

CALIFORNIA COASTAL COMMISSION

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

W8c



Prepared April 19, 2007 (for May 9, 2007 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 1-06 Part 2 (Large Family Childcare Homes in Non-Residential Zones)** 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 May 9, 2007 meeting to take place at the Crowne Plaza Los Angeles Harbor Hotel, 601 S. Palos Verdes Street, San Pedro, CA.

SYNOPSIS

The County of Santa Cruz (see Exhibit #1 for location maps) proposes to amend sections 13.10.312(b), 13.10.332(b), 13.10.352(b), 13.10.362(b), and 13.10.372(b) of the Local Coastal Program's (LCP) Implementation Plan (IP) and add new section 13.10.686 to the IP. The purpose of the amendment is to allow for large family childcare homes on non-residential land.

SUMMARY OF STAFF RECOMMENDATION

Staff has reviewed the proposed Implementation Plan amendments for consistency with the Land Use Plan. Issues raised by the proposed amendments include potential conflicts with priority agricultural uses. As discussed in detail below, Staff recommends **approval** of the County of Santa Cruz Local Coastal Program proposed Implementation Plan Major Amendment #1-06 (Part 2), **if modified** to: 1) disallow the use of large family childcare homes (which provide care for a maximum of 14 children) on agricultural land, and; 2) require an agricultural buffer between large family childcare home uses on non-agricultural land that is located adjacent to agricultural land. Large family childcare homes will be allowed on all residentially-zoned land and in six zoning districts that allow residential use as a conditional use. Small family childcare homes (providing care for a maximum of 8 children) will continue to be allowed without a local permit or local regulation in any zoning district in which a residential use is allowed, including lands zoned for agriculture.

ANALYSIS CRITERIA

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 May 5, 2006. The amendment was filed as complete on June 2, 2006. On July 13, 2006, the Coastal Commission extended the initial two-month time limit for action until August 2, 2007.

The County has organized and submitted this LCP amendment request in accordance with the standards



California Coastal Commission

May 2007 Meeting in San Pedro

Staff: Susan Craig Approved by: Steve Monowitz

for amendments to certified LCPs (Coastal Act Sections 30513 and 30514, and California Code of Regulations 13551 through 13553).

The proposed amendment affects the IP component of the County of Santa Cruz LCP. The standard of review for implementation amendments is that they must be consistent with and adequate to carry out the policies of the certified coastal land use plan.

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.

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 Exhibit 1: County Location Maps

 Exhibit 2: Proposed Implementation Plan Amendment Language

 Exhibit 3: County’s Resolution

 Exhibit 4: Correspondence Received by County in Favor of Proposed Amendments

 Exhibit 5: Correspondence Received by County Expressing Concern re: Proposed Amendments

 Exhibit 6: Zoning Code Section 16.50.095

Click here 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 1-06 Part 2 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 1-06 Part 2 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 1-06 Part 2 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 1-06 Part 2 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 1-06 Part 2 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 1-06 Part 2 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.

II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite findings regarding the adequacy of the amended Implementation Plan to effectively carry out the certified Land Use Plan. If the County of Santa Cruz accepts each of the suggested modifications within six months of Commission action (i.e., by November 9, 2007), by formal resolution of the Board of Supervisors, the corresponding amendment will become effective upon



Commission concurrence with the Executive Director’s finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format denotes text to be deleted and text in underline format denotes text to be added. **See Exhibit #2 for the proposed amendment language that is being modified.**

- 1. Remove “Child Care Homes, Large Family” as an allowable use on CA (Commercial Agriculture), AP (Agricultural Preserve) and A (Agricultural) land in Zoning Code Section 13.10.312(b) as follows:**

USE	CA	A	AP
Childcare Homes, Large Family (must be in conjunction with residential use). See Sections 13.10.686 and 13.10.700-C definition)	☒ <u>--</u>	☒ <u>--</u>	☒ <u>--</u>

- 2. Delete Section 13.10.686(a)(1) of the Zoning Code (and renumber subsections (a)(2-4) of this section appropriately) as follows:**

~~1. Purpose in Agricultural Districts. The purpose of this section in agricultural districts is to provide opportunities for Large Family Childcare Homes to be located in areas which are zoned agriculture but have a residential character, or in the location of farmworker housing where childcare is needed.~~

- 3. Delete Sections 13.10.686(c)(1)(i)(ii)(iii)(iv) of the Zoning Code (and renumber subsection (c)(2) appropriately) as follows:**

~~1. In Agricultural Districts (A, CA and AP), the Agricultural Policy Advisory Commission shall review proposals and make recommendations to the approving body and the approving body shall make the following findings:~~

- ~~(i) The Large Family Childcare Home use on the parcel will not conflict with onsite or adjacent agricultural activities (including but not limited to herbicide and pesticide use; and~~
- ~~(ii) The Large Family Childcare Home is consistent with the preservation of the agricultural resources on the site.~~
- ~~(iii) The Large Family Childcare Home is proposed to be located in an area which either has a residential character, or is located in conjunction with farmworker housing.~~
- ~~(iv) Section 16.50.095 pertaining to agricultural buffer setbacks shall apply where a structural addition is proposed as part of the Large Family Childcare Home use or where an~~



~~intensification of human use of outdoor areas will result from the Large Family Childcare Home use.~~

4. Add Section 13.10.686(d)(6) to the Zoning Code, as follows:

6. Large Family Childcare Homes that are located adjacent to agriculturally-zoned land (A, AP, or CA) shall meet all the requirements of Section 16.50.095 pertaining to agricultural buffer setbacks.

III. Findings and Declarations

The Commission finds and declares as follows:

A. Amendment Background

Family childcare homes are small-scale childcare facilities that are regulated and licensed by the State Department of Social Services. Family childcare homes are located within residences where the owner/operator of the childcare service resides.

There are two types of family childcare homes: small and large. A small family childcare home may provide care for up to 8 children. Health and Safety Code Section 1597.45 preempts County regulation of small family childcare homes. Specifically, this code section requires that small family childcare homes be allowed without a local permit or local regulation in *any* zoning district in which a residential use is allowed. Thus, small family childcare homes are allowed in all residentially-zoned districts as well as all agricultural, commercial, public facilities, parks, and timber production districts because these districts allow residential use as a conditional use.

Large family childcare homes (LFCH) may provide care for up to 14 children. In residential zones, State Health and Safety Code Section 1597.46 provides that local jurisdictions may regulate LFCHs using specific criteria (spacing and concentration of uses, traffic control, parking, noise, and fire protection). Santa Cruz County has chosen not to regulate LFCHs in residential zones, thus treating them the same as small family childcare homes in residentially-zoned areas of the County. The State does not impose specific criteria for County regulation of LFCHs in non-residential zones. Large family childcare homes are currently not an allowed use in non-residential zones within Santa Cruz County. According to the County's January 9, 2006 staff report to the Board of Supervisors, 64 LFCHs are located in the unincorporated portion of the County, 62 of which are in residential zoning districts, one of which is in the C-4 (Commercial Services) zoning district, and one of which is located in the CA (Commercial Agriculture) zoning district. These last two are not currently permitted uses in these zoning districts.



B. Proposed Amendment

Please see Exhibit #2 for the proposed amendments to Chapter 13.10 of the certified Zoning Code. The proposed amendment would allow large family childcare homes (LFCH) in certain non-residential zoning districts with a Level 5 permit (public hearing by Zoning Administrator required; coastal permit required in the Coastal Zone). Specifically, the proposed amendment would allow LFCHs in the following non-residential zoning districts, in conjunction with a residential use (all of the following zoning districts allow residential use as a conditional use).

- Agricultural zoning districts (**CA**: Commercial Agriculture; **A**: Agriculture; **AP**: Agricultural Preserve)
- Commercial zoning districts (**PA**: Professional and Administrative Offices; **C-1**: Neighborhood Commercial; **C-2** Community Commercial)
- The **PR** zoning district (Parks, Recreation, and Open Space)
- The **PF** zoning district (Public and Community Facilities)
- The **TP** zoning district (Timber Production)

The proposed amendment also adds section 13.10.686 to the implementation plan regarding the purpose of large family childcare homes in each non-residential district, the application and permit processing requirements for LFCHs, additional required findings for LFCH use in agricultural districts and the timber production district, and other requirements that must be met before an LFCH can commence operation in a non-residential zoning district. The proposed amendment would require LFCH uses located adjacent to agriculturally-zoned land to comply with the required agricultural buffer setbacks of Zoning Code Section 16.50.095 only where a structural addition is proposed as part of the LFCH or where an intensification of human use of outdoor areas would result from the LFCH use.

C. LUP Consistency

In order to approve an Implementation Plan amendment, it must be consistent with and adequate to carry out the LCP's Land Use Plan (LUP). The proposed amendment would add large family childcare homes (LFCH) as an allowable use in Agricultural, Commercial, Parks/Recreation/Open Space, Public/Community Facilities, and Timber Production zoning districts, in conjunction with a residential use. With the exception of the agricultural zoning districts, the addition of large family childcare homes as an allowable use in existing residences located in the above zoning districts would not have adverse impacts on coastal resources. Thus, for all zoning districts other than agriculture, the LFCH use would be consistent with the policies of the certified LUP. Also, specifically regarding the TP (Timber Production) zoning district, proposed zoning code section 13.10.686(c)(2) (see Exhibit #2 page 4) requires that the LFCH use not conflict with the growing and harvesting of tree crops.



If a *new* residential structure to include an LFCH use were proposed in the Commercial, Parks/Recreation/Open Space, Public/Community Facilities, and Timber Production zoning districts, the new residential structure would have to conform to all applicable LCP requirements regarding protection of environmentally sensitive habitat, visual resources, the priority use requirements of the zoning district, etc.

Regarding agricultural zoning districts, the LCP provides for three agricultural zoning districts (Agriculture [A], Commercial Agriculture [CA], and Agricultural Preserve [AP]). Certified Zoning Code Section 13.10.311 details the purposes of each of these zoning districts. The purposes of the Agriculture (A) Zoning District are “to encourage and provide for noncommercial agricultural uses, such as family farming and animal raising, and to allow limited commercial agricultural activities, on the small amounts of agricultural land remaining in the County which are not designated as commercially suitable, but which still constitute a productive natural resource....”

The vast majority of commercially-viable agricultural land in the Coastal Zone of the County is zoned Commercial Agriculture (CA). According to certified Zoning Code Section 13.10.311, the purposes of the Commercial Agriculture zoning district are “to preserve the commercial agricultural lands within Santa Cruz County which are a limited and irreplaceable natural resource, to maintain the economic integrity of the economic farm units comprising the commercial agricultural areas of the County, to implement the agricultural preservation policy of Section 16.50.010 of the Santa Cruz County Code, and to maintain and enhance the general welfare of the county as a whole by preserving and protecting agriculture, one of the County’s major industries.” This section of the zoning code also states that “Within the ‘CA’ Commercial Agriculture Zone District, commercial agriculture shall be encouraged to the exclusion of other land uses which may conflict with it.”

The purposes of the Agricultural Preserve (AP) zoning district are similar to those of the Commercial Agriculture (CA) zoning district. The “AP” regulations are designated to apply only to lands located within an agricultural preserve established in accordance with the provisions of the California Land Conservation Act of 1965.

Allowing the use of large family childcare homes on land zoned for agriculture could create conflicts with ongoing farming operations. Typical conflicts could include impacts to children from dust and odors from agricultural operations and concerns regarding pesticide and herbicide use. The Agricultural Policy Advisory Commission and the Santa Cruz County Farm Bureau have expressed concern regarding the proposed amendment, specifically stating that they “do not support [LFCHs] in or adjacent to agriculturally zoned areas” (see Exhibit #5 pages 1-2). As discussed below, these impacts and concerns could negatively impact priority agricultural land uses, inconsistent with certified LUP agricultural protection policies.

Please see Exhibit #4 for all correspondence in favor of the proposed amendment and Exhibit #5 for all correspondence expressing concerns regarding the proposed amendment.

1. Applicable Land Use Plan Policies Regarding Agricultural Land



The Santa Cruz County Land Use Plan (LUP) provides a number of objectives and policies to maintain and promote agricultural use on agriculturally-designated lands, as follows:

LUP Objective 5.13: *To maintain for exclusive agricultural use those lands identified on the County Agricultural Resources Map as best suited for commercial production of food, fiber, and ornamental crops and livestock and to prevent conversion of commercial agricultural land to non-agricultural uses. To recognize the agriculture is a priority land use and to resolve policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands.*

LUP Policy 5.13.23: *Require a 200 foot buffer area between commercial agricultural and non-agricultural land uses to prevent or minimize potential land use conflicts, between either existing or future commercial agricultural and non-agricultural land uses.*

LUP Policy 5.13.24: *A 200 foot buffer setback is required between habitable development and commercial agricultural land (including residential development, farm labor housing, commercial or industrial establishments on commercial agricultural land) unless a lesser distance is established as set forth in the Agricultural Land Preservation and Protection Ordinance. Any amendments to the language of the agricultural buffer ordinance shall require a finding demonstrating that agricultural lands shall be afforded equal or greater protection with the amended language.*

Policy 5.13.25: *Require the following projects to be reviewed by the Agricultural Policy Advisory Commission for the purpose of recommending an appropriate setback and/or buffer area of non-developable land adjacent to commercial agricultural lands, consistent with the Agriculture Preservation and Protection ordinance: (a) Habitable structures within 200 feet of commercial agricultural lands, and; (b) Land divisions within 200 feet of commercial agricultural lands. Density credit shall be given for the buffer area.*

In addition, Zoning Code Section 16.50.095 provides for the implementation of LUP Policies 5.13.23, 5.13.24, and 5.13.25 regarding appropriate buffering of agricultural land. See Exhibit #6 for the full text of this zoning code section.

2. Consistency Analysis Regarding Agricultural Lands

The proposed amendment would allow large family childcare home (LFCH) use on agricultural land. For non-agriculturally zoned properties located adjacent to agricultural land, the proposed amendment would require an agricultural buffer between the LFCH use and the agricultural land only where a structural addition is proposed as part of the LFCH use or where an intensification of human use of outdoor areas will result from the LFCH use (see Exhibit #2 page 4 for this proposed amendment language).

LUP Objective 5.13 recognizes that agriculture is a priority land use and requires that policy conflicts be resolved in favor of preserving and promoting agriculture. Allowing LFCHs on agricultural land could



create conflicts between the LFCH use and ongoing agricultural uses. For example, standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations – cultivating, spraying, harvesting, et al.) could jeopardize the continued agricultural activities should complaints arise from parents of the children in the LFCH. Such complaints may cause the owner of the agricultural property to limit agricultural use in the area immediately surrounding the LFCH in order to continue operating the LFCH, contrary to the LCP's stated objective of retaining agriculture as a priority land use and resolving policy conflicts in favor of preserving and promoting agriculture. Additionally, the Santa Cruz County Farm Bureau and the County's Agricultural Policy Advisory Commission have stated that they "do not support [LFCHs] in or adjacent to agriculturally zoned areas" (see Exhibit #5 pages 1-2). For these reasons, the proposed amendment is inconsistent with LUP Objective 5.13. **Modifications #1-3** remove large family childcare homes as allowable uses on agricultural land. As modified, the proposed amendment will be consistent with LUP Objective 5.13.

The Commission recognizes the County's concern regarding meeting childcare needs in agricultural areas, specifically for farmworker families. However, Commission staff's analysis of existing land use designations and zoning districts throughout the County has shown that there is a great deal of residentially-zoned land and other non-agriculturally-zoned land dispersed in and around agriculturally-zoned land that will be available for large family childcare home use. Additionally, small family childcare homes (providing care for a maximum of 8 children) will continue to be allowed without a local permit or local regulation in any zoning district in which a residential use is allowed, including lands zoned for agriculture. Thus, the modification to prohibit the establishment of LFCHs on agriculturally zoned land should not interfere with the provision of adequate day care facilities.

For the same reasons stated above (dust, chemical spraying and fertilizing, etc.), appropriate buffers between agricultural land and adjacent non-agricultural land are necessary to ensure that continued agricultural cultivation is not threatened by proximity to non-agricultural uses. LUP Policy 5.13.23 requires a 200-foot buffer area between commercial agricultural and non-agricultural land *uses* to prevent or minimize potential land use conflicts. LUP Policy 5.13.25 requires specific projects (including habitable structures within 200 feet of commercial agricultural lands) to be reviewed by the Agricultural Policy Advisory Commission. LUP Policy 5.13.24 allows for the 200-foot buffer to be reduced pursuant to the Agricultural Land Preservation and Protection Ordinance (Chapter 16.50 of the certified Zoning Code and [more specifically regarding buffers] Zoning Code Section 16.50.095, as shown in Exhibit #6) pursuant to specific findings.

The proposed amendment would require an agricultural buffer setback between LFCH use on non-agricultural land and adjacent agricultural land only where a structural addition is proposed as part of the LFCH use or where an intensification of human use of outdoor areas will result from the LFCH use (see Exhibit #2 page 4 for this proposed amendment language). However, LUP Policy 5.13.23 requires a 200-foot buffer area between commercial agricultural and non-agricultural land *uses* to prevent or minimize potential land use conflicts. Thus, large family childcare homes located adjacent to agricultural land constitute a non-agricultural land use (regardless of whether an addition to the residential structure is proposed or additional human use of outdoor areas will take place) that must be



buffered from agricultural uses pursuant to LUP Policies 5.13.23 and 5.13.24. Thus, the proposed amendment is inconsistent with LUP Policies 5.13.23 and 5.13.24. **Modification #4** adds language to proposed Zoning Code Section 13.10.686 to ensure that LFCHs that are located adjacent to agriculturally-zoned land meet all the setback requirements of Zoning Code Section 16.50.095 (Exhibit #6). As conditioned, the amendment is consistent with LUP Policies 5.13.23 and 5.13.24.

D. California Environmental Quality Act (CEQA)

Pursuant to section 21080.5 of CEQA, the Secretary of Resources has certified the Coastal Commission's review and development process for LCPs and LCP amendments as being the functional equivalent of the environmental review required by CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits the Commission from approving any project "if there are feasible alternatives or feasible mitigation measures available that would substantially lessen a significant adverse effect that the [project] may have on the environment." Furthermore, section 21080.9 of CEQA exempts local governments from the requirement to which they would otherwise be subject to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. In this case, the County exempted the proposed amendments under CEQA [pursuant to CEQA Sections 15274 & 15265]. Public comments received include an assertion that environmental review is required by law for the proposed implementation plan amendments because the proposed amendments would affect agriculturally-zoned lands countywide (see Exhibit #5 pages 19-21 & 26-28). However, the Commission's review of the proposed amendments pertains only to their applicability to land uses within the coastal zone of the County. This staff report has discussed the relevant coastal resource issues raised by the proposed amendments, including impacts to agriculturally-zoned lands countywide, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources and to ensure that the implementation plan amendments will be consistent with and adequate to carry out the certified land use plan. There are no additional alternatives or mitigation measures available that would lessen any significant adverse effect of the amendments on the environment. The above findings are incorporated herein in their entirety by reference.

