

## CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT  
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F-4a

**November 28, 2006**

**TO:** Commissioners and Interested Persons

**FROM:** Charles Lester, Deputy Director  
Chris Kern, District Manager

**SUBJECT: Sonoma County Minor LCP Amendment Number 1-06**

The County of Sonoma is requesting an amendment to its certified Local Coastal Program (LCP) Coastal Zoning Ordinance to:

- Set the period for local appeals of coastal development permits to ten calendar days and to establish the same ten-day local appeal period for all County land use decisions, such as use permits, design review approvals, zoning permits, subdivisions, etc.;
- Clarify that any person may file a local appeal of a County action on a coastal development permit; and
- Modify procedures for assertion of original jurisdiction by members of the Board of Supervisors concerning County actions on coastal development permit applications.

The Executive Director has determined that the proposed amendment is minor in nature in accordance with Section 13554(c) of the California Code of Regulations because it constitutes a change in the notification and hearing procedures that is consistent with the requirements of the Coastal Act.

The purpose of this notice is to advise interested parties of the Executive Director's determination (pursuant to CCR Section 13555) that the proposed LCP amendment is minor. The Executive Director will report this determination to the Coastal Commission at its December 15, 2006 meeting at the **Hyatt Regency, 5 Embarcadero Plaza in San Francisco**. The Executive Director will also report any objections to this 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)).

If you have any questions or need additional information regarding the proposed LCP amendment or the Commission's procedures, please contact Chris Kern of the Commission's North Central Coast District at the address or phone number shown on this letterhead. If you wish to register an objection to the proposed LCP amendment, please do so by December 12, 2006.

**Attachments:**

Proposed amendment to Chapter 26C of the Sonoma County Code  
Resolution of Sonoma County Board of Supervisors Adopting proposed LCP amendment

- F. **Participation by initiator of request for direct review.** Any member of the board of supervisors who initiates a request for direct review shall have full participation rights in determining whether to approve the request and, if the request is approved, in hearing and deciding upon the matter, including the right to vote, unless actual bias or prejudice is otherwise shown.

(e) Section 26A-07-022, Simultaneous Appeal and Direct Review, is added to read:

**Sec. 26A-07-022. Simultaneous appeal and direct review.**

When a decision by a lower level decision maker is both appealed and jurisdiction is taken by the board of supervisors through direct review, both the appeal and the direct review shall be heard and considered concurrently.

**SECTION IV.** Chapter 26C of the Sonoma County Code is hereby amended as follows:

(a) Section 26C-12, Definitions, is amended to add the definition of "lower level decision maker or appeal body" to read:

"Lower level decision maker" means the director of the permit and resource management department, the project review and advisory committee, the design review committee, the board of zoning adjustments, or the planning commission, as appropriate.

(b) Subsection (e) of Section 26C-294, Design Review Requirement, is amended to read:

- (e) ~~In case the applicant is not satisfied with the~~ Any interested person may appeal any decision of made by the design review committee, ~~he may within ten (10) days after such action appeal in writing pursuant to this chapter to the planning commission. The design review committee may, if it deems it advisable, refer any application for design review approval to the planning commission for its decision.~~ An appeal shall be filed in writing with the planning director within 10 days after the decision that is the subject of the appeal. The appeal shall specifically state the basis for the appeal and shall be accompanied by the required filing fee.

~~In case the applicant is not satisfied with the action of the planning commission, he may within ten (10) days appeal in writing to the board of supervisors:~~

(c) Subsection (f) is added to Section 26C-294, Design Review Requirement, to read:

- (f) The design review committee may, if it deems it advisable, refer any application for design review approval to the planning commission for its decision.

(d) Section 26C-331, Hearings-When Required-Questions on Permitted Uses, is amended to read:

**Sec. 26C-331. Hearings - ~~When required~~ Appeals of administrative decisions - Questions on permitted uses.**

- (a) Except as provided in Section 1-7.3 of this code, the board of zoning adjustments/ or the planning commission, of the county of Sonoma as appropriate, after notice as provided in this chapter provided, shall hear and decide on applications for use permits, applications for variances, and appeals from any order, requirement, permit, decision, or determination made by any administrative official of the County of Sonoma in connection with the administration of this ordinance chapter.
- (b) Appeals from Any interested person may appeal any administrative order, requirement, permit, decision or determination made by the director of the permit and resource management department pursuant to this chapter to the board of zoning adjustments or the planning commission, as appropriate. An appeal shall be made filed in writing with the director of the permit and resource management department within twelve (12) calendar 10 days from the date of after the administrative action decision that is the subject of the appeal; provided, however, that the county may still revoke any erroneously issued permit or entitlement even after the expiration of the twelve (12) 10 day appeal period. The appeal shall specifically state the basis for the appeal and shall be accompanied by the required filing fee.
- (c) In case of uncertainties by the permit and resource management department as to whether certain uses are permitted in certain districts, such the department may refer such questions to the board of zoning adjustments/ or planning commission, as appropriate, for decision. The board of zoning adjustments/planning commission may from time to time adopt performance standards for the uniform regulation of particular uses. Such performance standards shall be adopted by resolution following a hearing

noticed in accordance with Section 26C-331(b) except that a general description of the area to be affected need not be given.

~~(b) Notwithstanding any other provision of this chapter to the contrary, the board of supervisors may exercise original and immediate jurisdiction over any application made pursuant to this chapter and may then proceed to decide upon the merits of any such application. This power may be invoked by the affirmative vote of a majority of the board of supervisors, but shall not be invoked in those cases where the state requires a planning commission recommendation prior to board action.~~

(e) Section 26C-332.1, Same - Findings of the Board of Zoning Adjustments - Conditions, is amended to read:

**Sec. 26C-332.1. Same - Findings of the board of zoning adjustments - Conditions.**

(a) In order to grant any use permit, the findings of the board of zoning adjustments shall be that the establishment, maintenance or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the neighborhood or to the general welfare of the area.

The board of zoning adjustments may designate such conditions in accordance with the use permit, as it deems necessary to secure the purposes of this chapter and may require such guarantees and evidence that such conditions are being or will be complied with.

(b) Subject to the right of appeal as provided in this chapter, the decision of the board of zoning adjustments shall be final ~~twelve (12)~~ 10 days after the board of zoning adjustments renders its decision.

(c) Written findings shall be made in connection with applications for mini-marts in which beer or wine is proposed to be sold. The findings shall be based on substantial evidence in view of the whole record to justify the decision of the board.

(f) Section 26C-334, When Decision of Board of Zoning Adjustments to Be Final, shall be amended to read:

**Sec. 26C-334. When decision of board of zoning adjustments to be final.**

Subject to the right of appeal as provided in this chapter, the decision of the board of zoning adjustments shall be final ~~twelve (12)~~<sup>10</sup> days after the board of zoning adjustments renders its decision.

(g) Section 26C-335.5, Original Jurisdiction, is added to read:

**Sec. 26C-335.5. Original jurisdiction.**

This section provides the procedures for the board of supervisors, upon its own initiative, to exercise original jurisdiction over applications filed pursuant to this chapter.

- A. Request to exercise original jurisdiction.** Any member of the board of supervisors may request the board to exercise original jurisdiction over any application filed pursuant to this chapter, except in cases where state law requires a recommendation of the planning commission prior to action by the board on the matter.
- B. Timing and form of request to exercise original jurisdiction.** A request to exercise original jurisdiction shall be made orally at a board of supervisors meeting, or filed in writing with the clerk of the board, prior to any decision by a lower level decision maker approving or denying the subject application. A request to exercise original jurisdiction need not state the reasons for the request.
- C. Effect of request to exercise original jurisdiction.** A request to exercise original jurisdiction shall stay any proceedings of lower level decision makers until the board of supervisors takes action in compliance with Subsection D.
- D. Consideration of request to exercise original jurisdiction.** A request to exercise original jurisdiction shall be considered by the board of supervisors at a public meeting. Notice of the meeting shall be given, and the meeting shall be conducted, in compliance with applicable law.
  - 1. If the board of supervisors approves the request to exercise original jurisdiction, the board shall assume jurisdiction over the matter and take action in compliance with Subsection E.

2. If the board of supervisors denies the request to exercise original jurisdiction, the appropriate lower level decision maker shall resume jurisdiction over the matter and take action in compliance with applicable law.

**E. Hearing and decision.** Any matter that is the subject of original jurisdiction shall be heard and decided by the board of supervisors at a public hearing. Notice of the hearing shall be given, and the hearing shall be conducted, in compliance with applicable law. The board may approve, conditionally approve, or deny the subject application.

**F. Participation by initiator of request to exercise original jurisdiction.** Any member of the board of supervisors who initiates a request to exercise original jurisdiction shall have full participation rights in determining whether to approve the request and, if the request is approved, in hearing and deciding upon the matter, including the right to vote, unless actual bias or prejudice is otherwise shown.

(h) Section 26C-336, Appeals, is amended to read:

**Sec. 26C-336. Appeals.**

Appeal procedures related to decisions on coastal permits are set forth in Article XXXIV. Appeal procedures on all other permits are as follows:

~~(a) The acts and determinations of the board of zoning adjustments and the planning commission shall be directly reviewable by the board of supervisors which may affirm, reverse, or modify any such act of determination as it deems just and equitable. Such review by the board of supervisors shall be notice in accordance with Section 26C-331.1. (b) Any interested party dissatisfied with the action of person may appeal any decision made by the board of zoning adjustments may, within twelve (12) days after the board of zoning adjustments renders its decision, appeal in writing or the planning commission pursuant to this chapter to the board of supervisors. Such an appeal shall be filed in writing with the director of the permit and resource management department within 10 days after the decision that is the subject of the appeal. The appeal shall specifically state the basis for the appeal and shall be accompanied by the required filing fee.~~ The board of supervisors shall set a date for public hearing and cause notice to be given as provided in this chapter. The board of supervisors shall render its decisions within ninety (90) days after the public hearing is first opened. In the event that the board

of supervisors fails to act within the ~~ninety (90)~~ 90-day period, the decision of the board of zoning adjustments shall be deemed to be upheld. The ~~ninety (90)~~ 90-day time limit ~~of established by this subsection~~ may be extended, with the consent of the board of supervisors, by an individual or entity having a fee or leasehold interest in the property subject to the appeal.

~~(c)~~ (b) The ~~taking filing~~ of an appeal pursuant to ~~Section 26C336(b) or the~~ undertaking of a review pursuant to Section 26C336(a) this section shall operate as a stay ~~or on~~ issuance, modification, or revocation, as the case may be, of any permit with respect to which the appeal ~~or review~~ is taken. ~~Such~~ The action shall be stayed until the board of supervisors has entered its decision.

~~(d)~~ (c) Any appeal ~~made filed~~ pursuant to this section, ~~whether it be made by the~~ board of supervisors or other interested person, may be withdrawn where the appellant requests such withdrawal and the board of supervisors consents.

(i) Section 26C-336.1, Direct Review, is added to read:

**Sec. 26C-336.1. Direct review.**

This section provides the procedures for the board of supervisors, upon its own initiative, to review the decisions of lower level decision makers on applications filed pursuant to this chapter.

- A. Request for direct review.** Any member of the board of supervisors may request the board to review a decision of a lower level decision maker approving or denying any application filed pursuant to this chapter.
- B. Timing and form of request for direct review.** A request for direct review shall be made orally at a board of supervisors meeting, or filed in writing with the clerk of the board, prior to the expiration of the appeal period for the decision of the lower level decision maker on the subject application. A request for direct review need not state the reasons for the request. A request for direct review shall not be deemed to be an allegation of any flaw in or a pre-judgment of the decision of the lower level decision maker.
- C. Effect of request for direct review.** A request for direct review shall stay the decision of the lower level decision maker until the board of supervisors takes action in compliance with Subsection D and, if applicable, until the

board of supervisors takes action in compliance with Subsection E. The stay shall not extend the time for filing an appeal of the decision of the lower level decision maker.

**D. Consideration of request for direct review.** A request for direct review shall be considered by the board of supervisors at a public meeting. Notice of the meeting shall be given, and the meeting shall be conducted, in compliance with applicable law.

1. If the board of supervisors approves the request for direct review, the board shall assume jurisdiction over the matter and take action in compliance with Subsection E.
2. If the board of supervisors denies the request for direct review, the decision of the lower level decision maker shall stand unless an appeal of the decision was timely filed.

**E. Hearing and decision.** Any matter that is the subject of direct review shall be heard and decided by the board of supervisors at a public hearing. Notice of the hearing shall be given, and the hearing shall be conducted, in compliance with applicable law. The hearing shall be de novo. The board may affirm, wholly or partly, modify, or reverse the decision of the lower level decision maker on the subject application.

**F. Participation by initiator of request for direct review.** Any member of the board of supervisors who initiates a request for direct review shall have full participation rights in determining whether to approve the request and, if the request is approved, in hearing and deciding upon the matter, including the right to vote, unless actual bias or prejudice is otherwise shown.

(j) Section 26C-336.2, Simultaneous Appeal and Direct Review, is added to read:

**Sec. 26C-336.2. Simultaneous appeal and direct review.**

When a decision by a lower level decision maker is both appealed and jurisdiction is taken by the board of supervisors through direct review, both the appeal and the direct review shall be heard and considered concurrently.



(k) Subsection (a) of Section 26C, Appeals, is amended to read:

(a) Local Appeals.

Action by the director of the permit and resource management department, board of zoning adjustments, planning commission, design review committee, or project review committee, or project review and advisory committee to approve, condition, or deny any coastal permit may be appealed on or before the ~~twelfth~~ calendar day following such action. Action by the director of the permit and resource management department shall be appealed to the board of zoning adjustments. Action by the project review and advisory committee or the design review committee may be appealed only to the board of supervisors.

Unless the appellant can demonstrate that appeal is made in accordance with Public Resources Code Section 30603 (as described below), local regulations and fees will apply.

**SECTION V.** The Board of Supervisors finds and determines that this ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the State CEQA Guidelines as it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. This finding and determination is based on the environmental determination of the Permit and Resource Management Department for this ordinance. The Director of the Permit and Resource Management Department is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

**SECTION VI.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION VII.** This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

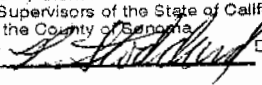


THE WITHIN INSTRUMENT IS A  
CORRECT COPY OF THE ORIGINAL  
ON FILE IN THIS OFFICE.

#42

Resolution Number 04-1187

ATTEST: DEC 22 2004

EEVE T. LEWIS,  
County Clerk & ex-officio Clerk of the Board  
of Supervisors of the State of California, in &  
for the County of Sonoma  
BY  DEPUTY

County of Sonoma  
Santa Rosa, California

**RECEIVED**

NOV 14 2006

December 14, 2004  
PLP 04-0107 David Hardy

CALIFORNIA  
COASTAL COMMISSION

RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING THE ZONING ORDINANCE, COASTAL ZONING ORDINANCE, SUBDIVISION ORDINANCE, AND SURFACE MINING ORDINANCE TO MODIFY THE PROCEDURAL REQUIREMENTS REGARDING ORIGINAL JURISDICTION AND DIRECT REVIEW OF PROJECTS BY THE BOARD OF SUPERVISORS, AND TO PROVIDE A UNIFORM 10-DAY APPEAL PERIOD FOR ALL PROJECTS IN ALL THE LISTED ORDINANCES AND AUTHORIZING STAFF TO SUBMIT TO THE CALIFORNIA COASTAL COMMISSION A MINOR AMENDMENT TO THE COASTAL ZONING ORDINANCE.

WHEREAS, the Board of Supervisors directed staff to prepare an ordinance amendment to simplify procedures for original jurisdiction and direct review of development applications, and to establish uniform appeal periods for a variety of decisions on development projects subject to the Zoning Ordinance, the Subdivision Ordinance, and the Surface Mining Ordinance; and

WHEREAS, the Board of Supervisors directed staff to prepare a Coastal Zoning Ordinance amendment to make procedural modifications that affect Board of Supervisors consideration, either by original jurisdiction or direct review of lower level decisions, in the Coastal Zone; and

WHEREAS, the proposed ordinances have been reviewed pursuant to the California Environmental Quality Act and determined exempt from CEQA under Section 15061(b)(3) of the CEQA Guidelines, as an action where it can be seen with certainty that there is no possible significant effect on the environment; and

WHEREAS, a 1/8th page notice of the public hearings were published in the Santa Rosa Press Democrat, a newspaper of general circulation within the affected area of the ordinance and the Coastal Zone, on November 5, 2004; and

WHEREAS, in accordance with the provisions of law, a duly noticed public hearing was held on December 2, 2004, by the Planning Commission at which time all interested persons were given an opportunity to be heard, and no one spoke to the matter; and

WHEREAS, in accordance with the provisions of law, a duly noticed public hearing was held on December 14, 2004, by the Board of Supervisors at which time all interested persons were given an opportunity to hear and be heard; and

WHEREAS, the Board of Supervisors makes the following findings:

1. The proposed ordinance amendments have been reviewed pursuant to the California Environmental Quality Act and determined exempt from CEQA under Section 15061 (b)(3) of the CEQA Guidelines, as an action where it can be seen with certainty that there is no possible significant effect on the environment; and
2. The proposed Coastal Zoning Ordinance amendment may be considered minor in nature because it does not propose any change in land use or any change in the allowable use of property and merely modifies procedures for the Board of Supervisors to consider lower level decisions in a more timely manner without affecting the rights or ability of the public to appeal decisions regarding projects in the Coastal Zone.
3. The proposed ordinance is consistent with the General Plan and its policies and the Local Coastal Plan and its policies.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors authorizes staff to submit this proposed ordinance amendment forthwith to the California Coastal Commission and designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

BE IT FURTHER RESOLVED that the County of Sonoma submits this amendment to Zoning Code Section 26C of its Local Coastal Program as an amendment that: (a) will take effect immediately upon Executive Director or Commission approval without suggested modifications; or (b) will require formal local government action after Commission approval with suggested modifications. The County of Sonoma hereby certifies that it will carry out its Local Coastal Program in conformity with the Coastal Act.

**SUPERVISORS VOTE:**

Brown: absent    Smith: aye    Kelley: aye    Reilly: aye    Kerns: aye

Ayes: 4    Noes: 0    Absent: 1    Abstain: 0

SO ORDERED.