

CALIFORNIA COASTAL COMMISSION

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Th9a



Prepared July 20, 2006 (for the August 10, 2006 hearing)

To: Commissioners and Interested Persons

From: Charles Lester, Deputy Director
Steve Monowitz, District Manager
Susan Craig, Coastal Planner

Subject: Santa Cruz County LCP Major Amendment Number 1-04 (Code Cleanup) 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 August 10, 2006 meeting to take place at the Los Angeles Harbor Hotel (formerly Sheraton LA Harbor), 601 S. Palos Verdes St., San Pedro, CA.

Summary

Santa Cruz County proposes to amend the following sections of the Local Coastal Program's (LCP) Implementation Plan as follows:

- Chapter 13.10 (Zoning Regulations)
- Chapter 13.11 (Site, Architectural, and Landscape Design Review)
- Chapter 13.14 (Rural Residential Density Determinations)
- Chapter 13.20 (Coastal Zone Regulations)
- Chapter 15.01 (Park Dedication and Public Access Requirements)
- Chapter 15.10 (Roadway and Roadside Improvements)
- Chapter 16.10 (Geologic Hazards)
- Chapter 17.02 (Urban Services Line and Rural Services Line)

The majority of the changes in the amendment include correction of typographical errors, clarifications, and text corrections, which do not result in a change in the kind, location, intensity, or density of use. These types of changes would generally be processed as a minor amendment to the LCP. However, amendments to the Zoning Implementation Table (Section 13.10.170(d)) propose to change the kind of combining districts that can be used to implement the land use designations contained in the Land Use Plan. This component of the amendment changes the type and location of allowable land uses, and thereby qualifies the submittal as a major amendment.

Staff recommends that the Commission deny the amendment as submitted, and approve the amendment if it is modified as suggested by this report. The suggested modifications are designed to:

- Correct typographical errors;
- Delete the "Public Facilities" zoning district from the portion of Table 13.10.170(d) that would



California Coastal Commission
August 10, 2006 Meeting in San Pedro

Staff: Susan Craig Approved by: Steve Monowitz
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allow any land use designation other than agricultural lands to be rezoned to “Public Facilities” without an LCP amendment;

- Ensure that the proposed amended text is consistent with other recently certified implementation plan amendments;
- Include the entire definition of “aquaculture” as defined in Section 30100.2 of the Coastal Act;
- Ensure that single-family residential development meets all applicable LCP requirements, and;
- Ensure that shoreline protection structures minimize visual impacts, consistent with the requirements of the Land Use Plan.

Santa Cruz County’s Local Coastal Program (LCP) was certified in 1983 and has been amended many times since then. The LCP consists of: the *General Plan and Local Coastal Program*, which functions as the Land Use Plan (LUP); and, the Coastal Implementation Plan (IP), which consists of several County Code chapters and sections. This proposed amendment is to the IP only and was originally submitted on July 14, 2004. The amendment was filed as complete on August 3, 2005. On September 14, 2005, the Coastal Commission extended the initial two-month time limit for action until October 2, 2006.

Additional Information

Further information on the submittal may be obtained from Susan Craig at the Central Coast District Office of the Coastal Commission at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.

Staff Report Contents

	page
I. Staff Recommendation – Motions and Resolutions.....	3
II. Suggested Modifications.....	4
III. Findings and Declarations	6
A. Description of Proposed LCP Amendment.....	6
B. Consistency Analysis.....	6
C. California Environmental Quality Act (CEQA)	10
IV. Exhibits	
Exhibit 1: Proposed Amendments	
Exhibit 2: Certified LCP Amendment 1-05 (Regarding Sections 13.10.552(a) and 13.10.553(e))	
Exhibit 3: County’s Resolution	
Exhibit 4: County Location Maps	
Exhibit 5: LCP Major Amendment 1-85 Staff Report	
Exhibit 6: Zoning Code Section 13.10.170(d) – 1994 Submittal	

Use the link above to go to the exhibits.



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 two motions in order to act on this recommendation.

1. Denial of Implementation Plan Major Amendment Number 1-04 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** Major Amendment Number 1-04 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 Major Amendment Number 1-04 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 adequate to carry out the certified Land Use Plan.

2. Approval of Implementation Plan Major Amendment Number 1-04 if Modified

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (2 of 2). I move that the Commission **certify** Major Amendment Number 1-04 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** Major Amendment Number 1-04 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 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.



- 6. Page 50 (Section 13.10.332 Commercial Uses Chart) - Correct code section reference:** Parking, on-site, in accordance with Section 13.10.50~~50~~, et seq.
- 7. Page 79 (Section 13.10.372(b) Allowed Uses) - Remove redundant reference:** Accessory structures, non-habitable, when incidental to a residential use (subject to Section 13.10.611, 13.10.322(b) ~~and 13.10.322(b)~~ and 373).
- 8. Page 87 (Section 13.10.552(a) Schedule of Off-Street Parking Space Requirements) - Amend this section to include language certified under LCP Amendment 1-05: SEE EXHIBIT #2 FOR THE CERTIFIED TEXT OF THIS SECTION.**
- 9. Page 87 (Section 13.10.553(e) Compact Car Parking) - Amend this section to include language certified under LCP Amendment 1-05: SEE EXHIBIT #2 FOR THE CERTIFIED TEXT OF THIS SECTION.**
- 10. Page 89 (Section 13.10.700-A Definitions) - Include complete Coastal Act definition of Aquaculture:** Section 30100.2 (California Coastal Act) defines “aquaculture” and states: “Aquaculture means a form of agriculture as defined in Section 17 of the Fish and Game Code. Aquaculture products are agricultural products, and aquaculture facilities and land uses shall be treated as agricultural facilities and land uses in all planning and permit-issuing decisions governed by this division.”
- 11. Page 91 (Section 13.11.074(a) Access, Circulation and Parking) - Correct typographical error:** (a) It shall be an objective to design pedestrian, bicycle and vehicle circulation, and parking, to be safe, convenient, and readily understandable to users. ~~a~~Access, circulation and parking design shall relate to the proposed development on adjoining properties.
- 12. Page 95 (Section 13.20.063 Electric Utilities...) - Ensure that Section 13.20.063(a)(4) and (a)(5) and Section 13.20.063(b) remain unchanged and have not been deleted by continuing to include the following language in these sections:**
4. Removal of minor vegetation for maintenance purposes (tree trimming, etc.).
 5. Installation of new safety devices and pollution control facilities within existing structures or equipment where land coverage, height or bulk will not be increased.
 - (b) This exemption for maintenance and repair activities does not apply if the activity will include any of the following:
 1. Construction of any new roads to the site of work; or
 2. Grading exceeding 100 cubic yards; or
 3. Clearing in a sensitive habitat; or
 4. Any other clearing in excess of one acre; or
 5. Cutting of any significant tree as defined in Chapter 16.34.
- 13. Page 103 (Section 16.10.070(h)(3)(v) Coastal Bluffs and Beaches) (Amend this section to provide consistency with the visual resource components of LUP Policy 6.2.16): (v) Shoreline**



protection structures shall not reduce or restrict public beach access, adversely affect shoreline processes and sand supply, adversely impact recreational resources, increase erosion on adjacent property, create a significant visual intrusion, or cause harmful impacts to wildlife or fish habitat, or archaeological or paleontologic resources. Shoreline protection structures shall minimize visual impact by employing materials that blend with the color and contour of natural materials in the area.

III. Findings and Declarations

The Commission finds and declares as follows:

A. Description of Proposed LCP Amendment

The amendment would make changes to the following sections of the certified Implementation Plan (IP) as shown with ~~strikethrough~~ and underline in Exhibit #1:

- Chapter 13.10 (Zoning Regulations)
- Chapter 13.11 (Site, Architectural, and Landscape Design Review)
- Chapter 13.14 (Rural Residential Density Determinations)
- Chapter 13.20 (Coastal Zone Regulations)
- Chapter 15.01 (Park Dedication and Public Access Requirements)
- Chapter 15.10 (Roadway and Roadside Improvements)
- Chapter 16.10 (Geologic Hazards)
- Chapter 17.02 (Urban Services Line and Rural Services Line)

The amendment proposes to correct a variety of typographical errors, to make clarifications to the intent and wording of the ordinance, and to make changes to provide consistency with other Zoning Code Sections. The amendment also proposes to amend the “Consistent Zone Districts” table (Section 13.10.170(d)), which denotes the basic and combining districts that implement and are consistent with the various LUP designations.

B. Consistency Analysis

1. Standard of Review

The standard of review for 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 and 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 adequacy of the amended IP to carry out the certified LUP.



2. Consistency Analysis

The amendment will correct a variety of typographical errors and inadvertent omissions that have crept into the zoning ordinance over the past 20 years. Many of these errors were caused by mistakes in transcription and inadvertent deletions during prior updates. Some of these errors have the effect of changing the meaning of the ordinance; others simply create confusion. See page 19 of Exhibit #1 (Section 13.10.313) for an example of this type of change.

The amendment also includes revisions to zoning ordinance language to clarify the intent and wording of the ordinance. The main purpose of this is to eliminate ambiguities in the application of the ordinance so that staff and the public can clearly understand what the ordinance means. See page 36 of Exhibit #1 (Section 13.10.323) for an example of this type of change.

Finally, the amendment updates implementing ordinances to provide consistency with other Zoning Code sections. Please see page 32 of Exhibit #1 for an example of this type of change.

The majority of the above-mentioned components of the amendment are minor and do not present any coastal issues. However, upon reviewing the amendment in total, the Commission has determined that some of the proposed amendment components are not adequate to carry out the land use plan. Thus, the amendment must be denied as submitted, and can only be approved if modified as suggested, as detailed below.

Modifications #2, #6, #7, #11, and #12 correct additional typographical errors that were not detected by County staff. **Modifications #1, #3, #4, #8, and #9** provide consistency with language certified by the Commission in recent LCP amendments that has not been incorporated into this amendment submittal (see additional discussion regarding Modification #1 below).

Modification #10 ensures that Section 13.170.700 (Definitions) of the implementation plan includes the complete Coastal Act definition of “aquaculture.”

Modifications #5 and #13 are needed to provide consistency with the certified Land Use Plan, as follows:

LUP Policy 6.2.16 provides specific standards for structural shoreline protective devices and states, in relevant part:

...The protection structure must be placed as close as possible to the development requiring protection and must be designed to minimize adverse impacts to recreation and to minimize visual intrusion...

The proposed amendment makes changes to Section 16.10.070(h) of the Zoning Code (see Exhibit #1 pages 101-104) to provide more specificity regarding repair or replacement of damaged bluff-top structures. Subsection (3)(v) (see page 103 of Exhibit #1) requires that shoreline structures not have impacts on coastal resources, including visual resources. This subsection requires that shoreline protection structures minimize visual impact by employing materials that blend with the color of surrounding natural features. However, color alone is not enough to ensure that a shoreline protective



device mimics the surrounding bluff landscape and hence is inconsistent with the cited policy. Thus, **Modification #13** requires that shoreline devices also mimic the *contour* of the bluff face. With this modification, this portion of the amendment is consistent with LUP Policy 6.2.16.

The proposed amendment also makes changes to Section 13.10.323(a)(4) (see page 36 of Exhibit #1) to indicate that single-family residential development is permitted on existing parcels regardless of the site area standards if infrastructure requirements, such as water and sewer, can be met. However, as written, this does not guarantee consistency with all land use plan policies. To provide internal IP consistency and consistency with the coastal resource components of the LUP, **Modification #5** requires additional language to ensure that such development meets all other LCP requirements.

Modification #1 is needed to prevent changes to zoning designations that do not carry out the certified land use plan. The proposed amendment would make changes to Section 13.10.170(d), which is the “Consistent Zone Districts” table (see pages 2-6 of Exhibit #1 for these changes). This table denotes the basic and combining districts that implement and are consistent with the various LUP designations. Rezoning of a property to a zoning district that is shown in the table does not require an amendment to the LCP.

Previously certified LCP provisions that allow the County to revise zoning districts without Commission approval of an LCP amendment raise potential conflicts with the provisions of Coastal Act section 30514, which requires Coastal Commission certification of all changes to LCPs. While it appears that updating the LCP to recognize the need for Commission approval of zoning changes is needed to resolve this conflict, such a change is beyond the scope of the amendments that have been considered by the County and proposed in this submittal, and one which requires further dialogue and coordination with the County.

Therefore, in an effort to develop a solution to the issues raised by zoning changes processed without LCP amendments, as well as other desirable updates to the current Implementation Plan, Commission and County staff have agreed to work cooperatively on a follow-up IP amendment that will be submitted for Commission consideration within an approximate one-year time frame. In light of this agreement, the suggested modifications to the current amendment submittal are limited to the changes necessary to prevent an expansion of the existing IP’s rezoning provisions, as discussed further below.

In 1985, the County submitted an amendment request that would have allowed rezoning of all land use designations, except agricultural resource lands, to the “Public Facilities” (PF) zoning district without an LCP amendment. The Commission denied the amendment (see Exhibit #5 for that staff report), finding that the proposed amendment extended this provision too broadly in allowing any parcel (except agricultural lands) to be zoned “Public Facilities.” For example, an area designated “Urban Open Space” or “Visitor Accommodation” in the Land Use Plan could be rezoned to PF to allow a hospital or a waste disposal facility (which are principal permitted uses in the PF zone) without Coastal Commission review. This would run contrary to the land use designations established by the certified LUP, and circumvent Coastal Act Section 30514 requiring Commission review of LCP amendments.

Subsequently, in 1994, the County submitted major updates to the implementation plan, including



amendments to Section 13.10.170(d). The County's submittal included the "Public Facilities" language that was denied under LCP amendment #1-85, and did not include the previously certified prohibition against rezoning agricultural lands to Special Use. However, these changes were not shown with the required strikethrough and underline notations, which are intended to make it clear what specific changes are being proposed as part of an amendment (this portion of the County's 1994 submittal is attached as Exhibit #6). Thus, the Commission was not alerted that this was a proposed change and thus did not analyze the change or suggest appropriate modifications to retain the agricultural exception and to delete the option of rezoning any land designation to Public Facilities. Since the unreported addition of this language into the LCP was not reviewed or certified by the Commission, it is not considered to be a part of the currently certified LCP.

To correct this problem and prevent an expansion of the questionable process under which the County can revise zoning designations without an LCP amendment, **Modification #1** deletes "Public Facilities" as a zoning district that any land use designation can be rezoned to without being considered an LCP amendment. This modification also adds back in the prohibition against re-designating agricultural resource lands to Special Use (SU) without an LCP amendment.

In addition to addressing the general problem of rezonings without LCP amendments discussed above, Modification #1 is necessary to ensure that LUP provisions protecting agricultural resources will be effectively implemented. For example, in most agricultural districts, a single-family residence is a conditional use and therefore appealable to the Commission. However, a residential use is a principal permitted use in the Special Use (SU) zoning district. Thus, rezoning an agricultural parcel to Special Use without an LCP amendment would render a residential development on the parcel as a principal permitted use that is not appealable to the Commission, and thereby limit opportunities to protect agricultural resources and ensure the compatibility of residential development. Thus, this provision is not adequate to carry out the agricultural resource policies of the certified land use plan. **Modification #1** resolves this concern.

Additional proposed amendments to Section 13.10.170(d) remove three zoning districts (Agriculture, Commercial Agriculture, Timber Production) from the zoning district list for land designated Public/Institutional Facilities, leaving Public and Community Facilities as the appropriate zoning district to implement the Public/Institutional Facilities land use designation. The amendment also proposes to remove the Public Facility zoning district from the zoning district list for land designated Parks, Recreation and Open Space (O-R), Resource Conservation (O-C), and Proposed Parks and Recreation (PP). This part of the amendment will reduce the number of zoning district changes that can be made without an LCP amendment. The remaining zoning districts under each land use designation (Parks, Recreation and Open Space for the O-R designation; Parks, Recreation, and Open Space, and Agriculture for the O-C designation; and Parks, Recreation and Open Space, and Designated Park Site for the PP designation) are appropriate to implement the land use designations.

Finally, the amendment also adds the O-L designation (Open Space – Lake, Reservoir, Lagoon) and O-U designation (Urban Open Space) to the table and applies the P-R (Parks, Recreation, and Open Space) zoning district to each of these designations. The County previously removed these land use



designations/zoning districts from the previously certified version of Section 13.10.170(d) inadvertently. Restoring these previously certified zoning districts will not interfere with the effective implementation the O-L (Open Space – Lake, Reservoir, Lagoon) and O-U (Urban Open Space) land use designations.

In conclusion, the proposed amendment as submitted is neither completely consistent with nor adequate to carry out the certified coastal land use plan. Therefore, it is denied as submitted. Modification of the submittal, in the manner described above, is necessary to ensure that the amended ordinances carry out the certified land use plan. Other problematic components of the IP that are not proposed for change at this time will be addressed by a follow-up LCP amendment currently being developed by County and Commission staff. Successful completion of this effort is critical to the effective implementation of the certified LUP, in a manner that is consistent with the procedural requirements established by the Coastal Act and California Code of Regulations.

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. The above findings are incorporated herein in their entirety by reference.

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).

