

CALIFORNIA COASTAL COMMISSION

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

F3a

Prepared January 29, 2004 (for February 20, 2004 Hearing)

To: Commissioners and Interested Persons
From: Diane Landry, Central Coast District Manager
Dan Carl, Coastal Planner

RECORD PACKET COPY

Subject: Santa Cruz County LCP Amendment Number 3-03 Part 1 (Agricultural Notification and Preservation).

Santa Cruz County's Proposed Amendment

Santa Cruz County is proposing to amend its certified Local Coastal Program (LCP) zoning code (only) to provide increased specificity for agricultural land preservation and protection, including annual noticing to County property owners through changes to LCP Chapter 16.50 (Agricultural Land Preservation and Protection); see exhibit A for the Board of Supervisors Resolution and exhibit B for the cross-through and underline proposed changes. These proposed changes would apply to throughout the County.

Minor LCP Amendment Determination

California Code of Regulations (CCR) Section 13554 defines minor LCP amendments. Among other things, minor LCP amendments include:

CCR Section 13554(a). Changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and which are found by the Executive Director of the Commission or the Commission to be consistent with the land use plan as certified by the Commission.

CCR Section 13555 provides that the Executive Director can make determinations on whether a proposed LCP amendment is "minor." The purpose of this notice is to advise interested parties of the Executive Director's determination (pursuant to CCR Section 13555) that the proposed amendment is minor as defined in CCR Section 13554(a).

The proposed amendment would provide additional specificity to LCP Chapter 16.50, and would provide for enhanced notification and disclosure requirements both during transfers of property near agricultural land, and through an annual notice sent to all County property owners. It would not change the kind, location, intensity, or density of use. The expected effect would be to enhance awareness of agricultural operations in the County, and to head off conflicts between those involved in typical agricultural operations and those living nearby who may not be enamored of them. Ultimately, the effect should be better protection for the County's significant agricultural lands consistent with the LCP land use plan and zoning protection afforded them.

**California Coastal Commission****February 2004 Meeting in La Jolla**Staff: D.Carl Approved by: *DSL*

SCO LCPA 3-03 Part 1 (Agricultural notice and preservation) stfprt 2.20.2004.doc

Coastal Commission Concurrence

Pursuant to CCR Section 13555, the Executive Director will report this determination to the Coastal Commission at its February 20, 2004 meeting at the "Lodge at Torrey Pines" located at 11480 North Torrey Pines Road in La Jolla. The Executive Director will also report any objections to the determination that are received within ten working days of posting of this notice. The proposed minor amendment will be deemed approved and will become effective immediately unless one-third of the appointed members of the Commission request that it be processed as a major LCP amendment (CCR Section 13555(b)).

For further information regarding the proposed LCP amendment or the Commission procedures, please contact Dan Carl in the Coastal Commission's Central Coast District Office in Santa Cruz at the address or phone number listed above. Objections to the proposed minor LCP amendment should be submitted by February 13, 2004.

Procedural Note

This proposed LCP amendment was filed on December 30, 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 December 30, 2003 is February 28, 2004. February 28, 2004 is before the Commission's next scheduled meeting in March. 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 three or more commissioners object to the minor LCP amendment determination, and this item is to be held over for a subsequent public hearing, then the Commission will need to extend the deadline for Commission action by one-year or have the ordinance be approved and certified as submitted. Thus, in the event that three or more commissioners object to this minor LCP amendment determination, Staff recommends that the Commission extend the deadline for Commission action by one year (i.e., to February 28, 2005). 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 3-03 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.

Exhibits:

Exhibit A: Board of Supervisor's Resolution

Exhibit B: Proposed Changes to LCP Chapter 16.50



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

RESOLUTION NO. 362-2003

On the motion of Supervisor Campos
duly seconded by Supervisor Beautz
the following Resolution is adopted:

BOARD OF SUPERVISORS RESOLUTION REGARDING PROPOSED
AMENDMENT TO COUNTY CODE CHAPTER 16.50, AGRICULTURAL LAND
PRESERVATION AND PROTECTION ORDINANCE, TO COMBINE RELEVANT
ASPECTS OF A MODEL "RIGHT-TO-FARM" ORDINANCE WITH THE EXISTING
CHAPTER 16.50

WHEREAS, the value of agricultural production in Santa Cruz County exceeds \$351 million dollars and Santa Cruz County ranks 26th in the value of agricultural production statewide, while Santa Cruz County ranks 57th in area statewide; and

WHEREAS, the County of Santa Cruz supports and encourages new and continued commercial agricultural operations in the county; and

WHEREAS, the Santa Cruz County General Plan – Local Coastal Program calls for protection of agricultural land and County Code Chapter 16.50, the Agricultural Land Preservation and Protection Ordinance, implements the General Plan – Local Coastal Program agricultural policies and provides comprehensive protection of agricultural land; and

WHEREAS, the State of California has provided for the adoption of so-called "right-to-farm" ordinances by local governments; and

WHEREAS, a populace informed as to the importance of agriculture to the economy and lifestyle of Santa Cruz County and as to the nature of agricultural operations is critical to public support for continued commercial agricultural operations; and

WHEREAS, on September 19, 2002, and September 18, 2003, the Agricultural Policy Advisory Commission held duly notice public hearings to consider amendments to County Code Chapter 16.50 to incorporate relevant portions of a model "right-to-farm" ordinance and to enhance public notification and awareness of agricultural operations in the County; and

WHEREAS, on February 12, 2003, the Planning Commission held a duly noticed public hearing to consider amendments to County Code Chapter 16.50 to incorporate relevant portions of a model "right-to-farm" ordinance and to enhance public notification and awareness of agricultural operations in the County; and

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WHEREAS, on May 20 and August 19, 2003, the Board of Supervisors held duly noticed public hearings to consider the recommendation of the Planning Commission about amendments to County Code Chapter 16.50; and

WHEREAS, on December 9, 2003, the Board of Supervisors held a duly noticed public hearing to consider the recommendation of the Agricultural Policy Advisory Commission about amendments to County Code Chapter 16.50; and

WHEREAS, the proposed amendments to County Code Chapter 16.50 have been found to be categorically exempt from further review under the California Environmental Quality Act pursuant to Sections 1804 and 1805 of the County's CEQA Guidelines and Sections 15304 and 15305 of the State CEQA Guidelines; and

WHEREAS, the Board of Supervisors finds that the proposed amendments are consistent with the California Coastal Act.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Board of Supervisors hereby approves the amendments to County Code Chapter 16.50 and the CEQA Categorical Exemption, incorporated herein by reference, and authorizes their submittal to the California Coastal Commission for certification as part of the Local Coastal Program.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 9th day of December, 2003 by the following vote:

| | | |
|----------|-------------|--|
| AYES: | SUPERVISORS | Beautz, Wormhoudt, Campos, Stone and Pirie |
| NOES: | SUPERVISORS | None |
| ABSENT: | SUPERVISORS | None |
| ABSTAIN: | SUPERVISORS | None |

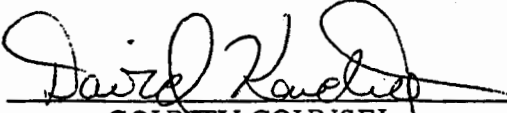
ELLEN PIRIE

Chairperson of the Board of Supervisors

GAIL T. BORKOWSKI


ATTEST: _____
Clerk of the board of Supervisors

APPROVED AS TO FORM:



COUNTY COUNSEL

cc: County Counsel
Planning Department

| |
|---|
| STATE OF CALIFORNIA) COUNTY OF SANTA CRUZ) |
| I, SUSAN A. MAURIELLO, 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>12/11</u> 20 <u>03</u> |
| SUSAN A. MAURIELLO, County Administrative Officer By  Deputy |

Existing Chapter 16.50 with changes as recommended by Staff;
additions are shown highlighted and deletions are shown ~~struck-through~~

Chapter 16.50 AGRICULTURAL LAND PRESERVATION AND PROTECTION

- 16.50.010 Purposes.
- 16.50.015 Scope.
- 16.50.020 Amendment.
- 16.50.025 Definitions
- 16.50.030 Designation of agricultural land types.
- 16.50.040 Criteria for designation.
- 16.50.050 Amendment of designations.
- 16.50.060 Fees.
- 16.50.070 Preservation of Type 1 agricultural lands.
- 16.50.075 Preservation of Type 2 agricultural lands.
- 16.50.080 Preservation of Type 3 agricultural lands.
- 16.50.085 Protection of noncommercial agricultural land.
- 16.50.090 ~~Public~~ Notification and disclosure statement requirements
- 16.50.095 Agricultural buffer setbacks.
- 16.50.100 Appeals.
- 16.50.110 Agricultural policy advisory commission hearing notices.
- 16.50.115 Violations.

16.50.010 Purposes.

(a) The Board of Supervisors of Santa Cruz County finds that commercially viable agricultural land exists within the county, that it is in the public interest to preserve and protect this land for exclusive agricultural use and to enhance and encourage agricultural operations within the County, and that certain agricultural land in the county, not presently of commercial value, also merits protection. The Board of Supervisors of Santa Cruz County also finds that ~~residential non-agricultural~~ development adjacent to certain of these lands often leads to restrictions ~~on farm operations, to the detriment of the adjacent agricultural uses and the economic viability of the county's agricultural industry as a whole.~~ on the county's agricultural industry as a whole. It is the determination of the Board of Supervisors that residents living near agricultural land should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and healthy agricultural sector so long as the agricultural operations are conducted in accordance with Federal, State, and local laws and regulations.

(b) The purposes of this chapter, therefore, are to promote the public health, safety and welfare; ~~to~~ support and encourage continued agricultural operations in the County, to implement the policies of the Santa Cruz County General Plan, the Local Coastal Program Land Use Plan, and the 1978 Growth Management Referendum (Measure J) by designating those commercial agricultural lands the County intends to preserve and protect for exclusive agricultural use, and by protecting noncommercial agricultural land; to support and encourage continued agricultural operations in the county; to maintain in exclusive agricultural use commercial agricultural land which is located within utility assessment districts, while recognizing that equitable compensation may be due because of the assessment district-caused encumbrances; and to forewarn prospective purchasers

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and residents of property adjacent to agricultural operations of the necessary sounds, odors, dust and hazardous chemicals that accompany agricultural operations. It is an additional purpose of this chapter to ensure the maximum protection of commercially viable agricultural land by weighting decisions, in cases where there is not clear evidence of the unsuitability of the agricultural land, in favor of the preservation of the land for agricultural use (Ord. 2621, 1/23/79; 3336, 11/23/82; 3447, 8/23/83)

(c) Accordingly, no agricultural activity, operation, or facility or appurtenances thereof shall be or become a nuisance, public or private, if it has been conducted and maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations, and in a manner consistent with all applicable federal, state and local laws, regulations, permits and approvals, and the conditions thereof, after it has been in operation for more than three years if it was not a nuisance when it began. This is not to be construed as in any way modifying or abridging federal or state law, or any other applicable provision of state law relative to nuisances; rather it is only to be utilized in the interpretation and enforcement of the provisions of this Code and County regulations.

16.50.015 Scope.

This chapter establishes a system for classifying various types of commercial agricultural land in Santa Cruz County, including specific criteria for applying each different agricultural land type designation and a procedure and findings for amending such designations. This chapter also contains the development regulations which apply to commercial agricultural land, including reference to the specific criteria in the Zoning Ordinance (Chapter 13.10) which govern the division of commercial agricultural parcels. Policy regulating divisions of noncommercial agricultural land, requirements pertaining to "buyer beware" notification, annual notification to landowners regarding nuisance, and regulations for agricultural buffer setbacks are also established in this chapter. (Ord. 3336, 11/23/82; 3447, 8/23/83)

16.50.020 Amendment.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.10 of the County Code, and shall be subject to approval by the California Coastal Commission. (Ord. 3336, 11/23/82; 3447, 8/23/83)

16.50.025 Definitions.

Acquiring Party. For purposes of this chapter, in a sale, exchange, installment land sale contract, option to purchase, or residential stock cooperative improved with residential units, "Acquiring Party" refers to the individual or entity that will or may acquire ownership of the

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property through the transfer. In a ground lease coupled with improvements, the "Acquiring Party" refers to the tenant.

Agricultural land. All that real property within the boundaries of Santa Cruz County that is defined as commercial agricultural land in the General Plan – Local Coastal Program Land Use Plan.

Agricultural operations. Includes, but is not limited to the cultivation and tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing harvesting, and processing of any agricultural commodity, including yet not limited to viticulture, horticulture, mushroom farming, insectaries, apiculture, raising of livestock, fur bearing animals, fish or poultry; growing, raising, breeding, harvesting, or processing of any living organism and any agricultural practices, including composting, aerial or terrestrial application of fertilizers and pesticides, performed as incidental to or in conjunction with such operation, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

Nuisance. The term "nuisance" shall have the same meaning as defined in California Civil Code 3479 that reads, in part, "[a]nything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the use of property, so as to interfere with the comfortable enjoyment of life or property . . . is a nuisance."

Pest. Pest means any of the following that is, or is liable to become, dangerous or detrimental to the agricultural or nonagricultural environment of the County:

- (a) Any insect, predatory animal, rodent, nematode, or weed.
- (b) Any form of terrestrial, aquatic, or aerial plant or animal, virus, fungus, bacteria, or other microorganism (except viruses, fungi, bacteria, or other microorganisms on or in living humans or other living animals).
- (c) Anything that the State Secretary of Food and Agriculture or the Director of Pesticide Regulation, by regulation, declares to be a pest.

Pesticide. Pesticide includes any of the following:

- (a) Any spray adjuvant.
- (b) Any substance, or mixture of substances which is intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, as defined above, which may infest or be detrimental to vegetation, humans, animals, or households, or be present in any agricultural or nonagricultural environment whatsoever.

Transfer. For the purposes of this chapter includes the following: sale, exchange, installment land sale contract, lease with option to purchase, any other option to purchase, or ground lease coupled with improvements or residential stock cooperative improved with residential units.

Transferor. For purposes of this chapter, in a sale, exchange, installment land sale contract, option to purchase, or residential stock cooperative improved with residential units,

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“Transferor” refers to the individual or entity that owns the property immediately before the transfer. In a ground lease coupled with improvements, the “Transferor” refers to the owner of the leased premises and any property manager employed by the owner to manage the leased premises.

16.50.030 Designation of agricultural land types.

The Agricultural Resource lands designated by the County General Plan shall be further classified into the following agricultural land types as shown on the map on file in the Planning Department entitled “Agricultural Resources,” and as amended from time to time. These types of agricultural land shall be defined individually and in the aggregate as “Agricultural Resource Land” or “Commercial Agricultural Land.” Commercial Agricultural Land also includes all land which is enforceably restricted with a Land Conversation Act Contract for Agricultural Preserve.

- (a) Type 1A--Viable Agricultural Land
- (b) Type 1B--Viable Agricultural Land in Utility Assessment Districts
- (c) Type 2A--Limited Agricultural Lands in Large Blocks
- (d) Type 2B--Geographically Isolated/Limited Agricultural Lands
- (e) Type 2C--Limited Agricultural Lands in Utility Assessment Districts
- (f) Type 2D--Limited Agricultural Lands Experiencing Use Conflicts
- (g) Type 2E--Vineyard Lands
- (h) Type 3--Coastal Zone Prime Agricultural Land (Ord. 2621, 1/23/79, 3336, 11/23/82; 3447, 8/23/83; 3602, 11/6/84)

16.50.040 Criteria for designation.

The following criteria shall be used to determine into which agricultural land type the commercial agricultural lands of the county will be classified:

(a) Type 1 Commercial Agricultural Land. This type is for viable agricultural lands outside the Coastal Zone which have been in, or have a history of, commercial agriculture over a long period of time, and are likely to continue to be capable of commercial agricultural use in the foreseeable future.

1. Type 1A--Viable Agricultural Land. Type 1A agricultural lands comprise areas of known high productivity which are not located in any utility assessment district for which bonded indebtedness has been incurred. These lands essentially meet the U. S. Department of Agriculture Soil Conservation Service and the California Department of Food and Agriculture criteria for “prime” and “unique” farmland and “prime” rangeland.

2. Type 1B--Viable Agricultural Land in Utility Assessment Districts. This type includes viable agricultural lands, as defined above, which are within a utility assessment district for which bonded indebtedness has been incurred, except Agricultural Preserves.

(b) Type 2 Commercial Agricultural Land. This category is for agricultural lands outside the Coastal Zone which would be considered as Type 1A, except for one or more limiting factors, such as parcel size, topographic conditions, soil characteristics or water availability or

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quality, which may adversely affect continued productivity or which restrict productivity to a narrow range of crops. Despite such limitations, these lands are considered suitable for commercial agricultural use. Type 2 agricultural lands are currently in agricultural use (on a full-time or part-time basis), or have a history of commercial agricultural use in the last ten years and are likely to continue to be capable of agricultural use for a relatively long period. In evaluating amendments to Type 2 designations the preceding factors, along with adjacent parcel sizes, degree of nonagricultural development in the area and proximity to other agricultural uses, shall be considered in addition to the criteria listed under each individual type below.

1. Type 2A--Limited Agricultural Lands in Large Blocks. These lands are in fairly large blocks, are not in any utility assessment district which has incurred bonded indebtedness, and are not subject to agricultural-residential use conflicts.

2. Type 2B--Geographically Isolated Agricultural Land with Limiting Factors. This category includes agricultural lands with limiting factors which are geographically isolated from other agricultural areas. These lands are not in a utility assessment district which has incurred bonded indebtedness and are not subject to agricultural-residential use conflicts.

3. Type 2C--Limited Agricultural Lands in Utility Assessment Districts. This type includes agricultural lands with limiting factors which are in a utility assessment district which has incurred bonded indebtedness.

4. Type 2D--Limited Agricultural Lands Experiencing Use Conflicts. These are agricultural lands with limiting factors which are experiencing extreme pressure from agricultural-residential land use conflicts such as pesticide application, noise, odor or dust complaints, trespass or vandalism.

5. Type 2E--Vineyard Lands.

(c) Type 3--Coastal Zone Prime Agricultural Land. This category includes all of the following lands outside the Urban Services Line and the Rural Services Line within the Coastal Zone in Santa Cruz County:

1. Land which meets the U. S. Department of Agriculture Soil Conservation Service criteria of prime farmland soils and which are physically available (i.e., open lands not forested or built on) for agricultural use.

2. Land which meets the California Department of Food and Agriculture criteria for prime rangeland soils and which are physically available (i.e., open lands not forested or built on) for agricultural use.

3. Land planted with fruit or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years, and which normally return during the commercial bearing period on an annual basis from the production of unprocessed plant production not less than \$200 per acre; the \$200 per acre value shall be utilized to establish a base value per acre as of 1965. This base value per acre figure shall be adjusted annually in accordance with any change in the San Francisco Bay Area Consumer Price Index to reflect current values.

4. Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than \$200 per acre for three of the five previous years, as provided in subsection 3. above.

5. Land which meets the California Department of Food and Agriculture criteria for unique farmland of statewide importance and which is physically available (i.e., open lands not forested or built on) for agricultural use.

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The criteria for "prime farmland soils," "prime rangeland soils," and "unique farmland of statewide importance" are further defined in the General Plan and Local Coastal Program Land Use Plan Glossary. (Ord. 2621, 1/23/79; 3336, 11/23/82; 3447, 8/23/83; 4406, 2/27/96; 4416, 6/11/96)

16.50.050 Amendment of designations.

(a) Amendments to the designations of agricultural land types may be initiated by an applicant, the Board of Supervisors, the Planning Commission or the Planning Department. Consideration of such proposals for the addition, removal or change of agricultural land type designations shall be limited to instances where new information has become available regarding the appropriateness of specific designations based on the criteria set forth under Section 16.50.040.

(b) Applications for approvals granted pursuant to this Chapter shall be made in accordance with the requirements of Chapter 18.10, Level VII.

(c) Applications to amend the designations of agricultural land types shall be reviewed on an annual basis timed to coincide with the Land Conservation Act/Agricultural Preserve application review process. All proposed amendments shall be subject to a report and environmental review by the Environmental coordinator, a hearing and recommendation by the Agricultural Policy Advisory Commission, and pursuant to Chapter 18.10, Level VII, a public hearing and recommendation by the Planning Commission and a public hearing and final decision by the Board of Supervisors.

(d) The Board of Supervisors, after a public hearing, may approve a proposed amendment, consisting of either the removal or change of a Type 1 or Type 2 designation if it makes the following findings:

1. That there has been new information presented, which was not available or otherwise considered in the original decision to apply a particular designation, to justify the amendment. Such new information may include, but not be limited to, detailed soils analysis, well output records, water quality analysis, or documented history of conflicts from surrounding urban land uses.

2. That the evidence presented has demonstrated that conditions on the parcel(s) in question do not meet the criteria, as set forth in Section 16.50.040 of the Santa Cruz County Code, for the existing agricultural land type designation for said parcel(s).

3. That the proposed amendment will meet the intent and purposes of the Agricultural Land Preservation and Protection Ordinance and the Commercial Agriculture Zone District Ordinance.

(e) The Board of Supervisors may, after a public hearing, approve amendments to remove a Type 3 designation and the subsequent conversion (changing the land use designation from agriculture to nonagriculture uses) of agricultural lands, only if it makes the following findings:

1. That there has been new information presented, which was not available or otherwise considered in the original decisions to apply a particular designation, to justify the amendment. Such new information may include, but not be limited to, detailed soils analysis, well output records, water quality analysis, or documented history of conflicts from surrounding urban land uses; and

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2. That the evidence presented has demonstrated that conditions on the parcel(s) in question do not meet the criteria, as set forth in Section 16.50.040 of the Santa Cruz County Code, for the existing agricultural land type designation for said parcel(s); and
 3. That the proposed amendment will meet the intent and purposes of the Agricultural Land Preservation and Protection Ordinance and the Commercial Agriculture Zone District Ordinance; and
 4. That the viability of existing or potential agricultural use is already severely limited by conflicts with the urban uses; the evaluation of agricultural viability shall include, but not be limited to an economic feasibility evaluation which contains at least:
 - a) an analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of filing the application.
 - b) analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of filing application.
 5. That the conversion of such land around the periphery of the urban areas (as defined by the Urban Services Line or Rural Service Line) would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development; and
 6. That the conversion of such land would not impair the viability of other agricultural lands in the area.
- (f) Any amendment to eliminate or add a Type 1, Type 2 or Type 3 agricultural land designation constitutes a change in the County General Plan and must be processed concurrent with a General Plan amendment. Any amendment of a Type 3 designation also constitutes a change in the Local Coastal Program Land Use Plan which must be processed concurrently with a Land Use Plan amendment subject to approval by the State Coastal Commission. (Ord. 2621, 1/23/79; 2677, 5/15/79; 2800, 10/30/79; 3336, 11/23/82; 3447, 8/23/83; 3685, 10/1/85; 4416, 6/11/96)

16.50.060 Fees.

Fees for applications to amend designations of agricultural land types shall be set by resolution of the Board of Supervisors. (Ord. 2621, 1/23/79; 2677, 5/15/79; 2800, 10/30/79; 3336, 11/23/82; 3447, 8/23/83)

16.50.070 Preservation of Type 1 agricultural lands.

(a) Lands designated as Type 1 agricultural land shall be maintained in the Commercial Agriculture ("CA") Zone District, or if within an area designated as a Timber Resource, be maintained in the Timber Production ("TP") Zone District, or if within a public park, be maintained in the Parks and Recreation ("PR") Zone District. The following parcels, designated as Type 1 agricultural land, shall be maintained in the Agricultural Preserve ("AP") Zone District: Assessors Parcel Numbers 86-281-07, 86-281-24. Type 1 land shall not be rezoned to any other zone district unless the Type 1 designation is first removed pursuant to Section 16.50.050.

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(b) Santa Cruz County shall not approve land division applications for parcels within the Type 1 designation except where it is shown, pursuant to Section 13.10.315 of the Santa Cruz County Code, that such divisions will not hamper or discourage long-term commercial agricultural operations.

(c) Santa Cruz County shall not approve or support expansion of sewer or water district boundaries, or expansion of municipal boundaries, onto Type 1 agricultural lands. (Ord. 2621, 1/23/79; 2677, 5/15/79; 2983, 9/2/80; 3336, 11/23/82; 3447, 8/23/83; 4496-C, 8/4/98)

16.50.075 Preservation of Type 2 agricultural lands.

(a) Lands designated as Type 2 agricultural land shall be maintained in the Commercial Agriculture ("CA") Zone District, or if within an area designated as a Timber Resource, be maintained in the Timber Production ("TP") Zone District, or if within a public park, be maintained in the Parks and Recreation ("PR") Zone District. Type 2 land shall not be rezoned to any other zone district unless the Type 2 designation is first removed pursuant to Section 16.50.050.

(b) Santa Cruz County shall not approve land division applications for parcels with a Type 2 designation except where it is shown, pursuant to Section 13.10.315 of the Santa Cruz County Code, that the viability of the land for commercial agricultural use will not be reduced by such land division. (Ord. 2621, 1/23/79; 2677, 5/15/79; 2813, 11/20/79; 2983, 9/2/80; 3336, 11/23/82; 3447, 8/23/83; 4496-C, 8/4/98)

16.50.080 Preservation of Type 3 agricultural lands.

(a) Lands designated as Type 3 agricultural land shall be maintained in the Commercial Agriculture ("CA") Zone District, or if within a Timber Resource, be maintained in the Timber Production ("TP") Zone District, or if within a public park, be maintained in the Parks and Recreation ("PR") Zone District. The following parcels, designated as Type 3 agricultural land, shall be maintained in the Agricultural Preserve ("AP") Zone District: Assessor's Parcels Number 46-021-05, 54-261-05, 57-121-25, 57-201-13. Type 3 land shall not be rezoned to any other zone district unless the Type 3 designation is first removed pursuant to Section 16.50.050.

(b) Santa Cruz County shall not approve land divisions for parcels within the Type 3 designation except where such land divisions meet the requirements set forth in Section 13.10.315 of the Santa Cruz County Code.

(c) Santa Cruz County shall prohibit the placement of sewer or water lines, other than for agricultural use, on Type 3 agricultural land. Sewer transmission lines to and from the City of Watsonville sewage treatment plant and raw water transmission lines from North Coast sources to the City of Santa Cruz shall be exempt from this policy only if safeguards are adopted which assure that such facilities will not result in the conversion of Type 3 agricultural lands to nonagricultural uses. Such safeguards shall include, but not be limited to:

1. Deed restrictions to prohibit hookups to trunk lines through agricultural lands, and
2. Prohibit the levying of assessment fees against prime agricultural land for the construction of sewage transmission lines running through them.

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(d) Santa Cruz County shall oppose the expansion of municipal boundaries which would include Type 3 agricultural land within municipal boundaries. (Ord. 2621, 1/23/79; 2677, 5/15/79; 2813, 11/20/79; 2983, 9/2/80; 3336, 11/23/82; 3447, 8/23/83; 4496-C, 8/4/98)

16.50.085 Protection of noncommercial agricultural land.

(a) The division of land which is designated in the General Plan as Agriculture land use but which is not designated as Type 1, Type 2 or Type 3 commercial land shall be permitted only to minimum parcel sizes in the range of 10 to 40 acres per parcel based on Chapter 13.14, of the County Code pertaining to rural residential density requirements. Where the Agricultural Policy Advisory Commission confirms that such land is not viable for commercial agricultural use, land divisions may be permitted to minimum parcel sizes in the range of 2-1/2 to 20 acres per parcel based on Chapter 13.14 unless the parcel is surrounded to the extent of 50 percent or more by lands within 1/4 mile of the subject property designated in the General Plan as Agricultural Resource (commercial agricultural land) and/or Mountain Residential, all proposed building sites are not within 1/2 mile of a through County maintained road and adequate buffering cannot be provided between any proposed non-agricultural use and adjacent commercial uses, in which case the density range shall stay at 10 to 40 acres per parcel.

(b) Land without a Type 1 or Type 2 designation may be divided from parcels with such a designation (including parcels subject to Land Conservation Act contracts) only when:

1. Potential use of the "removed" parcel will not adversely impact the agricultural activities of the larger area; and

2. There is little likelihood for subsequent intrusion of nonagricultural development into larger, exclusively agricultural areas; and

3. The "removed" property is at the edge of an agricultural area and is physically separated from the adjacent agriculture by topographic features, extensive vegetation, or physical structures; or the nonagricultural land is part of an agricultural parcel which exists separately from other agricultural areas; and

4. A cancellation petition is filed, prior to filing of the final map, for the "removed" parcel when the property is subject to a Land Conservation Act contract.

(c) The division of land designated for agricultural land use on the Local Coastal Program Land Use Plan but not designated as Type 3 agricultural land shall be permitted only to minimum parcel sizes in the range of 10 to 40 acres per parcel based on Chapter 13.14 of the Santa Cruz County Code pertaining to rural residential density requirements and only where:

1. It is documented that renewed or continued agricultural use of such land is not feasible; and

2. It is documented that such land does not meet the criteria for Type 3 agricultural land as defined in Section 16.50.040 (c); and

3. It is shown that such division will not hamper or discourage long-term agricultural use of adjacent lands; and

4. Adequate building setbacks can be maintained to buffer adjacent agricultural activities; and

5. The owner and residents of the subject property have executed a hold harmless agreement with the adjacent agricultural operators and owners. (Ord. 3336, 11/23/82; 3447, 8/23/83; 3602, 11/6/84; 3845, 6/23/87)

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(d) Notwithstanding any other provision of this code, property inside the Coastal Zone with a minimum parcel size of 40 acres may have that portion of the land without a Type 3 designation divided from that portion with such a designation only when:

1. The division is for a public purpose on land in public ownership; and
2. Potential use of the "removed" parcel will not adversely impact the agricultural activities of the larger areas;
3. There is little likelihood for subsequent intrusion of nonagricultural development into larger, exclusively agricultural areas; and
4. The "removed" property is at the edge of an agricultural area and is physically separated from the adjacent agriculture by topographic features, extensive vegetation, or physical structures; or the nonagricultural land is part of an agricultural parcel which exists separately from other agricultural areas. (Ord. 3845, 6/23/87; 4406, 2/27/96; 4416, 6/11/96)

~~16.50.090 Public notification requirements~~ **Notification and disclosure statement requirements.**

(a) A person who is acting as an agent for a ~~seller~~ **Transferor** of real property which is located adjacent to agricultural land, as designated on the Agricultural Resources Map in the unincorporated portion of the County, or the ~~seller~~ **Transferor** if he or she is acting without an agent, shall disclose to the ~~prospective purchaser~~ **Acquiring Party** that:

~~The property is located adjacent to agricultural land as designated on the Agricultural Resources Map of the County and residents of the property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides and fertilizers; and from the pursuit of agricultural operations including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. The County has established a 200 foot agricultural buffer setback on the herein described property to separate agricultural parcels and non-agricultural uses involving habitable spaces, to help mitigate these conflicts. Any development on this property must provide a buffer and setback as specified in County Code. Santa Cruz County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations. Santa Cruz County has a strong rural character and an active historical agricultural sector. As a property owner or lessee you should be prepared to accept properly conducted agricultural practices that are allowed for in Federal, state and county laws and regulations, are consistent with accepted customs and standards, and are operated in a non-negligent manner. Accepted agricultural practices that may cause inconveniences to property owners during any 24-hour period may include but are not limited to: Noise, odors, fumes, dust, smoke, pests, operation of farm equipment, storage and application and disposal of manure and the application of pesticides and fertilizers by ground or air. The County of Santa Cruz will not consider an agricultural practice to be a nuisance if implemented in accordance with Federal, state, and local law. Nothing herein is intended to limit the rights of property owners under Federal, State, and local regulations governing pesticide use.~~

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(b) The following statement shall be included in any deposit receipt for the transfer of real property adjacent to agricultural land, as designated on the Agricultural Resources Map of the County, and shall be included in any deed conveying the property:

~~The property is located adjacent to agricultural land as designated on the Agricultural Resources Map of the County and residents of the property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides and fertilizers; and from the pursuit of agricultural operations including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. The County has established a 200 foot agricultural buffer setback on the herein described property to separate agricultural parcels and non agricultural uses involving habitable spaces to help mitigate these conflicts. Any development on this property must provide a buffer and setback as specified in County Code. Santa Cruz County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations.~~

(e) (b) The County Building Official shall require, prior to issuance of building permits for parcels adjacent to within 200 feet of agricultural lands, as designated on the Agricultural Resources Map, either:

1. Recordation of the following statement of acknowledgement by the owners of the property on a form approved by the Building Official:

The undersigned _____ do hereby certify to be the owner(s) of the hereinafter legally described real property located in the County of Santa Cruz, State of California: _____ and do hereby acknowledge that the property described herein is adjacent to within 200 feet of land utilized for agricultural purposes and that residents or users of this property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides, pesticides and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. It is understood that the County has established a 200 foot agricultural setback on the herein described property to separate agricultural parcels and nonagricultural uses involving habitable spaces to help mitigate these conflicts. Any development on this property must provide a buffer and setback as specified in County Code.

And further acknowledge that Santa Cruz County has established agriculture as a priority use on productive agricultural lands, and that residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations. The County of Santa Cruz will not consider an agricultural practice to be a nuisance if implemented in accordance with Federal, state, and local law. Nothing herein is intended to limit rights under Federal, state, and local regulations governing pesticide use.

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This statement of acknowledgement shall be recorded and shall be binding upon the undersigned, any future owners, encumbrances, their successors, heirs or assignees. The statements contained in this statement of acknowledgement are required to be disclosed to prospective purchasers of the property described herein, and required to be included in any deposit receipt for the purchase of the property, and in any deed conveying the property.

Or

2. Evidence that the above statement has been made part of the parcel deed. (Ord. 2621, 1/23/79; 3336, 11/23/82; 3447, 8/23/83; 3750, 4/22/86)

- (c) The County of Santa Cruz shall mail with the annual tax bill to all owners of real property in Santa Cruz County a copy of the following notification statement:

Santa Cruz County has a strong rural character and an active historical agricultural sector. As a property owner you should be prepared to accept properly conducted agricultural practices that are allowed for in Federal, state and county laws and regulations, are consistent with accepted customs and standards, and are operated in a non-negligent manner. Accepted agricultural practices that may cause inconveniences to property owners during any 24-hour period may include but are not limited to: Noise, odors, fumes, dust, smoke, pests, operation of farm equipment, storage and application and disposal of manure and the application of pesticides and fertilizers by ground or air. The County of Santa Cruz will not consider an agricultural practice to be a nuisance if implemented in accordance with Federal, state, and local law. Nothing herein is intended to limit the rights of property owners under Federal, State, and local regulations governing pesticide use.

16.50.095 Agricultural buffer setbacks.

(a) The purpose of the agricultural buffer setback requirements is to prevent or minimize potential conflicts between either existing or future commercial agricultural and habitable land uses (i.e., residential, recreational, institutional, commercial or industrial). This buffer is designed to provide a physical barrier to noise, dust, odor, and other effects which may be a result of normal commercial agricultural operations such as: plowing, discing, harvesting, spraying or the application of agricultural chemicals and animal rearing.

(b) All development for habitable uses within 200 feet of the property line of any parcel containing Type 1, Type 2, or Type 3 Commercial Agricultural land shall:

1. Provide and maintain a 200 foot buffer setback between Type 1, Type 2 or Type 3 commercial agricultural land and non-agricultural uses involving habitable spaces, including dwellings, habitable accessory structures and additions thereto; and commercial, industrial, recreational, or institutional structures, and their outdoor areas designed for public parking and intensive human use. For the purposes of this Section, outdoor areas designed for

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intensive human use shall be defined as surfaced ground areas or uncovered structures designed for a level of human use similar to that of a habitable structure. Examples are dining patios adjacent to restaurant buildings and private swimming pools. The 200 foot agricultural buffer setback shall incorporate vegetative or other physical barriers as determined necessary to minimize potential land use conflicts.

2. Provide and maintain a buffer setback distance of at least 200 feet where the subdivision of land results in residential development at net densities of one or more dwelling units per acre adjacent to Type 1, Type 2, Type 3 Commercial Agricultural land, with vegetative screening or other physical barriers as appropriate.

3. Comply with Sections 16.50.090(c) and/or 14.01.407.5 of the Santa Cruz County Code pertaining to recording deed notices of adjacent agricultural use. Such deed notice shall contain a statement acknowledging the required permanent provision and maintenance of the agricultural buffer setbacks and any required barriers (e.g., fencing or vegetative screening).
(c) Outside of the Coastal Zone, notwithstanding the provisions of Section 16.50.095(b) an agricultural buffer setback distance of less than 200 feet may be established for subdivision developments involving habitable uses on proposed parcels adjacent to lands designated as an Agricultural Resource by the County's General Plan maps, provided that,

1. The proposed land division site is:

(a) Located within the Urban Services Line,

(b) Suitable for development at buildout level within the carrying capacity of the area; and

2. The Agricultural Policy Advisory Commission (APAC) finds that one or more of the following special circumstances exist:

(a) Significant topographic differences exist between the agricultural and non-agricultural uses which minimize or eliminate the need for a 200 foot setback; or

(b) Permanent substantial vegetation (such as, a Riparian Corridor or Woodland permanently protected by the County's Riparian Corridor or Sensitive Habitat Ordinances) or other physical barriers exist between the agricultural and non-agricultural uses which minimize or eliminate the need for a 200 foot setback; or

(c) The imposition of the 200 foot agricultural buffer setback would, in a definable manner, hinder: infill development or the development of a cohesive neighborhood, or otherwise, create a project incompatible with the character and setting of the existing surrounding residential development; and

3. APAC determines the need for agricultural buffering barriers based upon an analysis of the adequacy of the existing buffering barriers, the density of the proposed land division and the proposed setback reduction, in the event that APAC finds that one or more of the above special circumstances exist; and

4. The approving body finds that the proposed reduction of the agricultural buffer setback(s) will not hinder or adversely affect the agricultural use of the commercial agricultural lands located within 200 feet of the proposed development.

(d) Notwithstanding the provisions of Section 16.50.095(b) an agricultural setback distance of less than 200 feet may be established for developments involving habitable uses on existing parcels of record when one of the following findings are made in addition to the required finding in Section 16.50.095(e):

1. Significant topographic differences exist between the agricultural and non-agricultural uses which eliminates or minimizes the need for a 200 foot agricultural buffer setback; or

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2. Permanent substantial vegetation (such as, a Riparian Corridor or Woodland protected by the County's Riparian Corridor or Sensitive Habitat Ordinances) or other physical barriers exist between the agricultural and non-agricultural uses which eliminate or minimize the need for a 200 foot agricultural buffer setback; or

3. A lesser setback distance is found to be adequate to prevent conflicts between the non-agricultural development and the adjacent agricultural development and the adjacent agricultural land, based on the establishment of a physical barrier (unless it is determined that the installation of a barrier will hinder the affected agricultural use more than it would help it, or would create a serious traffic hazard on a public or private right-of-way) or the existence of some other factor which effectively supplants the need for a 200 foot agricultural buffer setback.

4. The imposition of a 200 foot agricultural buffer setback would preclude building on a parcel of record as of the effective date of this chapter, in which case a lesser buffer setback distance may be permitted, provided that the maximum possible setback distance is required, coupled with a requirement for a physical barrier (e.g., solid fencing and/ or vegetative screening) to provide the maximum buffering possible, consistent with the objective of permitting building on a parcel of record.

(e) In the event that an agricultural buffer setback reduction is proposed and the proposed non-agricultural development is located on Type 1, Type 2 or Type 3 commercial agricultural land, the non-agricultural development shall be sited so as to minimize possible conflicts between the agricultural land use located on the subject parcel; and the non-agricultural development shall be located so as to remove as little land as possible from production or potential production.

(f) Notwithstanding the provisions of Section 16.50.095(b), farm worker housing developments located on Type 1, Type 2, or Type 3 commercial agricultural land shall provide a buffer between habitable structures and outdoor areas designed for human use and areas engaged in agricultural production located on the same parcel. Said buffer shall be 200 feet if feasible; and if a 200 foot buffer is not feasible, then the maximum buffering possible shall be provided, utilizing physical barriers, vegetative screening and other techniques as appropriate.

(g) Proposals to reduce the required 200 foot agricultural buffer setback for additions to existing residential construction (dwellings, habitable accessory structures and private recreational facilities) and for the placement of agricultural caretakers' mobile homes on agricultural parcels shall be processed as a Level 4 application by Planning Department staff as specified in Chapter 18.10 of the County Code with the exception that:

1. A notice that an application to reduce the buffer setback has been made shall be given to all members of the Agricultural Policy Advisory Commission at least 10 calendar days prior to the issuance of a pending action on an Agricultural Buffer Determination; and

2. Where a reduction in the buffer setback is proposed, the required notice of pending action shall be provided to the applicant, to all members of the Agricultural Policy Advisory Commission, to owners of commercial agricultural land within 300 feet of the project location, and to members of the Board of Supervisors, not less than 10 days prior to the issuance of the permit. There shall not be a minimum number of property owners required to be noticed; and

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3. Buffer Determinations made by Planning Department staff are appealable by any party directly to the Agricultural Policy Advisory Commission. Such appeals shall include a letter from the appellant explaining the reason for the appeal and the current administrative appeal processing fee.

(h) All other proposals to reduce the agricultural buffer setback shall be processed as a Level 5 application as specified in Chapter 18.10 of the County Code with the exception that:

1. The required notice that an application has been made to reduce the agricultural buffer setback shall be provided only to owners of commercial agricultural land within 300 feet of the proposed project, not less than 10 days prior to the public hearing scheduled to consider the project. There shall not be a minimum number of property owners required to be noticed; and

2. All determinations shall be made by the Agricultural Policy Advisory Commission at a scheduled public hearing.

(i) An agricultural buffer setback shall not be required for repair or reconstruction of a structure damaged or destroyed as the result of a natural disaster for which a local emergency has been declared by the Board of Supervisors, when:

1. the structure, after repair or reconstruction, will not exceed the floor area, height or bulk of the damaged or destroyed structure by 10%, and

2. the new structure will be located in substantially the same location, but no closer to the agricultural land than was the original structure. (Ord. 2677, 5/15/79; 2813, 11/20/79; 3336, 11/23/82; 3447, 8/23/83; 4037, 12/5/89; 4284, 12/14/93; 4311, 5/24/94; 4496-C, 8/4/98)

16.50.100 Appeals.

(a) Any property owner or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Agricultural Policy Advisory Commission under the provisions of this chapter, may appeal the act or determination to the Board of Supervisors in accordance with Chapter 18.10 of the Santa Cruz County Code. For this purpose the procedure therein set forth is incorporated herein and made a part of this chapter.

(b) If any act or determination of the Agricultural Policy Advisory Commission in question is incorporated as part of the terms or conditions of a discretionary permit or other discretionary approval for which another appeal is provided, then such act or determination of the Agricultural Policy Advisory Commission shall be considered as part of the appeal on the discretionary permit or other discretionary approval. Within the Coastal Zone, such appeals shall also be subject to the provisions of Chapter 13.20 of the Santa Cruz County Code pertaining to Coastal Zone Permit procedures. (Ord. 2621, 1/23/79; 3336, 11/23/82; 3447, 8/23/83)

16.50.110 Agricultural policy advisory commission hearing notices.

Notice of hearings held by the Agricultural Policy Advisory Commission pursuant to Section 16.50.050 shall be given in accordance with Chapter 18.10, Level IV. (Ord. 3336, 11/23/82; 3447, 8/23/83)

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16.50.115 Violations.

It shall be unlawful for any person whether as owner, principal, agent or employee or otherwise to perform an action or allow a situation to continue that violates the provisions of this chapter or violates any conditions of agricultural buffer setback determinations required pursuant to this Chapter. (Ord. 3750, 4/22/86; 4392A, 4/2/96)

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