public hearings), but does not change the substantive standards that apply to coastal development permits for such second units.

Pursuant to AB 1866, local governments can no longer hold public hearings regarding second units in residential zones. This prohibition applies both to initial local review and any subsequent local appeals that may be allowed by the LCP. The restriction on public hearings, however, does not apply to the Coastal Commission itself. The Commission can continue to conduct public hearings on proposed second units located in areas where the Commission retains permitting jurisdiction and when locally approved coastal development permits are appealed to the Commission.

AB 1866 does not change any other procedures or the development standards that apply to second units



in residential zones located within the coastal zone. Rather, it clarifies that all requirements of the Coastal Act apply to second units, aside from requirements to conduct public hearings. Thus, for example, public notice must be provided when second unit applications are filed and members of the public must be given an opportunity to submit comments regarding the proposed development. When a second unit application is appealable, local governments must still file a final local action notice with the Commission and inform interested persons of the procedures for appealing the final local action to the Commission. In addition, all development standards specified in the certified LCP and, where applicable, Chapter 3 of the Coastal Act apply to such second units.

## **2. Description of Proposed LCP Amendment**

The amendment would change Sections 13.10.681, 13.10.322(b), and 13.10.323 of the County's LCP IP. Section 13.10.681 is the residential second unit (specific) section of the IP, Section 13.10.322(b) is the residential use charts, and Section 13.10.323 specifies development standards in the residential districts. Specifically, the amendment:

- (1) Modifies Section 13.10.681 (subsections (b), (c), and (d)) to remove the public hearing requirement for second unit applications, identify the process for noticing and reviewing second unit applications, removes the requirement that a public service commitment be demonstrated for second units, and makes other minor changes;
- (2) Modifies Section 13.10.322(b) to indicate that second units don't require a public hearing and are to be considered at a level 3 review level (administrative review); and
- (3) Modifies Section 13.10.323 to remove text referring to the calculation of structure heights.

See exhibit A for the Board of Supervisor's resolution, exhibit B for the Board staff report, and exhibit C for the proposed changes.

## **3. Effect of Changes Proposed**

Applications for second units in the coastal zone will be processed ministerially without public hearings. Noticing for interested parties and those properties within 100 feet of the second unit property will be required. Approvals of second units in the appealable zone will continue to be appealable to the Coastal Commission.

The changes will potentially make it easier and quicker (and less costly in permit application fees) for applicants to gain approvals for second units in residential zones. Some of this depends on the manner in which administrative reviews will be undertaken at the County, and the length of time that these will take. The specifics of the County's internal review process in this respect are unknown at this time. Nevertheless, the lack of a hearing requirement should reduce the absolute amount of processing time associated with a second unit application because it removes a major step.

The removal of the requirement that public service commitments be demonstrated would further reduce



the number of steps for an applicant. It would also lead to second units for which it is uncertain if there are adequate public services. This in turn could lead to scarce public service supply being directed to second units as a class of development (since they would be the only class of development to which this requirement wouldn't apply). Depending on the amount of second units that were eventually approved, the changes could lead to increased use of public services, hastening the time when supply, particularly water, is depleted.

The change to remove descriptive text referring to the manner in which structure heights are calculated will have no effect because the LCP already defines structural height in the same manner (IP section 13.10.700-H).

## **B. Consistency Analysis**

### **1. Standard of Review**

The standard of review for the 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. In general, Coastal Act policies set broad statewide direction that are generally refined by local government LUP policies giving local guidance as to the kinds, locations, and intensities of coastal development. IP (zoning) standards then typically further refine LUP policies to provide guidance on a parcel by parcel level. Because this is an IP (only) LCP amendment, the standard of review is the certified LCP LUP.

### **2. LUP Consistency Requirement**

In order to approve an Implementation Plan amendment, it must be consistent with and adequate to carry out the Land Use Plan. The County's LUP protects visual and community character, and requires demonstration of sewer and water capacity to serve proposed development. It also distinguishes between urban and rural development, and directs development to developed areas best able to accommodate it. Quality design, respective of the built and natural environment, is expected. Overall, these LUP requirements reflect and implement similar fundamental goals of the Coastal Act.

### **3. Consistency Analysis**

The changes proposed are mostly straight-forward and generally narrowly focused in response to AB 1866 requirements. The proposed text does, however, include a few changes that might result in inappropriate development inconsistent with the LUP if not modified. Fortunately, these portions of the proposed text are easily clarified so that public service commitment requirements are retained, and minor clarification are made (typos and minor coastal zone-specific clarifications). Individual issues (and changes that need to be made) are discussed more specifically below.

#### **Public Service Commitment**

The LUP requires that applicants for new development demonstrate that they have a commitment from



sewer and water service providers to serve the proposed development (LUP Policies 7.18.2 and 7.19.1). For second units, this is implemented by IP Section 13.10.681(d)(8) (i.e., the section proposed to be deleted – see exhibit C). The proposed changes delete this requirement for second units. Specifically, LUP Policies 7.18.2 and 7.19.1 state:

***LUP Policy 7.18.2 Written Commitments Confirming Water Service Required for Permits.*** *Concurrent with project application require a written commitment from the water purveyor that verifies the capability of the system to serve the proposed development. Projects shall not be approved in areas that do not have a proven, adequate water supply. A written commitment is a letter from the purveyor guaranteeing that the required level of service for the project will be available prior to the issuance of building permits, .... The County decision making body shall not approve any development project unless it determines that such project has adequate water supply available.*

***LUP Policy 7.19.1 Sewer Service to New Development.*** *Concurrent with project application, require a written commitment from the service district. A written commitment is a letter, with appropriate conditions, from the service district guaranteeing that the required level of service for the project will be available prior to issuance of building permits, .... The County decision making body shall not approve any development project unless it determines that such project has adequate sewage treatment plant capacity.*

In addition, LUP Policy 2.2.3 reserves public works capacity for priority uses in the coastal zone. Residential development is the lowest priority use in the County LCP. LUP Policy 2.2.3 states in applicable part:

***LUP Policy 2.2.3 Reservation of Public Works Capacities for Coastal Priority Uses.*** *In the Coastal Zone, reserve capacity in existing or planned public works facilities for Coastal Priority Uses. ...*

In an area where water and sewer facilities are not limitless, and in particular an impending water crisis threatens to severely curtail additional development, it is not appropriate to delete this will-serve requirement. Second unit development will draw on such services, and it must be demonstrated that such services are available before second units can be approved. To do otherwise would allow a class of development that could: (1) if public services are further curtailed, take services that are directed to higher priority uses in times of limited supply by the LCP; (2) draw on public services even if there aren't adequate services available; (3) be approved, and not built, leading to any number of "stale" approvals not necessarily responsive to current conditions in this and other respects. Removal of the public service demonstration requirement directly conflicts with LUP policies requiring demonstration of service and reserving capacity for priority uses, and cannot be found consistent with the LUP for these reason. A modification is suggested to retain this requirement (see suggested modification 3).

#### **Lot Coverage and FAR**

Proposed Section 13.10.681(d)(3) refers to a second unit not being allowed to exceed lot coverage and





floor area ratio requirements. This text could be read to indicate that the second unit, when evaluated alone, needs to meet these requirements, irrespective of the existing first unit's coverage and floor area ratio. Such an interpretation would allow for much denser development that exceeds maximum mass and scale requirements to the detriment of community character and coastal viewsheds. This is easily rectified by specifying that the coverage and floor area ratio standards are cumulative. In other words, the attributes of the second unit must be added to the attributes of the first and together must be less than the maximum coverage and floor area ratio standards. See suggested modification 3.

### **Coastal Zone Findings**

Proposed Section 13.10.681(c)(6) indicates that required coastal development permit findings must be made "when applicable" (see page 4 of exhibit C). Because such findings are always applicable, and to avoid potential internal LCP consistency that could affect coastal zone resources, a modification is suggested to strike the "when applicable" caveat (see suggested modification 2).

### **One-Hundred Foot Noticing**

Proposed Section 13.10.681(b) text specifies a 100-foot noticing requirement for second unit applications (see page 2 of exhibit C). The 100-foot noticing requirement omits the California Code of Regulations requirement that such 100-foot measurement exclude roads. To make this LCP text consistent with the regulations, and to ensure that the appropriate persons are noticed, a clarification is suggested in this regard (see suggested modification 1).

### **Accessory Structures**

Proposed Section 13.10.681(d)(7) indicates that certain accessory structures may be allowed (see page 6 of exhibit C). Although it is implied that the applicable regulations of the underlying zone district would remain applicable to such accessory structures, it is not explicit in this section. To err on the conservative side, a modification is suggested to make this implicit requirement explicit. See suggested modification 3.

### **Clarifications/Other**

In addition to those issues detailed above, there are instances where the language of the proposed text needs to be clarified, and typographic errors fixed, to ensure its clear implementation consistent with the LUP. See suggested modifications 1, 2, and 4.

### **Note Regarding Second Units on Agricultural Lands**

It should be noted that the proposed amendment text includes several references to second units on agricultural lands (see exhibit C). Second units on agricultural lands are a separate issue, and a separate LCP amendment request, that is before the Commission at the September 2003 hearing (LCP amendment request 1-02 Part 2; agenda item W15b). The changes are shown in the County's submittal because LCP amendment request 1-02 Part 2 was approved by the County Board last year and previously submitted to the Commission. These changes, and issues related to them, are not a part of this amendment request, and exhibit C shows these changes deleted. Commission staff is separately



recommending denial of LCP amendment request 1-02 Part 2 because it would inappropriately lead to future growth in what is now a rural agricultural area to the detriment of those rural agricultural resources inconsistent with certified LUP, and inconsistent with the Coastal Act. Note that AB 1866 (and amended Government Code Section 65852.2 et seq regarding second units) applies to residential zoning districts, and it does not apply to agricultural districts.

### **Conclusion**

The Commission must determine whether the zoning code changes proposed are consistent with and adequate to carry out the LUP. There are portions of the proposed IP text where there are inconsistencies and/or other issues that would affect the proposed text's ability to carry out LUP policies, and ultimately to ensure that coastal resources are protected as directed by the LUP. Fortunately, there are modifications that can be made to address the identified issues.

In conclusion, if so modified in all of the ways outlined here according to the cited modification texts, then the IP as amended by the proposed amendment, and as further modified as suggested above and in the cited modification texts, is approved as being consistent with and adequate to carry out the certified LUP as amended.

### **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. 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.

The County in this case exempted the proposed amendment under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications 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 Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor 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, if so modified, 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).



BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 212-2003

On the Motion of Supervisor Almquist  
duly seconded by Supervisor Beautz  
the following Resolution is adopted:

RESOLUTION ADOPTING AMENDMENTS TO THE COUNTY GENERAL PLAN/LOCAL  
COASTAL PROGRAM IMPLEMENTING ORDINANCES RELATING TO SECOND UNITS

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WHEREAS, in 2002, the State Legislature adopted and the Governor signed into law Assembly Bill 1866 relating to second units; and

WHEREAS, Assembly Bill 1866 requires local jurisdictions to permit the development of second units on residually designated land without discretionary permit review or public hearings; and

WHEREAS, on April 29, 2003, the Board of Supervisors considered and accepted preliminary language to implement Assembly Bill 1866; and

WHEREAS, on May 28, 2003, the Planning Commission, following a duly noticed public hearing, considered the staff report, the public testimony and all other material, and adopted a Resolution recommending that the Board of Supervisors adopt ordinance amendments to implement the requirements of Assembly Bill 1866; and

WHEREAS, pursuant to Public Resources Code Section 21080.17, ordinance amendments to implement the requirements of Government Code Section 65852.2 relating to second units are exempt from the provisions of the California Environmental Quality Act; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on June 24, 2003, to consider the amendments to the General Plan/Local Coastal Program Implementation Plan and County Code relating to second units, the staff report and all testimony and evidence received at the public hearing; and

WHEREAS, the proposed amendments to the County General Plan/Local Coastal Program are consistent with the County General Plan/Local Coastal Program Land Use Plan and all other provisions of the implementing ordinances.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Board of Supervisors of the County of Santa Cruz adopts the amendments to the County General Plan/Local Coastal Program Implementation Plan and County Code, as set forth in Exhibit A.

BE IT FURTHER RESOLVED AND ORDERED that the Board of Supervisors directs that this General Plan/Local Coastal Program Implementation Plan Amendment be referred to the California Coastal Commission for its review and certification.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 24th day of June, 2003, by the following vote:

AYES:	SUPERVISORS	Beautz, Wormhoudt, Campos, Almquist and Pirie
NOES:	SUPERVISORS	None
ABSENT:	SUPERVISORS	None
ABSTAIN:	SUPERVISORS	None

**ELLEN PIRIE**

Chairperson of the Board of Supervisors

ATTEST: **GAIL T. BORKOWSKI**  
Clerk of the Board

APPROVED AS TO FORM:

*[Signature]*  
County Counsel

DISTRIBUTION: County Counsel  
Planning

STATE OF CALIFORNIA	)
COUNTY OF SANTA CRUZ	) ss
I, SUSAN A. MARIELLO, County Administrative Officer and ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California do hereby certify that the foregoing is a true and correct copy of the resolution passed and adopted by and entered in the minutes of the said board. In witness whereof I have hereunto set my hand and affixed the seal of the said Board on <u>June 25</u> 20 <u>03</u> .	
SUSAN A. MARIELLO, County Administrative Officer	
By <i>[Signature]</i>	Deputy



# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

701 OCEAN STREET, SUITE 410, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
ALVIN JAMES, DIRECTOR

June 12, 2003

Agenda: June 24, 2003

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

**Re: PUBLIC HEARING TO CONSIDER THE PLANNING COMMISSION'S  
RECOMMENDATIONS REGARDING ORDINANCE AMENDMENTS TO IMPLEMENT AB 1866  
RELATING TO SECOND UNITS**

Members of the Board:

On April 29, 2003, your Board accepted, in concept, changes to the Second Unit Ordinance and directed staff to process the amendment (see Minute Order, Attachment 7). The Planning Commission has reviewed the proposed ordinance and has recommended that your Board adopt the ordinance, with several modifications to your Board's conceptual language. The following report will present the Planning Commission's recommendations and the material necessary to take final action to implement AB 1866.

### Background

In 2002, the State legislature passed and the Governor signed AB 1866. AB 1866 included a number of revised statutes regarding development density bonuses and second units. The amendment relating to second units eliminates the local jurisdiction's ability to issue discretionary permits or require public hearings for second units in residential zone districts after July 1, 2003. This means that second units must be reviewed and approved as ministerial permits without public hearings, similar to residential building permits.

On February 25<sup>th</sup>, staff presented a report to your Board outlining the amendments necessary to bring our ordinance into conformity with State law and suggesting additional amendments identified by staff. Following discussion by your Board, the

item was continued to March 25<sup>th</sup> to resolve a legal question related to a pending lawsuit. On March 25<sup>th</sup>, your Board referred the matter to the Housing Advisory Commission (HAC) for their review and recommendation. The HAC considered the proposed ordinance at its meeting on April 2 and forwarded a recommendation to the Board. On April 29<sup>th</sup>, your Board discussed the HAC recommendation, accepted the proposed ordinance language with several modifications and directed staff to present the ordinance to the Planning Commission for its recommendation (see BOS accepted ordinance amendment - see Exhibit 1 of Attachment 5).

On May 28, 2003, the Planning Commission considered the proposed ordinance amendments. The Commission, after the public hearing and a brief discussion, adopted a Resolution (Attachment 4) recommending approval of the proposed ordinance amendments to your Board with certain modifications. These modifications address the development of second units in sensitive habitats and on slopes greater than 30%; and modify the method that second units are restricted to single-story within the Urban Services Line. The Planning Commission recommendation is discussed below.

#### Planning Commission Recommended Ordinance

The proposed ordinance includes three parts: (1) amendments to the Second Unit Ordinance, (2) amendments to the Residential Uses Chart and (3) an amendment to the Residential Site and Development Standards. These are discussed in more detail below.

(1) Second Unit Ordinance Amendments (Section 13.10.681) - Three subsections of the Second Unit Ordinance are involved in the proposed amendment. Subsection (b) of the ordinance deals with the permit review process. The proposed language removes the requirement for any type of public hearing or discretionary review for second units. Therefore, outside the coastal zone, applications for second units will be processed like a building permit.

AB 1866 included language eliminating any public hearings for second units in the coastal zone, but specified that all other requirements of the Coastal Act remain in force. To address this apparent conflict, California Coastal Commission staff issued a memo describing how local jurisdictions could comply with the legislation and the Coastal Act (Exhibit D). To comply with both these regulations, the County must establish two different processes for proposed second units within the coastal zone. The first involves those properties located within the coastal zone but outside the appeal area of the coastal zone. The Coastal regulations require that notice be provided to all property owners and residents within 100 feet of the parcel with sufficient information so that the neighbors can make adequate and informed comments to the planner in a timely manner. These particular coastal development permits would be issued like building permits.

Those properties within the appealable area of the coastal zone are subject to the noticing requirement as above but are also subject to a coastal appeal process following issuance of the County's coastal development and building permit. This process would allow a concerned member of the public or the Coastal Commission staff to appeal the County's permit to the Coastal Commission. Following the appeal hearing, or the end of the appeal period if no appeal is filed, the coastal development and building permit would become effective.

This subsection retains the requirement that proposed second units in the Commercial Agricultural zone district are subject to a review by the Agricultural Policy Advisory Commission despite the fact that this is a discretionary review. The County is able to retain this requirement because the State law regarding second units only applies to second units on residentially zoned land.

Subsection (c) of the Second Unit Ordinance would be amended to clarify the requirements as they relate to the new process and to delete any reference to discretionary review processes. A new requirement has been added that requires that second unit permits in the coastal zone be found consistent with two sets of findings, as required by the Coastal Act.

Subsection (d) of the ordinance deals with the Design and Development Standards for the development of second units. Your Board added three special requirements to this subsection including:

- a requirement that a variance be obtained to approve two story second units inside the Urban Services Line, to address privacy and neighborhood compatibility issues, and
- a requirement that a variance be obtained to approve a second unit or a new driveway serving a second unit located on slopes exceeding 30%,
- a requirement that a variance be obtained to approve a second unit in a mapped sensitive habitat.

Other changes to the subsection include deleting references to special discretionary reviews for yard reductions, references to standards that require a judgment or discretion, and references to service requirements that are already specified in the building permit regulations.

Planning Commission Recommendation - Staff presented the Board's recommended ordinance to the Commission, followed by comments from County Counsel on the background and intent of AB 1866. Following the public input, the Commission adopted a recommendation that deletes the variance requirements for proposed second units on slopes greater than 30% and in sensitive habitats, but retains the single-story limit in the urban areas. The Commission indicated that this recommendation reflected the intent of the state legislation regarding the elimination of discretionary review and that; in any case, second units would be

subject to all of the requirements of County law regulating development on steep slopes and within sensitive habitats.

(2) Residential Uses Chart (Section 13.10.322) - The Residential Uses Chart has been revised to amend a reference in the Key that specifies that level of review for second units in the coastal zone. The Uses Chart has been modified to change the level of review for second units from a level 4 (administrative, public notice required) to a level 3 (administrative, field visit required) permit. Staff is also proposing to delete the old references to accessory dwelling units, as this term is no longer used. County Counsel has advised us that the entire Uses Chart must be included in the ordinance to correctly incorporate the proposed changes.

Planning Commission Recommendation - No changes were made to this section.

(3) Residential Site and Development Standards (Section 13.10.323) - Subsection (e)6(ii) includes a reference to a discretionary process to consider side and rear yard exceptions for second units and is proposed for deletion.

Planning Commission Recommendation - The Commission accepted the amendment noted above and further revised the ordinance, based on County Counsel advice, to include the height restrictions for second units in the Site and Structural Dimensions Chart in this section instead of in Section 13.10.681 (Second Unit Ordinance). By including the height restrictions in the Site and Structural Dimensions Chart, the standard variance requirements specified in introductory language of the section are applied to any proposed two-story second unit in the urban area. The effect of this change is to treat second units the same as a principal residence, which is consistent with the intent of the legislation.

Again, County Counsel has advised us that the entire section must be included. Included in the proposed ordinance, as a clean up, is the deletion of a page of material that describes the measurement of height. According to County Counsel's research, this page was included in the ordinance materials when the height limit was last amended, but was never intended to be adopted as a part of the ordinance. Unfortunately, it was erroneously published as a part of the ordinance. An amendment to delete this provision is necessary to remove it from the County Code.

#### CEQA Review

Pursuant to Public Resources Code Section 21080.17, ordinance amendments to implement Government Code Section 65852.2 are exempt from the California Environmental Quality Act (Attachment 3).

#### Discussion and Recommendation

In order to meet the implementation date established by the new statute (July 1, 2003), staff has processed the ordinance amendments very quickly. Following your



Board's conceptual approval on April 29<sup>th</sup>, staff scheduled the item for the Planning Commission on the next available meeting (May 28, 2003). The Planning Commission has acted on the proposed ordinance and has forwarded its recommendation to your Board.

The Planning Commission, in recommending the proposed ordinance to your Board, took a similar approach as the Housing Advisory Commission did in regards to the new processes affecting second units. The Commission, recognizing that processes that were different for second units than for single-family dwelling could add to the County's legal exposure, did not recommend that a variance be required to build on slopes greater than 30% or in sensitive habitats. Rather, the Commission indicated that the current review and regulatory processes for development in those particular areas (Chapters 16.22 - Erosion Control and 16.32 - Sensitive Habitat Protection) would be as protective of County resources for the development of second units as it is for a single-family dwelling.

The Commission agreed with your Board that privacy was a significant issue in the development of second units in the urban area and recommended that the second units be limited to single-story in the urban areas. The Commission recommended that the height limit be included as a part of the Site and Structural Dimensions Charts. Those property owners that wish to construct a two-story second unit would have to apply for and obtain a variance for the development.

Staff concurs with the general approach recommended by the Planning Commission, although we continue to have a concern regarding the height limitation in the urban area. Staff believes that the use of variances to approve two-story second units is problematic. Although your Board, on April 29<sup>th</sup>, included in its action a direction to staff to develop specific standards for use in the review of height variances for second units, variance approvals are governed by findings authorized by State legislation that relate to special circumstances, grants of special privilege and health, safety and welfare. Variances are not approved lightly as they are granting unique site standards to a property owner. Planning staff recommends approval of about 1-2 variances a year, mostly on properties with significant topographic or shape constraints. In discussions with Development Review staff, they believe that making findings for approval of variances for second story second units, based on their experience with other variance requests, would be difficult.

Staff, however, has not yet been able to develop any alternative to the variance that won't raise issues of consistency with the state legislation. We have considered a use permit for a second story second unit. Use permit findings are less restrictive than variance findings and focus primarily on compatibility. However, a requirement for a discretionary use permit of some type would definitely violate the tenets of AB 1866 to eliminate discretionary permits for second units. Another possibility that staff has considered is the establishment of specific site standards that could be enacted for two-story second units including increased setbacks from rear and side property lines. The difficulty with this approach is that in neighborhoods with all one-story

construction, any two-story structure will stand out. Your Board has made it clear that for a single-family dwelling this is not as significant an issue as it is for the construction of a second unit.

Staff is also concerned that the one story limitation may prevent developers from considering the construction of second story second units as a part of their future subdivisions. As your Board may recall, in an October 22, 2002 report, the Housing Advisory Commission recommended that your Board encourage subdividers to include second units as a part of their projects. While staff believes that it is possible to construct either attached or detached two story second units without creating adverse privacy impacts, additional staff work is needed to develop specific standards for new subdivisions as well as for the development of two story second units on existing parcels as an alternative to the variance requirement.

Staff recommends that you direct staff to report back to your Board with a status report on the implementation of the ordinance 6-7 months following the effective date and with a report on possible alternatives to the variance requirement to permit two story second units in the urban area. This will not only allow staff to assess the effectiveness of the ordinance but allow us to review the progress other jurisdictions have made in the implementation of AB 1866.

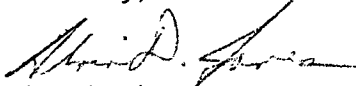
Meanwhile, your Board should adopt the ordinance before you at this time for implementation outside the coastal zone in 31 days and inside the coastal zone following Coastal Commission review and certification. Staff is preparing for the administration of the new ordinance, including the development of handouts and staff training. At the present time, there are about 12-15 building permit application reservations to submit second unit applications immediately after July 1<sup>st</sup>. We intend to accept the applications, process them under the new ordinance but not issue any building permits until the ordinance becomes effective.

It is, therefore, RECOMMENDED that your Board:

1. Adopt the attached Resolution Adopting Amendments to the General Plan/Local Coastal Program Implementation Plan and County Code Relating to Second Units (Attachment 1); and
2. Adopt the attached Ordinance Amending Subsections (b), (c) and (d) of Section 13.10.682, Subsection (b) of Section 13.10.322 and Section 13.10.323 of the Santa Cruz County Code Relating to Second Units (Attachment 2); and
3. Certify the CEQA Exemption (Attachment 3); and
4. Direct the Planning Department to transmit the amendments to the California Coastal Commission for review and certification; and

5. Direct the Planning Department and County Counsel to report back on or before February 10, 2004, with a status report on the implementation of the ordinance and a report on possible alternatives to a variance to allow two story second units in the urban area.

Sincerely,



Alvin D. James  
Planning Director

RECOMMENDED: \_\_\_\_\_  
Susan A. Mauriello, CAO

Attachments:\*

1. Resolution
2. Ordinance
3. CEQA Exemption
4. Planning Commission Resolution
5. Planning Commission staff report
6. Planning Commission Minutes
7. Minute Order, April 29, 2003

\* STAFF NOTE:

ATTACHMENTS ARE NOT  
REPRODUCED HERE. THEY  
ARE AVAILABLE FOR  
REVIEW IN THE COMMISSION'S  
SANTA CRUZ OFFICE.

Cc: County Counsel  
Redevelopment Agency  
Coastal Commission  
Housing Advisory Commission



Highlighted language with strike-over and underline is LCP Amend 2-03

Italicized language is LCP 1-02 Amend part 2 \* → STAFF NOTE: SHOWN CLOSED OUT (w/ wavy line) FOR CLARITY (THROUGHOUT EXHIBIT)

No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

\* STAFF NOTE: LCP SECTIONS FOR WHICH NO CHANGES ARE PROPOSED ARE NOT REPRODUCED HERE - ONLY THE PORTIONS FOR WHICH CHANGES ARE PROPOSED ARE SHOWN. THE FULL TEXT IS AVAILABLE FOR REVIEW AT THE ORDINANCE NO. \_\_\_\_\_ COMMISSION'S SANTA CRUZ OFFICE.

AN ORDINANCE AMENDING SUBSECTIONS (b), (c) AND (d) OF SECTION 13.10.681, SUBSECTION (b) OF SECTION 13.10.322 AND SECTION 13.10.323 OF THE SANTA CRUZ COUNTY CODE RELATING TO SECOND UNITS

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

SECTION I

Subsection (b) of Section 13.10.681 of the Santa Cruz County Code is hereby amended to read as follows:

(b) Application Requirements Processing. As indicated below, Approval of all second units shall be processed in accordance with the requirements of Government Code Section 65852.2 and, for those second units located within the coastal zone, the requirements of the California Coastal Act. No public hearing shall be required for the development of a second unit within a residential zone district or on land designated residential in the General Plan ~~or within the Agriculture zone district~~, unless the second unit is a part of a larger project that requires a public hearing or if a variance is requested. provisions in Chapter 18.10 and shall require public notice (Level IV), except that second units located within the Coastal Zone and not excludable under Section 13.20.071 shall require a Coastal Zone Permit which is processed at Level 5. Applications for second units which receive any negative public comment following the notice of application submittal, which cannot be resolved administratively, shall require a public hearing and action by the Zoning Administrator (Level V). ~~At applications for second units in the Commercial Agricultural zone district shall be subject to review by the Agricultural Policy Advisory Commission~~

Second units are subject to the following processes:

- (1) Outside the Coastal Zone: Building permit issuance.
- (2) Inside the Coastal Zone (Non-appealable area): Issuance of a combined Coastal Development and Building Permit, subject to the following noticing requirements:
  - (i) Within ten (10) calendar days of accepting an application for a non-appealable coastal development permit, the County shall provide notice, by first class mail, of pending development approval. This notice shall be provided to all persons who have requested to be on

MOD 13

(NOT INCLUDING ROADS)

Exhibit A to Attachment 1

Highlighted language with ~~strike over~~ and underline is LCP Amend 2-03

*Italicized* language is LCP 1-02 Amend part 2

No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

~~(ii)~~ the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed, and to the Coastal Commission. The notice shall contain the following information:

DELETE

MOD 1C

1. A statement that the development is within the coastal zone;
2. The date of filing of the application and the name of the applicant;
3. The number assigned to the application;
4. A description of development and its proposed location;
5. The date the application will be acted upon by the local governing body or decision-maker;
6. The general procedure of the local government concerning the submission of public comments either in writing or orally prior to the local decision;
7. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the local decision.

(3) Inside the Coastal Zone (Appealable area): Issuance of a combined Coastal Development and Building Permit, subject to the following noticing requirements:

(i) Within ten (10) calendar days of accepting an application for an appealable coastal development permit, the local government shall provide notice by first class mail of pending application for appealable development. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed and to the Commission. The notice shall contain the following information:

"SHALL"

MOD 1d

COASTAL MOD 1b

- (1) Statement that the development is within the coastal zone;
- (2) The date of filing of the application and the name of the applicant;
- (3) The number assigned to the application;
- (4) A description of the development and its proposed location;
- (5) A brief description of the general procedure concerning the conduct of local actions.
- (6) The system for Coastal Commission appeals

(ii) Notice After Final Local Decision. Within seven (7) calendar days of approval of the Coastal Development and Building Permit, the County shall notify by first class mail the Commission and any persons who

Highlighted language with ~~strike-over~~ and underline is LCP Amend 2-03

*Italicized* language is LCP 1-02 Amend part 2

No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

specifically requested notice of its action. Such notice shall include conditions of approval and written findings and the procedures for appeal of the local decision to the Coastal Commission.

(iii) The County shall include notice on the Coastal Development and Building Permit that indicates that the permits will not become effective until the end of the Coastal Commission appeal period or until the Coastal Commission has completed action on an appeal of the County's approval of the permit.

## SECTION II

Subsection (c) of Section 13.10.681 of the Santa Cruz County Code is hereby amended to read as follows:

(c) Requirements: Required Findings. Before a development permit for a second unit can be granted, the following requirements shall be met: the general findings for development permits set forth in Section 18.10.230(a), and Coastal Development Permit findings of Section 13.20.110, when applicable, must be made. The following additional findings must also be made:

(1) Location: The second unit shall be located on a residentially-zoned parcel or on a parcel designated for residential use in the General Plan which contains no more than one existing detached, single-family dwelling, where one detached single-family dwelling shall be constructed concurrently with the proposed second unit, ~~or the second unit shall be located on agriculturally-zoned land or on a parcel designated for agricultural use in the General Plan.~~ OR MOD 2a

(2) Parcel Size: The size of the parcel, if located within the Urban Services Line, is no smaller than that required by the minimum lot size standards of the respective zoning district. The size of the parcel, if located outside the Urban Services Line, is at least one acre in area, unless the parcel is served by public sewer. Parcels outside of the Urban Services Line (USL), with public sewer service shall meet the requirements of Section 13.10.681(d)(2);

(3) Development Standards: All development standards for the applicable agricultural or residential zone district shall be satisfied, ~~with allowance for a setback exception as provided for in Subsection 13.10.323(e)(6)(ii);~~ and the development shall be consistent with all County policies and ordinances;

(4) Design: The design of the second unit is consistent with the design and development standards and guidelines set forth in Subsection 13.10.681(d); and

Highlighted language with ~~strike over~~ and underline is LCP Amend 2-03

*Italicized* language is LCP 1-02 Amend part 2

No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

(5) Utility Requirements: All requirements of utility services providers shall be met, and the sewage disposal system and water supply for the parcel shall comply with all applicable requirements of County Code Chapter 7.38, 7.71 and 7.73; ~~AND~~ MOD 2b

(6) In the Coastal Zone, the findings for development permits set forth in Section 18.10.230(a), and the Coastal Development Permit findings of Section 13.20.110, ~~when applicable,~~ must be made.

DELETE ↑

MOD 2c

### SECTION III

Subsection (d) of Section 13.10.681 of the Santa Cruz County Code is hereby amended to read as follows:

(d) Design and Development Standards. The following design and development standards shall be applied to every second unit and shall be conditions for any approval under this section:

(1) Location of Second Unit: The second unit may be either attached to the main dwelling or may be detached from it. Inside the Urban Services Line, no second unit shall be located more than 100 feet from the main dwelling or be accessed by a separate driveway or right-of-way. ~~On land designated Agriculture by the General Plan, the second unit shall be located within 100 feet of the main dwelling on the property unless another location is approved by the Agricultural Policy Advisory Commission that will meet the on-site and off-site buffering requirements and will meet the goal of preserving agricultural land. No second unit or new driveway serving a second unit shall be constructed on any slope greater than 30% or within a mapped sensitive habitat unless a Level V Use Variance Approval is obtained.~~

(2) Size of Second Unit: The total, gross floor area as defined in Section 13.10.700(f) of the habitable portion of a second unit shall not exceed the following standards, based on parcel size:

Maximum Gross Floor Area Within the Urban Services Line (USL)

Type of Sewer Services	Parcel Size	
	<10,000 sq. ft.(1)	10,000 sq. ft. or larger(1)
With Public Sewer	640 sq. ft.	640 sq. ft.
Without Public	Not allowed	640 sq. ft. max.



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*Italicized* language is LCP 1-02 Amend part 2

No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

Sewer	(must meet requirements of County Code Chapter 7.38)
(1) The size of the parcel must be no smaller than that required by the minimum lot size standards of the zoning district.	

### Maximum Gross Floor Area Outside of the Urban Services Line (USL)

Type of Sewer Service	Parcel Size			
	< 10,000 sq. ft.	10,000 sq. ft. to < 1 acre	1 acre or larger to < 2.5 acres	2.5 acres or larger
With Public Sewer	640 sq. ft.	800 sq. ft.	800 sq. ft.	1,200 sq. ft.
Without Public Sewer	not allowed	not allowed	800 sq. ft.	1,200 sq. ft.

MOD 3a

WHEN COMBINED WITH EXISTING LOT COVERAGE AND GROSS FLOOR AREA,

(3) Lot Coverage: No second unit shall be allowed which would exceed the allowable lot coverage or the allowable Floor Area Ratio for the parcel. Any exception shall require a Variance Approval as provided for in Section 13.10.230.

(4) ~~Setbacks Site Standards: Setback requirements~~ All site standards of the zoning district in which the second unit is proposed shall be met. may be adjusted in accordance with Subsection 13.10.323 (e)(6)(ii) based on site plan review and approval by the Zoning Administrator. However, a minimum 5-foot setback is required from any side property line and may be increased at the discretion of the decision making body, to insure neighboring privacy and architectural compatibility within the proposed building site and within the surrounding neighborhood. If setback requirements are reduced pursuant to a Variance Approval, a one-story height limit may be imposed on the proposed second unit. ~~On land zoned or designated agricultural, all setbacks of the agricultural zone districts shall be met and all second units must meet the buffering requirements of County Code Section 16.50.095(f), as determined by the Agricultural Policy Advisory Commission, if applicable.~~

(5) Height: Inside the Urban Services Line, second units shall not exceed the lesser of one story or 17 feet in height unless a Variance Approval is obtained.

**CCC Exhibit** C  
(page 5 of 22 pages)

STAFF NOTE: THIS IS NOT CURRENTLY PART OF THE CERTIFIED LCP.

Highlighted language with ~~strike over~~ and underline is LCP Amend 2-03

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No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

(5 6) Parking: Offstreet parking shall be provided to meet the requirements of Section 13.10.550 for the main dwelling and one additional ~~non-tandem~~ space for each bedroom in the second unit.

(6 7) Design: The design, materials and color of the second unit shall be compatible with that of the main dwelling. ~~and the existing scale and character of the neighborhood. The placement of any decks, balconies, stairs, doors, windows, and other features which may affect the privacy of adjacent properties shall be situated and designed to minimize potential privacy disturbance. Second units proposed on smaller lots (e.g., 10,000 square feet or less) should be one-story unless adequate setbacks between adjacent parcels are provided for privacy purposes.~~

(7 8) Other Accessory Uses: Not more than one second unit shall be constructed on any one parcel. A second unit and any other accessory residential structure (including but not limited to agricultural caretakers quarters and guest houses on residential parcels; ~~but excepting farmworker housing on agricultural parcels greater than 10 acres~~) shall not be permitted on the same parcel. Habitable accessory structures such as artist's studios, garages, or workshops may be allowed. ~~SUBJECT TO ALL APPLICABLE REQUIREMENTS OF THE UNDERLYING ZONE DISTRICT~~ (MOD 3b)

(8) Service Requirements: Written acknowledgements shall be provided from the applicable sanitation, water, and fire districts and/or Environmental Health Services indicating that there will be adequate water, sanitation and fire protection services to the project site with the inclusion of a second unit. All requirements of the respective service agencies shall be satisfied.

(98) Fees: Prior to the issuance of a building permit for the second unit, the applicant shall pay to the County of Santa Cruz capital improvement fees in accordance with the Planning Department's fee schedule as may be amended from time-to-time, and any other applicable fees.

10) Other Conditions: ~~Other conditions deemed appropriate by the decision-making body may be applied to the development permit of a second unit to further the purpose of this Section and to implement the design standards of Subsection 13.10.681(c)(6).~~

#### SECTION IV

Subsection (b) of Section 13.10.322 of the Santa Cruz County Code is hereby amended to read as follows:

**CCC Exhibit C**  
**(page 6 of 22 pages)**

(b) Allowed Uses.

(1) The uses allowed in the residential districts shall be as provided in the following Residential Uses Chart below. A discretionary approval for an

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*Italicized* language is LCP 1-02 Amend part 2

No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

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 residential 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.

(2) Timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, are not allowed uses in the Residential zone districts.

## RESIDENTIAL USES CHART

### KEY:

A = Use must be ancillary and incidental to a principal permitted use on the site

P = Principal permitted use (see Section 13.10.312(a)); no use approval necessary if "P" appears alone

1 = Approval Level I (administrative, no plans required)

2 = Approval Level II (administrative, plans required)

3 = Approval Level III (administrative, field visit required)

4 = Approval Level IV (administrative, public notice required)

5 = Approval Level V (public hearing by Zoning Administrator required)

6 = Approval Level VI (public hearing by Planning Commission required)

7 = Approval Level VII (public hearing by Planning Commission and Board of Supervisors required)

-- = Use not allowed in this zone district

\* = Level IV for projects of less than 2,000 square feet

Level V for projects of 2,000 to 20,000 square feet

Level VI for projects of 20,000 square feet and larger

\*\* = Second Units located within the Coastal Zone and not excludable under Section 13.20.071 require a Coastal Permit which is processed at Level 5 pursuant to Section 13.10.681.

BP = Building Permit Only

USE

RA

RR

R-1

RB

RM

Accessory  
structures and

SUbosordinanceR.doc/mmd

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No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

plumbing fixtures  
may require Level  
4 approval) when  
total area of  
structure is:

1,000 square feet or less	BP Only	BP Only	BP Only	BP Only	BP Only
------------------------------	------------	------------	------------	------------	------------

more than 1,000 square feet	3	3	3	3	3
--------------------------------	---	---	---	---	---

~~Dwelling unit,  
accessory subject  
to Section  
13.10.681\*\*~~

<del>Inside the Urban Services Line</del>	<del>4</del>	<del>4</del>	<del>4</del>	<del>4</del>	<del>4</del>
---	--------------	--------------	--------------	--------------	--------------

<del>Outside the Urban Services Line</del>	<del>4</del>	<del>4</del>	<del>4</del>	<del>4</del>	<del>4</del>
--	--------------	--------------	--------------	--------------	--------------

Air strips (see Section 13.10.700-A definition) including: (continued)	5	5	--	--	--
---	---	---	----	----	----

Parking,  
including:

Parking, on-site, for principal permitted uses (subject to Sections 13.10.550 et seq.)	2	2	2	2	2
--	---	---	---	---	---

Highlighted language with ~~strike over~~ and underline is LCP Amend 2-03

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No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

#### Residential uses:

##### Congregate

##### Senior Housing

2--19 units	--	--	--	--	6
20+ units	--	--	--	--	7

Day-care homes, family (See Section 13.10.700-D definition)	P	P	P	P	P
---	---	---	---	---	---

Dwelling unit, one detached single- family per parcel, 7,000 square feet or larger, exclusive of accessory structures, but specifically excluding barns or similar accessory structures subject to the provisions of Section 13.10.325	5	5	5	5	--
---	---	---	---	---	----

<del>Dwelling unit, accessory, subject to Section 13.10.684</del>	<del>5</del>	<del>5</del>	<del>5</del>	<del>5</del>	<del>5</del>
---	--------------	--------------	--------------	--------------	--------------

Dwelling unit, one detached single- family per parcel	3	3	3	3	3
---	---	---	---	---	---

Highlighted language with ~~strike-over~~ and underline is LCP Amend 2-03

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No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

20+ units	--	--	--	--	7
Residential care homes for 6 or fewer persons (see Section 13.10.700-R definition)	P	P	P	P	P
Residential care homes for 7 or more persons (see Section 13.10.700-R definition)	5	5	5	5	5
Second unit, subject to Section 13.10.681**	<u>43</u>	<u>43</u>	<u>43</u>	<u>43</u>	<u>43</u>
Visitor Accommodations, such as	↗ STAFF NOTE: THE "4"s ARE DELETED. CROSS THROUGH DOES NOT SHOW UP PROPERLY IN PHOTOCOPY				
Bed and breakfast inns (subject to Section 13.10.691)	4	4	4	--	4
Visitor accommodations, small-scale, in Special Communities in the Coastal Zone (subject to Chapter 13.20 and VA District Regulations Section	--	--	5	--	5

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On parcels under 2.5 acres in size	5	5	--	--	--
On parcels 2.5 acres or larger	3	5	--	--	--
Over 20,000 gallons and under 50,000 gallons annual production on any size parcel	5	5	--	--	--
Over 50,000 gallons annual production on any size parcel	6	6	--	--	--

(Ord. 653, 10/17/60; 839, 11/28/62; 931, 6/3/63; 1092, 6/8/65; 1156, 2/15/66; 1217, 12/6/66; 1418, 3/25/69; 1578, 2/23/71; 1608, 6/8/71; 1682, 2/15/72; 1891, 6/19/73; 2051, 9/3/74; 2259, 5/11/76; 2769, 9/11/79; 2822, 12/4/79; 2868, 3/4/80; 3015, 12/2/80; 3051, 3/10/81; 3115, 6/9/81; 3173, 11/17/81; 3182, 12/15/82; 12/4/79; 3186, 1/12/82; 3015, 12/2/80; 3344, 11/23/82; 3432, 8/23/83; 3593, 11/6/84; 3632, 3/26/85; 3756, 4/22/86; 3843, 3895, 3/15/88; 3925, 6/28/88; 4094, 12/11/90; 4346, 12/13/94; 4457-A, 11/4/97; 4460, 6/3/97; 4495, 3/24/98; 4496-C, 8/4/98; Ord. 4577 §§ 2, 3, 12/14/99; Ord. 4646 § 2, 12/11/01)

## SECTION V

Section 13.10.323 of the Santa Cruz County Code is hereby amended to read as follows:

### (a) Site Area.

1. In "RA" and "RR" Residential Districts, the minimum land areas in net developable acres required for each dwelling unit on each site shall be as established by the Rural Residential Density Determination matrix (Chapter 13.14) outside the USL and Rural Services Line or shall be 1 acre inside the Rural Services Line and shall be consistent with the General Plan, Local Coastal Program Land Use plan, the Geological Hazards Ordinance (Chapter 16.10), and the Minimum Parcel Size Standards in Section 13.10.510(g). (Ord. 653, 10/17/60; 1891, 6/19/73; 3186, 1/12/62; 1891,

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*Italicized* language is LCP 1-02 Amend part 2

No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

6/19/73; 3186, 1/12/82; 3344, 11/23/82; 3432, 8/23/83; 4119, 3/5/91; 4122, 4/9/91; 4346, 12/13/94; 4406, 2/27/96; 4416, 6/11/96)

2. The "R-1" and "RM" Residential Districts shall be combined with a number which shall indicate the minimum land area in thousands of net developable square feet required for each dwelling unit on each site in the district. For example: "R-1-6" means a minimum land area of 6,000 net developable square feet per dwelling unit; "RM-3" means a minimum land area of 3,000 net developable square feet per dwelling unit. Definition of "developable land and net developable area" are to be found in Section 13.10.700. District designations shall be consistent with the adopted General Plan, Local Coastal Program Land Use Plan, and the Geologic Hazards Ordinance (Chapter 16.10), and the Minimum Parcel Size Standards in Section 13.10.510(g). (Ord. 1891, 6/19/73; 3186, 1/12/82; 3344, 11/23/82; 3432, 8/23/83).

The "R-1 Single Family Residential" District located outside the Urban Services Line recognizes as conforming parcels those parcels which are generally less than one acre in size, and that, prior to the effective date of the 1994 General Plan/Local Coastal Program Land Use Plan, were legal lots of record and developed with or intended for development of a single family residence. (Ord. 4460, 6/2/97)

3. The Ocean Beach "RB" Residential District shall have a minimum site area of 4,000 net developable square feet. Definitions of "developable land" and "net developable area" are to be found in Section 13.10.700. (Ord. 1418, 3/25/69; 1465, 10/14/69; 3186, 1/12/82; 3344, 11/23/82; 3432, 8/23/83).

(b) Site and Structural Dimensions. The following single family and multi-family charts show site area per dwelling unit, setbacks, maximum allowable lot coverages, building height limits, allowable floor area to lot area ratios, maximum number of stories, minimum site widths and minimum site frontages for residential zone districts. These standards shall apply within all residential "R" zone districts, except as noted elsewhere in this Section and uses inconsistent therewith shall be prohibited absent a variance approval. (Ord. 1191, 8/9/66; 2171, 8/26/75; 2540, 2/28/78; 2775, 9/11/75; 3058, 3/24/81; 3186, 1/12/82; 3344, 11/23/82; 3432, 8/23/83; 3632, 3/26/85; 4097, 12/11/90; 4095, 12/11/90; 4119, 2/5/91; 4122, 4/9/91; 4194, 5/12/92)



**R-1 SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS  
SITE AND STRUCTURAL DIMENSIONS CHART**

ZONE DISTRICT AND MINIMUM SITE AREA PER DWELLING UNIT	PARCEL SPECIFIC CONDITION	SETBACKS (FEET)			MAXIMUM PARCEL COVERAGE	MAXIMUM HEIGHT (FEET)	FLOOR AREA RATIO	MAXIMUM NUMBER STORIES	MINIMUM SITE WIDTH (FEET)	MINIMUM SITE FRONTAGE
		FRONT	SIDE	REAR						
RB 0 to <4,000 sq. ft.	General Requirements	10	0&5	10	40%	25; on beach side: 17	0.5:1	2; on beach side: 1	40	40
	Corner lots	10	0&10	10	40%	See above	0.5:1	See above	40	40
	Lots on beach side of street	10	0&5	0	40%	See above	0.5:1	See above	40	40
	Semi-detached dwellings and dwellings adjacent to pedestrian rights-of-way	15	0&5	15						
R-1-3.5 to R-1-4.9 0 to <5,000 sq. ft.	General Requirements	15	5&5	15	40%	28	0.5:1	2	35	35
	Corner lots – existing parcels - creating new parcels	15	5&10 5&15	15	40%	28	0.5:1	2	35	35
	Parcels > 5,000 sq. ft.	20	5&8	15	30%	28	0.5:1	2	35	35
R-1-5 to R-1-5.9 5,000 to <6,000 sq. ft.	General Requirements	20	5&8	15	30%	28	0.5:1	2	50	50
	Corner lots – existing parcels - creating new parcels	20		15	30%	28	0.5:1	2	50	50
	Parcels 4 to <5,000 sq. ft.	20	5&8	15	30%	28	0.5:1	2	50	50
R-1-6 to R-1-9.9 6,000 to <10,000 sq. ft.	General Requirements	20	5&8	15	30%	28	0.5:1	2	60	60
	Corner lots – existing parcels - creating new parcels	20	5&10 5&20	15	30%	28	0.5:1	2	60	60
	Parcels >4,000 to <5,000 sq. ft.	20	5&8	15	30%	28	0.5:1	2		
R-1-10 to R-1-15.9 10,000 to <16,000 sq. ft.	General Requirements	20	10&10	15	30%	28	0.5:1	2	60	60
	Creating new corner lots	20	10&20	15	30%	28	0.5:1	2	60	60
R-1-16 to R-1-1 <1 acre 16,000 to < 1 acre	General Requirements	30	15&15	15	20%	28	N/A	2	90	60
RR, RA, and R-1-1 > 1 acre	General Requirements – 1 to < 5 acres	40	20&20	20	10%	28	N/A	2	100	60
	General Requirements – 5 acres or more	40	20&20	20	10%	28	N/A	2	150	100
All Districts	Minimum to garage/carport entrance	20	20	20						
	Parcels < 60 feet wide		5&5							
	<u>Second Units – within USL</u>	*	*	*	*	<u>1-story/17 max</u>	*	-	*	*
	<u>Second Units – outside USL</u>	*	*	*	*	<u>28</u>	*	<u>2</u>	*	*

NOTE: This chart contains the multi-family residential zone districts standards and some of the most commonly used exceptions. For additional exceptions relating to parcels, see Section 13.10.323(d). For additional exceptions relating to structures, see Section 13.10.323(e). Variations from maximum structural height, maximum number of stories and maximum floor area as defined by F.A.R. may be approved with a residential development permit by the appropriate approving body for affordable housing units built on-site or off-site in accordance with Chapter 17.10 and Sections 13.10.681 and 13.10.685 of Santa Cruz County Code.

\* All site standards for the applicable zone district must be met.

**RM MULTI- FAMILY RESIDENTIAL ZONE DISTRICTS  
SITE AND STRUCTURAL DIMENSIONS CHART**

ZONE DISTRICT AND MINIMUM SITE AREA PER DWELLING UNIT	PARCEL SPECIFIC CONDITION	SETBACKS (FEET)			MAXIMUM PARCEL COVERAGE	MAXIMUM HEIGHT (FEET)	FLOOR AREA RATIO	MAXIMUM NUMBER STORIES	MINIMUM SITE WIDTH (FEET)	MINIMUM SITE FRONTAGE
		FRONT	SIDE	REAR						
RM-1.5 to RM-4.9 0 to <5,000 sq. ft.	General Requirements for all parcels within these zone districts	15	5&5	15	40%	28	0.5:1	Per Use Permit or 2	35	35
	Corner lots – existing parcels - creating new parcels	15	5&10	15	40%	28	0.5:1		35	35
		15	5&15	15	40%	28	0.5:1		35	35
	Parcels > 5,000 sq. ft.	20	5&8	15	30%	28	0.5:1		35	35
RM-5 to RM- 5.9 5,000 to <6,000 sq. ft.	General Requirements and for parcels >6,000 sq. ft.	20	5&8	15	30%	28	0.5:1	Per Use Permit or 2	50	50
	Corner lots – existing parcels - creating new parcels	20	5&10	15	30%	28	0.5:1		50	50
		20	5&10	15	30%	28	0.5:1		50	50
	Parcels >4,000 to <5,000 sq. ft.	20	5&8	15	30%	28	0.5:1		50	50
RM-6 to RM-9.9 5,000 to <6,000 sq. ft.	General Requirements	20	5&8	15	30%	28	0.5:1	Per Use Permit or 2	60	60
	Corner lots – existing parcels - creating new parcels	20	5&10	15	30%	28	0.5:1		60	60
		20	5&20	15	30%	28	0.5:1		60	60
All Districts	Minimum to garage/carport entrance	20	20	20						
	Parcels < 60 feet wide		5&5							
	Second Units – within USL	*	*	*	*	1-story/17 max	*		*	*
	Second Units – outside USL	*	*	*	*	28	*	2	*	*

NOTE: This chart contains the multi-family residential zone districts standards and some of the most commonly used exceptions. For additional exceptions relating to parcels, see Section 13.10.323(d). For additional exceptions relating to structures, see Section 13.10.323(e). Variations from maximum structural height, maximum number of stories and maximum floor area as defined by F.A.R. may be approved with a residential development permit by the appropriate approving body for affordable housing units built on-site or off-site in accordance with Chapter 17.10 and Sections 13.10.681 and 13.10.685 of Santa Cruz County Code.

\* All site standards for the applicable zone district must be met.

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*Italicized* language is LCP 1-02 Amend part 2

No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)

(c) Calculating Allowable Gross Building Area. When determining the maximum allowable gross building area for a specific parcel, it is necessary to know the zoning and net site area of the parcel. Definitions of net site area, gross building area, floor area, floor area ratio, story, attic, basement, underfloor, and mezzanine appear in 13.10.700.

Net Site Area x Floor Area Ratio (F.A.R.) = Total Allowable Gross Building Area for All Buildings on Site

Net Site Area x Maximum Parcel Coverage Percentage = Maximum Allowable Parcel Coverage

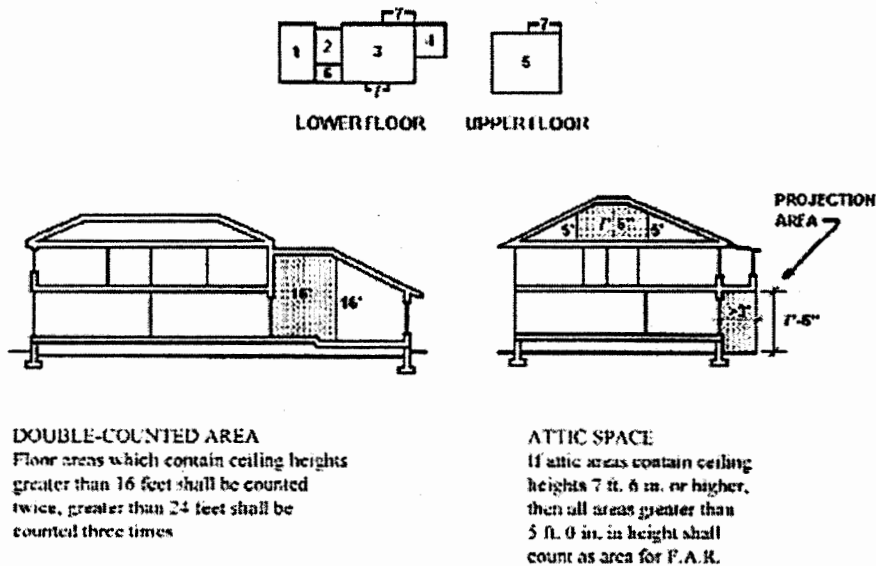
#### AREAS INCLUDED IN GROSS BUILDING AREA CALCULATION

- All Floor Areas; areas with ceiling heights greater than 16 ft. 0 inches are counted twice, and greater than 24 feet 0 inches are counted three times (2, 3, 4, 5)
- Garage (credit for one parking space - 225 sq. ft. not counted (1)
- Covered and Enclosed Area (6)
- Stairs and landing at each floor
- Basements, attics and under floor area which reach a ceiling height of 7 ft. 6 inches or higher, then all areas greater than 5 feet 0 inches in height shall count as area for F.A.R. calculations
- Areas under building projections greater than 3 feet from the exterior wall, or cumulatively greater than 1/3 the length of that side of the building.

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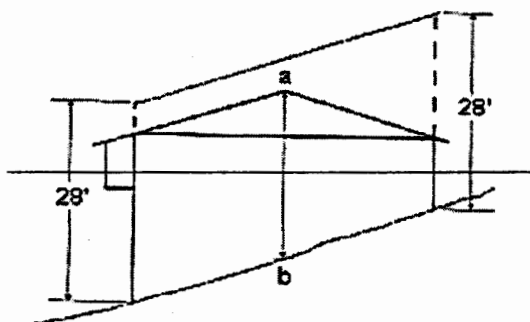
No language from LCP Amend 1-03 part 4 is included in this ordinance (text removed)



## Building Height

Building height is the vertical distance from the existing or finish grade, whichever is lower, to the highest point of the structure, excepting certain architectural features such as chimneys (see Santa Cruz County Code Sections 13.10.323(b) and 13.10.510).

The height limit on a site is defined by a plane which parallels the topography of the site at the height limit established for each zone district. The diagram below illustrates the concept of height plane:



\* Line a-b-c-d is the perimeter of the foundation at the intersection of the existing or finish grade, whichever is lower. Excavations within the building footprint do not lower the building height plane.

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~~A topographic map must be submitted with each proposal, unless deemed unnecessary by the Planning Director. The map must be prepared by a licensed surveyor, civil engineer, or architect, and show the finish floor elevation at each floor and must show spot elevations at the high and low exterior grade elevations and the highest point of the structure. Prior to foundation inspection approval, the required spot elevations shown on the approved plans must be verified by a licensed surveyor, civil engineer, or architect, unless deemed unnecessary by the Building Official.~~

#### **Number of Stories**

~~Single family residential building design is limited to two stories. Exceptions may be made for planned development and senior housing through development permit review. On hillsides, designs must be low profile, and stepped down the hill (Santa Cruz County Code Section 13.10.323(b)).~~

#### **Additions**

~~Building height will be measured for the addition only, without reference to the height of the existing structure.~~

#### **Maximum Building Height**

~~Building heights given below are maximums; lesser building height may be required as a result of development permit review. (Design of two or more residential units and all commercial, industrial, institutional, and public projects are subject to development permit review).~~

<b>Zone-District</b>	<b>Maximum Height</b>
<del>R-1, RA, RM, RR, SU*, TP, PR</del>	28 feet
<del>CA, A, AP (residential structures)</del>	28 feet
<del>RB</del>	<del>16 feet ocean side 25 feet cliff side</del>
<del>CA, A, AP (agricultural structures)</del>	40 feet

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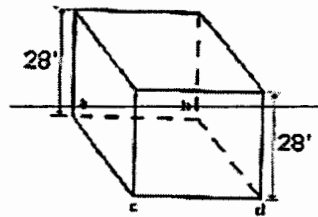
~~PA, VA, C-1, C-2, CC, C-4,~~      ~~3 stories, not to exceed~~  
~~M-1, PF~~      ~~35 feet~~

~~M-3~~      ~~40 feet (except where~~  
      ~~pursuant to a mining~~  
      ~~permit)~~

~~\* when land use designation under General Plan is residential.~~

#### How to Measure Building Height

The following diagram illustrates how height will be measured by staff. Staff will construct a parallelogram along each side of the building, based on the topographic data provided by the applicant, and determine whether the structure meets the height. Alternatively, the building designer may submit verifiable documentation that the building will meet the height limit, and that line a-b on the diagram is less than the allowable height.



#### AREAS NOT INCLUDED IN CALCULATIONS

- first 140 sq. ft. and then 1/2 of all covered, unenclosed porch areas (7)
- uncovered decks (covered decks count)
- uncovered balconies (covered balconies count)
- areas beneath 3 ft. of roof overhang

SAMPLE PARCEL of 3,783 net square feet, R-1-4 Zone District

From Site and Structural Dimensions Chart:

Floor Area Ratio = 0.5:1

Maximum Parcel Coverage = 40%

3,783 sq.ft. x 0.5 = 1892 sq.ft. Total Floor Area

3,783 sq.ft. x 0.40 = 1513 sq.ft. Maximum First Floor Area (Round to Nearest Foot)

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Total Floor Area = 1892 sq.ft.

Less: Maximum First Floor Area = 1513 sq.ft.

Second Level Area = 379 sq.ft.

The total floor area may be divided equally between floors.

(d) Site and Structural Dimensions Exceptions Relating to Parcels.

1. Parcels Created from New Land Divisions.

(i) Within any new land division project, all development standards on all lots or parcels which abut the periphery of the project site are subject to all the restrictions stated in this section unless a variance is obtained. No parcel shall be created smaller than three thousand five hundred (3,500) square feet in area. On individual lots or parcels within any land division project not abutting the periphery of the project site, site and structural dimensions may vary from the General Requirements for the zone district, provided that the approved standards and dimensions for each new lot or parcel are specifically indicated on the approved tentative map.

2. Nonconforming Parcels.

(i) On a lot which contains less than eighty (80) percent of the minimum site area required in the applicable zone district, or has less than 80 percent of the minimum width, or frontage, the building setbacks required shall be equal to those in the zone district having a minimum site area or dimensions which most closely correspond to those of the substandard lot. (Ord. 3593, 11/6/84; 3746, 4/22/86; 4119, 3/5/91; 4122, 4/9/91).

3. Parcels Reduced Due to Right-Of-Way Dedications.

(i) A site area variance approval shall not be required for a new single-family dwelling or additions to an existing single-family dwelling on an existing lot of record which is reduced in size to less than the minimum site area required in the applicable zone district due to requirements for a public dedication of right-of-way.

(ii) For a new or existing single-family dwelling on an existing lot of record which becomes non-conforming due to a public dedication of right-of-way, variances to building setback and structural dimension requirements shall not be required, provided that the front yard is not less than 15 feet and the street side yard is not less than 6 feet.

4. Parcels With Agricultural, Geological or Environmental Resources and/or Constraints. For setbacks from Fault Zones, Floodplains/Floodways and Coastal Bluffs and Beaches see Section 16.10.070. For setbacks from Riparian Corridors see Section 16.30.040. For setbacks from Sensitive Habitats see Section 16.32.090. For Setback/buffer requirements for parcels abutting commercial agricultural, "CA" zoned parcels, see Section 16.50.095.

5. Parcels With Steep Slopes.

(i) 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

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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 may be constructed to the property line.

(ii) In the "RB" District, where the site abuts an existing street, road, or easement for road purposes recorded in the County Recorder's Office before March 25, 1969 and where the front 30 feet of the site exceeds a slope of 25 percent, no front yard is required.

6. Parcels With Double Frontage. When both the front and rear property lines of a parcel abut on a right-of-way, the required front yards shall be measured from both rights-of-way. Only one of the front yards shall be required to meet the off-street parking criteria described in this chapter.

(e) Site and Structural Dimension Exceptions Relating to Structures.

1. Structural Encroachments. Eaves, chimneys, uncovered, unenclosed porches, decks, stairways and landings may extend into required front and rear yard 6 feet, provided, that balconies, porches, or decks must be cantilevered in order to encroach. Eaves, chimneys and uncovered, unenclosed stairways and landings may extend into required side yards 3 feet. Decks less than 18 inches high may be constructed to property lines. Second story rooftop decks and landings are not permitted.

2. Structures Designed for Solar Access.

(i) Criteria for New Construction. In cases where it is not possible to orient a new building southward within the applicable yard requirements for the purpose of incorporating an active or passive solar energy system, a reduction in such yard requirements may be authorized as a Level III Approval pursuant to Chapter 18.10, provided that:

- a. The purpose of the reduction is to incorporate an active or passive solar energy system into the new building;
- b. The building envelope would comply with all zoning provisions if oriented parallel to the lot lines;
- c. The reduced yard requirement will not restrict emergency access or present a fire hazard; and
- d. The reduced yard requirement will not be detrimental or injurious to property or improvements in the neighborhood, and will not limit solar energy access on neighboring property to a greater extent than if the building envelope complied with the required setbacks.

(ii) Criteria for Structural Additions. In cases where it is not possible to make additions to an existing structure within the applicable yard requirements for the purpose of attaching an active or passive solar energy system, reduction in such yard requirements may be authorized as a Level III Approval pursuant to Chapter 18.10 provided that:

- a. The reduced yard requirement will not restrict emergency access, or present a fire hazard;
- b. The reduced yard requirement will not be detrimental or injurious to property or improvements in the neighborhood, and will not limit solar



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energy access on neighboring property to a greater extent than if the building envelope complied with the required setbacks; and  
c. The portion of the addition within the required setback is designed for the primary purpose of collecting solar energy.

3. Structures Larger Than 7,000 Square Feet. No residential structure shall be constructed which will result in seven thousand (7,000) square feet of floor area or larger, exclusive of accessory structures, unless a Level V approval is obtained pursuant to the provisions of Section 13.10.325. (Ord. 4194, 5/12/92; 4286, 2/14/93)

4. Structures Exceeding Two Stories. Outside the Urban Services Line, the number of stories in a residential structure shall not be limited by the provisions of Section 13.10.323(b) above. (Ord. 4371, 5/23/95)

5. Structures Exceeding 28 Feet.

(i) With Increased Yards. Building heights which exceed those specified in subsection (b) above are allowable if all required yards are increased five feet for each foot over the permitted building height and planning approvals are obtained according to the following table:

PARCEL SIZE	MAXIMUM HEIGHT ABOVE EXISTING GRADE	PLANNING APPROVALS REQUIRED
Less than 2-1/2 acres	Over 28 ft.	Level IV Approval
2-1/2 acres or larger	Over 28 ft. up to 35 ft.	Level III Approval
	Over 35 feet	Level IV Approval

(Ord. 3593, 11/6/84; 4194, 5/12/92; 4496-C, 8/4/98)

(ii) With Design Review. Building heights up to a maximum of thirty three (33) feet may be allowed without increased yards or variance approval, subject to review and recommendation by the Urban Designer and approval by the Zoning Administrator following a public hearing. Appeals from this decision shall be processed pursuant to Chapter 18.10. (Ord. 4194, 5/12/92)

6. Accessory Structures.

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*Italicized language is LCP 1-02 Amend part 2*

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(i) Water Tanks and Propane Tanks. Water tanks which are required for fire protection and/or domestic use may be erected to within three feet of any property line provided that the proposed location is a written requirement from the County Fire Marshal, appropriate fire agency or Environmental Health Service. Propane/LP gas tanks may be erected to within five feet of any property line provided that the proposed location is a written requirement from the County Fire Marshal or appropriate fire agency. A landscaped screen shall be provided for any tank located within the required front yard.

(ii) Side and Rear Yards. An accessory structure which is attached to the main building shall be considered a part thereof, and shall be required to have the same setbacks as the main structure. A detached accessory structure which is located entirely within the required rear yard and which is smaller than one hundred twenty (120) square feet in size may be constructed to within three feet of the side and rear property lines. A ~~detached second unit subject to the provisions of Section 13.10.681, may be located within five feet of the side and ten (10) feet of rear property lines, provided the design guidelines of Section 13.10.681 are satisfied and the approval of the Zoning Administrator is obtained.~~ (Ord. 4324A, 8/9/94; 4495,3/24/98)

(iii) Separation. The minimum distance between any two detached structures shall be ten (10) feet with the following exceptions: eaves, chimneys, cantilevered, uncovered, unenclosed balconies, porches, decks and uncovered, unenclosed stairways and landings may encroach three feet into the required ten (10) foot separation.

(iv) On Reversed-Corner Lots. On a reversed-corner lot, accessory structures shall be located not closer to the rear property line than the required side yard on the adjoining key lot, and not closer to the side property line adjoining the street than the required front yard of the adjoining key lot.

(v) Distance from Alleys. Detached accessory structures shall not be located within six feet of any alley.

(f) Usable Open Space. In "RM" Districts, group or private usable open space or a combination thereof shall be provided for each dwelling unit on the site according to the following table:

TYPE OF SPACE	MINIMUM TOTAL AREA PER DWELLING UNIT	RESTRICTIONS ON ANY PORTION OF USABLE OPEN SPACE
---------------------	--	--

For  
group      300 square  
              feet (200

Minimum size: 200  
square feet