

CALIFORNIA COASTAL COMMISSION

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

TH15c



Prepared July 25, 2007 (for August 9, 2007 hearing)

To: Commissioners and Interested Persons

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

Subject: **City of Santa Cruz LCP Major Amendment Number 1-06 (Citywide Creeks & Wetlands Management Plan)** Proposed major amendment to the City of Santa Cruz certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's August 9, 2007 meeting to take place at the Hyatt Regency Embarcadero, 5 Embarcadero Plaza, San Francisco, CA 94111.

SYNOPSIS

The City of Santa Cruz proposes to add the Citywide Creeks and Wetlands Management Plan (Management Plan) to the Local Coastal Program's (LCP) Land Use Plan (LUP) (to view the Management Plan document and Management Plan maps, go to the web site addresses listed on page 2 of this report under the "Exhibits" heading). The City also proposes to amend the certified Zoning Ordinance to add Chapter 24.08 Part 21: Watercourse Development Permit and Chapter 24.08 Part 22 Watercourse Variance (see Exhibit #4 for proposed implementation plan amendments). The purposes of the amendment are to: (1) identify and map the watercourses and known wetlands within city limits; (2) identify appropriate development setbacks based on an evaluation of habitat, stream, and land use characteristics; (3) recommend management actions that promote preservation of riparian and wetland resources; (4) define development guidelines and standards for areas where development adjacent to watercourses may be appropriate, and; (5) provide a framework for permitting development adjacent to watercourses.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the amendment if modified to: (1) amend existing Environmental Quality Land Use Policies to recognize the requirements of the Management Plan; (2) provide additional restoration requirements for proposed development adjacent to Category "B" creeks; (3) limit allowable uses in the development setback area adjacent to Category "A" creeks; (4) require additional evaluation of reach 1 of Woods Creek to ensure that the Management Plan includes the appropriate setbacks for this reach; (5) allow for potential "daylighting" of reach 1 of Arroyo Seco Creek; (6) place additional restrictions on the removal of riparian vegetation; (7) add additional species to the Management Plan's invasive nonnative vegetation lists, (8) include a definition of wetlands that is consistent with California Code of Regulations Section 13577; (9) require a minimum 50-foot development setback buffer along Category "A" watercourses, and; (10) provide internal consistency between the amended Land Use Plan and the Zoning Ordinance.

ANALYSIS CRITERIA

The Commission certified the City of Santa Cruz's Land Use Plan in July 1981. The Implementation



California Coastal Commission

August 2007 Meeting in San Francisco

Staff: Susan Craig Approved by: Charles Lester

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Plan was certified in April 1985 and the City assumed coastal development permit authority that year. This proposed amendment is to the LUP and IP and was originally submitted on June 8, 2006. The amendment was filed as complete on September 25, 2006. On November 16, 2006 the Coastal Commission extended the initial three-month time limit for action until November 24, 2007.

The City has organized and submitted this LCP amendment request in accordance with the standards for amendments to certified LCPs (Coastal Act Sections 30513 and 30514; California Code of Regulations Sections 13551 through 13553).

The proposed amendment affects the LUP and IP components of the City of Santa Cruz LCP. The standard of review for land use plan amendments is that they must be consistent with the Chapter 3 policies of the Coastal Act. 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. This staff report is also available online on the Coastal Commission's website at www.coastal.ca.gov/mtgcurr.html.

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I. Staff Recommendation – Motions and Resolutions

A. Denial of Land Use Plan Major Amendment Number 1-06 as Submitted

Motion (1 of 4). I move that the Commission certify Land Use Plan major amendment #1-06 as submitted by the City of Santa Cruz.

Staff recommends a **NO** vote. Failure of this motion will result in denial of the land use plan amendment component as submitted and adoption of the following resolution. The motion to certify as submitted passes only by an affirmative vote of a majority of the appointed Commissioners.

Resolution to Deny Certification of the Land Use Plan Amendment as Submitted: The Commission hereby denies certification of Major Amendment #1-06 to the Land Use Plan of the City of Santa Cruz and adopts the findings set forth below on grounds that the land use plan amendment as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan as submitted.

B. Certification of Land Use Plan Major Amendment 1-06 with Suggested Modifications

Motion (2 of 4): I move that the Commission certify the City of Santa Cruz Land Use Plan Major Amendment #1-06 if modified as suggested in this staff report.

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

Resolution to Certify the Land Use Plan Amendment with Suggested Modifications: The Commission hereby certifies City of Santa Cruz Land Use Plan Major Amendment #1-06 if modified as suggested and adopts the findings set forth below on grounds that the land use plan with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan 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 and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan if modified.

C. Denial of Implementation Plan Major Amendment Number 1-06 as Submitted

Motion (3 of 4). I move that the Commission reject Major Amendment #1-06 to the City of Santa Cruz Local Coastal Program Implementation Plan as submitted.



Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Plan amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to Deny Certification of the Implementation Plan Amendment as Submitted: *The Commission hereby denies certification of Major Amendment #1-06 to the Implementation Plan of the City of Santa Cruz Local Coastal Program and adopts the findings set forth below on grounds that the Implementation Plan Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted*

D. Certification of Implementation Plan Major Amendment Number 1-06 if Modified

Motion (4 of 4): I move that the Commission certify the City of Santa Cruz Implementation Plan Major Amendment 1-06 if modified as suggested in this staff report.

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

Resolution to Certify the Implementation Plan Amendment with Suggested Modifications: *The Commission hereby certifies City of Santa Cruz Implementation Plan amendment #1-06 if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program, 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 Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

II. Suggested Modifications

The Commission hereby suggests the following changes to the proposed Local Coastal Program amendments, which are necessary to make the requisite findings. If the local government accepts the suggested modifications within six months of Commission action, by formal resolution of the City Council, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.



Note: The suggested modifications are shown by deleting existing text with ~~strikethrough~~ and adding text with underline.

1. Modify Land Use Plan Environmental Quality Policy 4.2.2 as follows:

Minimize the impact of development upon riparian and wetland areas through setback requirements of at least 100 feet from the center of a watercourse for riparian areas and 100 feet from a wetland or through setback requirements as provided in the Citywide Creeks and Wetlands Management Plan, unless the riparian area or wetland area is already covered by a specific management plan as described in Policy 4.2.1 (e.g., the San Lorenzo Urban River Plan, Neary Lagoon Management Plan, etc.). Include all riparian vegetation within the setback requirements, even if: (1) it extends more than 100 feet from the watercourse or beyond the setback requirements of the Citywide Creeks and Wetlands Management Plan or other specific management plan, or; (2) if there is no defined watercourse present.

2. Modify Land Use Plan Environmental Quality Policy 4.2.2.1 as follows:

Require that all development and uses within the designated setback area (management area) as described in the Citywide Creeks and Wetlands Management Plan be consistent with the Management Plan's provisions. For creeks and wetland areas that are covered by a management plan other than the Citywide Creeks and Wetlands Management Plan, require that all development and uses within 100 feet of these areas be consistent with the applicable management plan provisions under EQ 4.2.1 and L 3.4., ~~if one has been established.~~

3. Modify Policy 4.2.2.3 as follows:

4.2.2.3 Prohibit uses such as construction of main or accessory structures, grading or removal of vegetation within ~~riparian and~~ wetland resource and buffer areas and allow permitted uses (such as pervious non-motor vehicular trails, incidental public services, maintenance of existing or restoration of previously dredged depths in flood control projects and navigational channels, small-scale facilities (500 sq. ft. or less) associated with nature study or resource-dependent activities, construction, grading or removal of vegetation necessary for maintenance, landscaping designed to provide a natural buffer and grading necessary as a part of such landscaping plan, passive recreation, habitat preservation and restoration) that are consistent with the environmental quality policies of the Plan, Section 30222 of the Coastal Act, and adopted management plans. Development in wetlands can be undertaken only where there is no feasible, less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. If any exceptions to this policy are to be considered, it shall be within the context of a resource management plan which plan shall be approved by the Coastal Commission as an amendment to the Land Use Plan.



4. Update Environmental Quality Policies 4.2.2, 4.2.2.1, and 4.2.2.3 cited on pages G-4 to G-5 of Appendix G (City of Santa Cruz General Plan/Local Coastal Plan Policies that Relate to City Creeks and Wetlands) of the Management Plan as amended in Modifications #1, #2, and #3 above.
5. On Page 3-31 of the Management Plan, modify the paragraph regarding Arroyo Seco Creek Reach 1 as follows:

Reach 1 of Arroyo Seco Creek traverses next to Derby Park, going underground until its outfall adjacent to West Cliff Drive, between Sacramento and Auburn Avenues. It drains to Monterey Bay via a culvert pipe. For Arroyo Seco Creek Reach 1, the Management Plan does not recommend maintaining a designated riparian corridor or development setback since it is located in a culvert. However, this reach of Arroyo Seco creek does have the potential for future “daylighting” and restoration. The City shall not abandon the alleyway that covers this culverted section of Arroyo Seco creek. No new development shall be allowed to take place in the alleyway. Rear setbacks for residential development located adjacent to the alleyway that constitutes Reach 1 of Arroyo shall comply with the City’s rear yard setback requirements, without variances. The City shall evaluate partially or fully “daylighting” and restoring Reach 1 of Arroyo Seco creek in the future. If “daylighting” occurs, the Management Plan will be updated to include appropriate widths for the riparian corridor, the development setback, and the management area.

6. Apply a 50-foot development setback from the edge of the riparian corridor for all Category “A” creeks. Update Table 4-1 (pages 4-3 to 4-5) and the text of Section 3.3 of the Management Plan regarding recommended setbacks for each Category “A” creek reach as appropriate to acknowledge the 50-foot development setback requirement.
7. Modify Table ES-4 (page ES-14) and Table 4-4 (page 4-12) (Summary of Watercourse Development Standards and Guidelines) of the Management Plan as follows:

Use of Permeable Paving: 2. Construct pedestrian walkways or patios with loose aggregate, wooden decks or well-spaced paving stones within the development setback area (allowable only along “B” category creeks).

Landscaping. 5. Plant only native riparian and wetland species within riparian corridor for Category “A” and “B” watercourses and wetlands; for Category “A” watercourses and wetland areas, plant only native riparian and wetland species within the development setback area (see list on Table 4.5).

Landscaping. Recommended: For Category “B” watercourses, Avoid using nonnative plants in the development setback area, and encourage the planting of native plants.

Habitat Enhancement. 10. ~~Avoid~~ Prohibit mowing or removal of riparian vegetation. 11.



For Category A watercourses (riparian corridor and development setback) and for Category B watercourses (riparian corridor only), require the following: plant a variety of native plants; ~~avoid~~ prohibit clearing of dense riparian understory; remove and control spread of nonnative species; and ~~avoid~~ prohibit the planting of nonnative species.

Habitat Enhancement. Recommended. For Category B watercourses encourage the following in the development setback area: plant a variety of native plants, avoid clearing of dense riparian understory; remove and control spread of nonnative species, and avoid planting of nonnative species.

8. Modify Table ES-2 (page ES-12) and Table 4-2 (page 4-9) of the Management Plan (Projects Exempt from Watercourse Development Permits) regarding coastal permit exemptions and “Landscaping and Vegetation Removal” as follows:

PROJECTS EXEMPT FROM WATERCOURSE DEVELOPMENT PERMITS (in the Coastal Zone, the following list of projects are exempt only if the criteria of Zoning Ordinance Section 24.08.230.1 regarding coastal permit exemptions are met).

- Landscaping with native plants.
 - For “B” watercourses, Landscaping with nonnative vegetation within the development setback area provided ~~noninvasive species are used~~ that no invasive species are used. (For “A” watercourses, only landscaping with native plants shall be allowed in the development setback area.)
 - Mowing and grazing on public lands (outside of the riparian corridor), consistent with an adopted Parks or Fire Management Plan.
9. Modify the following sections of Table ES-2 (page ES-12) and Table 4-2 (page 4-9) of the Management Plan (Projects Exempt from Watercourse Development Permits) regarding “Exterior Improvements” as follows:

For “B” watercourses, ~~Installation of pervious surfaces (outside of the riparian corridor) including at-grade decks, patios, and walkways, when the total square footage is less than 25 percent of the development setback area, provided that pervious surfaces meet those requirements specified in the Watercourse Development Standards. (Installation of pervious and other surfaces in the development setback area along “A” watercourses is not allowed.)~~

10. Modify Table ES-3 (page ES-13) and Table 4-3 (page 4-10) (Allowable Uses and Activities [development setback area] with a Watercourse Development Permit) as follows:

Solid fencing that meets the City’s fencing regulations, ~~provided the fencing is located at the boundary between the development setback area and the remaining management area.~~



11. Modify the following sentences on pages ES-5 & 4-2 regarding Category B watercourses (the remainder of the paragraph is unchanged):

... The goals of this category include improving habitat by ~~voluntary~~ removal of invasive, nonnative plant species and improving water quality and flow with implementation of proper erosion control and best management practices, and planting of appropriate species.

12. Modify the last sentence of Section 4.4.3 (page 4-8) and the first sentence in the second paragraph of Section 4.5.5 (page 4-17) of the Management Plan as follows (the remainder of these sections are unchanged):

~~Voluntary~~ Improvement and restoration of watercourses, especially Category “B,” is required. Voluntary improvement of and possibly “C” watercourses, are is encouraged...

13. Modify the first sentence of Standard 10 (page 4-17) of the Management Plan as follows:

~~Avoid~~ Mowing, clearing or stripping of riparian vegetation is prohibited. Thinning of riparian vegetation may be allowed on a limited basis upon review and approval of plans by the City’s Planning Director and the Fire Department.

14. Modify the following sentences regarding required measures for Category A watercourses in Standard 11 (page 4-17) of the Management Plan as follows:

- ~~Avoid~~ Prohibit the clearing of dense native understory vegetation to create open areas.
- ~~Avoid~~ Prohibit the planting of nonnative plants in the riparian corridor and development setback area.

15. Modify Standard 5 (page 4-14) of the Management Plan as follows:

Only native riparian and wetland plant species are allowed to be planted in the designated riparian corridor (for Category A and B watercourses) and in the development setback area (for Category A watercourses).

16. Modify the following sentence in the Guidelines for Category B watercourses (page 4-18) of the Management Plan as follows:

The following measures are ~~encouraged~~ to be implemented for Category B watercourses to enhance the riparian habitat of watercourses and wetland areas:

17. The City shall reevaluate reach 1 of Woods Creek (with onsite evaluations, if feasible) to determine more specifically if the setbacks of the Creeks plan should be increased. The reevaluation shall be completed within 6 months of certification and shall include onsite



analysis in coordination with the Coastal Commission's staff ecologist. The City shall submit written results of the reevaluation to the Executive Director for review. If this evaluation demonstrates that increased development setbacks are appropriate along this stretch of creek, the City may apply for an LCP amendment to update the Management Plan accordingly.

18. Modify the "Definition of Wetlands under the California Coastal Commission" on page A-2 of Appendix A of the Management Plan as follows:

The Coastal Commission, through adoption of the Coastal Act, regulates activities within wetlands that occur within the Coastal Zone. Section 13577 of the Coastal Commission's Regulations defines wetlands as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and also includes those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. The Coastal Commission's definition ~~and interpretation~~ of wetlands differs from the ~~federal~~ definition used by the U. S. Army Corps of Engineers, the U.S. Environmental Protection Agency and the Natural Resources Conservation Service. Under normal circumstances, the ~~federal~~ definition used by those agencies requires all three wetland identification parameters (hydrology, hydrophytic vegetation, and hydric soils) to be met, whereas the Coastal Commission's definition, ~~(using the Cowardin [1979] definition)~~ which is similar to U. S. Fish and Wildlife Service's definition, requires the presence of at least one of ~~these~~ those parameters. The Coastal Commission's definition distinguishes wetlands from uplands by the presence of the following attributes: requires that wetlands must have one or more of the following three attributes:

(1) ~~at least periodically,~~ the land supports predominantly hydrophytic cover ~~hydrophytes (at least 50 percent of the aerial vegetative cover);~~

(2) the ~~substrate~~ soil is predominantly ~~undrained~~ hydric soil; ~~and~~

(3) ~~the substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season (Cowardin et al., 1979).~~ In the case of wetlands without vegetation or soils, the land is flooded or saturated at some time during years of normal precipitation

19. Modify the first sentence of Appendix B (page B-1) of the Management Plan as follows:

A wetland delineation should be conducted as per ACOE criteria ~~and/or~~ in the Coastal Zone per Coastal Commission criteria.

20. Modify the paragraph of the Management Plan entitled "Presence of Invasive, Nonnative Vegetation" (page 2-4) as follows:



Invasive, nonnative plant species were documented for each reach. Table 4-6 and Appendix C presents a more detailed discussion and a more complete listing of potentially problematic species that may invade central coast riparian areas. of these species and their occurrence within the City watercourses and wetlands. These Currently, the most problematic of these species are: [list of plants remains unchanged].

21. Add the following species to the invasive nonnative vegetation lists located in Table 4-6 (page 4-16) and Table C-3 (page C-6) of the Management Plan as follows:

Trees: *Myoporum laetum* (myoporum); *crataegus monogyna* (English hawthorn); *Ficus carica* (edible fig); *Prunus cerasifera* (cherry plum, wild plum); *Robinia pseudoacacia* (black locust).

Shrubs: *Tamarix parviflora* (smallflower tamarisk); *Tamarix ramosissima* (saltcedar, tamarisk)

Other Perennials, Biennials, and Annuals: *Arundo donax* (giant reed); *Acroptilon repens* (Russian knapweed); *Agrostis avenacea* (Pacific bentgrass); *Agrostis stolonifera* (creeping bentgrass); *Asparagus asparagoides* (bridal creeper); *Brassica rapa* (birdsrape mustard, field mustard); *Cardaria draba* (hoary cress); *Centaurea maculosa* (= *C. biebersteinii*) (spotted knapweed); *Centaurea solstitialis* (yellow starthistle); *Cirsium arvense* (Canada thistle); *Cirsium vulgare* (bull thistle); *Conium maculatum* (poison hemlock); *Cotula coronopifolia* (brass buttons); *Dipsacus fullonum* (common teasel); *Dipsacus sativus* (fuller's teasel); *Dittrichia graveolens* (stinkwort); *Holcus lanatus* (common velvetgrass); *Iris pseudacorus* (yellowflag iris); *Lepidium latifolium* (perennial pepperweed, tall whitetop); *Lobularia maritima* (sweet alyssum); *Ludwigia peploides* ssp. *Montevidensis* (creeping water-primrose); *Ludwigia hexapetala* (= *L. uruguayensis*) (Uruguay water-primrose); *Lythrum hyssopifolium* (hyssop loosestrife); *Marrubium vulgare* (white horehound); *Mentha pulegium* (pennyroyal); *Myosotis latifolia* (common forget-me-not); *Myriophyllum aquaticum* (parrotfeather); *Myriophyllum spicatum* (Eurasian watermilfoil); *Onopordum acanthium* (Scotch thistle); *Picris echioides* (bristly oxtongue); *Piptatherum miliaceum* (smilgrass); *Poa pratensis* (Kentucky bluegrass); *Polygonum cuspidatum* (= *Fallopia japonica*) (Japanese knotweed); *Polygonum sachalinense* (Sakhalin knotweed); *Polypogon monspeliensis* and subspp. (rabbitfoot, polypogon, rabbitgoot grass); *Potamogeton crispus* (curlyleaf pondweed); *Ranunculus repens* (creeping buttercup); *Ricinus communis* (castorbean); *Rumex acetosella* (red sorrel, sheep sorrel); *Rumex crispus* (curly dock); *Salvinia molesta* (giant salvinia); *Saponaria officinalis* (bouncingbet); *Schinus molle* (Peruvian peppertree); *Senecio jacobaea* (tansy ragwort); *Silybum marianum* (blessed milkthistle); *Torilis arvensis* (hedgeparsley); *Zantesdeschia aethiopica* (calla lily).

22. Modify the species name of the native plant commonly known as “mugwort” in Table 4-5 (page 4-15) and Table C-1 (pages C-2 to C-3) of the Management Plan as follows:



Artemisia californica-douglasiana

23. Delete proposed Section 24.08.230(14) (Exhibit #4 page 13) of the zoning ordinance regarding exemptions as follows:

~~Watercourse Development Permits. Development that requires issuance of a watercourse development permit as set forth in Part 21.~~

24. Delete proposed Section 24.08.230.2(8d) (Exhibit #4 page 15) of the zoning ordinance regarding exclusions as follows:

~~Watercourse Development Permits. Development that requires the issuance of a watercourse development permit as set forth in Part 21.~~

25. Modify the introductory paragraph of section 24.08.2140 (Exhibit #4 page 21) of the zoning ordinance regarding exemptions to watercourse development permit requirements as follows:

Certain types of projects that clearly would not impact riparian resources and support the goals of the Citywide Creeks and Wetlands Management Plan are exempted from the Watercourse Development Permit Requirements (in the coastal zone, the following list of projects are exempt only if the criteria of Section 24.08.230.1 regarding coastal permit exemptions are met). Such projects should incorporate applicable Best Management Practices in the project design. In situations where it is unclear whether the project is eligible for an exemption under this section, the determination would be made by the Zoning Administrator in accordance with the goals of the Citywide Creeks and Wetlands Management Plan. The following permits are eligible for an exemption:...

26. Modify proposed zoning ordinance section 24.08.2110(2)(k) (Exhibit #4 page 21; definition of “Wetland”) as follows:

“Wetland. An area that is a) identified as a known wetland or area of ponding that needs further site specific review by as described in the Citywide Creeks and Wetlands Management Plan or b) identified as part of a review process as having at least one of the following three attributes: inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions (hydrophytes). (1) land that supports predominantly hydrophytic cover; (2) soil that is is predominantly hydric; (3) or in the case of wetlands without vegetation or soils, land that is flooded or saturated at some time during years of normal precipitation.

27. Modify Section 24.08.2140(2)(d) (Exhibit #4 page 22) regarding exemptions as follows:

d. Along “B” Category watercourses, Installation of pervious surfaces (outside of the riparian corridor), including at-grade decks, patios, and walkways, when the total square



footage is less than 25 percent of the development setback area, provided that the pervious surfaces meet those requirements specified in the Watercourse Development Standards. The total percentage allowed includes both existing and new surfaces.

28. Modify Section 24.08.2140(3)(a) (Exhibit #4 page 22) regarding exemptions as follows:
 - a. Along “B” Category watercourses, Landscaping with non-native vegetation using noninvasive species, within the development setback area, as recommended in the City-wide Creeks and Wetlands Management Plan.
29. Modify Section 24.08.2140 (3)(f) (Exhibit #4 page 23) regarding exemptions as follows:
 - f. Mowing and grazing on public lands (outside of the riparian corridor), consistent with an adopted Parks or Fire Management Plan.
30. Modify Section 24.08.2150(2)(c) (Exhibit #4 page 24) regarding allowable projects in the development setback area, as follows:
 - c. Solid fencing that meets the City fencing regulations, provided that the fencing is located at the boundary between the development setback area and the remaining management area.
31. Modify Section 24.08.2170(3)(a) (Exhibit #4 page 25) regarding planting restrictions, as follows:
 - a. Only native riparian and wetland plant species are allowed to be planted in the designated riparian corridor and in the development setback area along Category “A” watercourses. The City-wide Creeks and Wetlands Management Plan provides a list of some suitable plant species and revegetation guidelines.
32. Modify Section 24.08.2170(5)(a) (Exhibit #4 page 26) regarding habitat enhancement, as follows:
 - a. ~~Whenever possible, avoid~~ Prohibit mowing, clearing, or stripping of riparian vegetation.
33. Modify Section 24.08.2170(5)(b)(ii) (Exhibit #4 page 26) regarding habitat enhancement along Category “A” watercourses, as follows:
 - b. The following measures are required for Category A watercourses: ii. ~~Avoid~~ Prohibit clearing of dense native understory vegetation to create open areas.
34. Modify Section 24.08.2240 (Exhibit #4 page 28) regarding findings required for variances to watercourse development permits, as follows:

In approving a watercourse variance, it shall be determined by the hearing body that:

1. There are exceptional or extraordinary circumstances or conditions applicable to the



subject watercourse site that do not generally apply to other watercourse parcels.

2. Granting the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and to prevent unreasonable property loss or unnecessary hardship.

3. In granting a variance to allow a reduction in the minimum setbacks provided in the Citywide Creeks and Wetlands Management Plan, the setbacks have only been reduced to the point at which a principal permitted use (modified as much as is practical from a design standpoint) can be accommodated.

4.3. Granting the variance would not be detrimental or injurious to property or improvements in the vicinity of the subject site or to the health, safety and welfare of the watercourse directly affected by this application.

5.4. Granting the variance is in conformance with all other goals, policies and objectives of City-wide Creeks and Wetlands Management Plan.

35. Modify Section 24.12.160(1)(g) (Exhibit #4 page 30) to correct a typographical error, as follows:

g. Fences within Watercourse Setback Areas. Fencing within a designated riparian corridor or development setback area of a watercourse shall be consistent with requirements of the Watercourse Development Permit Section 24.~~08~~14.2100.

III. Findings and Declarations

The Commission finds and declares as follows:

A. Background

The City of Santa Cruz is home to numerous creeks, streams, rivers, and wetlands, portions of which are located in the coastal zone. Some of the watercourses that are located within the coastal zone, such as Moore Creek, abut undeveloped land or rural residential yard areas and thus retain extensive riparian vegetation and habitat for wildlife. However, many of the City's watercourses are located within the urbanized areas of the City. These watercourses generally have limited remaining riparian habitat and are generally confined by adjacent land uses. In the most severe cases, certain reaches of specific creeks have been transformed into drainage channels that are concrete or otherwise manmade and consist of above-ground or below-ground culverts with very low to no habitat value remaining.

The City's LCP requires that new development be set back 100 feet from the centerline of a creek or the



edge of a wetland, unless a site-specific biotic report and management plan has been prepared. The watercourses located within the urbanized areas of Santa Cruz are located adjacent to residential, commercial, industrial, or institutional development. In these urbanized areas, complying with the 100-foot setback requirement can be difficult given the typical size of adjacent parcels and the level of existing development in the City of Santa Cruz. For example, many of the residential parcels located adjacent to the City's urbanized creeks are in the 5,000 square foot range (i.e., 50 x 100 feet). Applying the 100-foot setback requirement in such cases would render the entire parcel undevelopable. Over the years, this has resulted in the City issuing numerous variances to the 100-foot setback requirement for proposed development located adjacent to urbanized creeks. In these situations, the City has typically conditioned its approval to require the applicant to submit a creek restoration plan developed for the specific parcel in question, i.e., the City may require the applicant to remove nonnative vegetation and plant appropriate native vegetation along the stretch of creek that abuts the applicant's property.

The City's certified zoning ordinance allows for variances if by reason of exceptional narrowness, shallowness, or unusual shape of property, the literal enforcement of the conservation regulation would involve practical difficulties or would cause undue hardship. However, the variance procedure that has been used by the City over the years to reduce the stream and wetland setbacks established by the LCP for protection of wetlands, streams, and other habitat resource areas has presented some difficulties. Specifically, the standards for a variance are not designed to address directly the intent of the LCP's conservation regulations. Also, the zoning ordinance does not allow for variances when the situation requiring the variance is so recurrent in nature that a regulation could be drafted to cover the situation. If lesser stream setbacks are to be considered, the LCP requires this to be done within the context of a management plan submitted and approved by the Coastal Commission as an amendment to the LCP. For this reason, Commission staff has urged the City to develop a creeks and wetlands management plan that would include biologically based criteria for varying the width of setbacks based on on-the-ground resources and existing patterns of development.

The Citywide Creeks and Wetlands Management Plan was developed so that planning for these urban creek corridors is not done on a project-by-project basis, but rather that each stretch of creek is considered as a whole ecosystem for which appropriate rules (including setbacks) for adjacent development, creek stretch restoration and enhancement, and management can be established. These rules are based upon biological criteria that take into account the entire reach of a creek or an entire wetland area and the individual and cumulative ramifications of development and redevelopment adjacent to these natural communities. When projects are instead analyzed one at a time outside of the context of the entire reach of a creek, their consistency with LCP policies, goals, and objectives is more difficult to measure. Also, as discussed in the analysis below, although many of the urbanized streams and wetlands in the City have been degraded over time, a management plan that provides specific development setbacks for each reach of creek and conditional requirements for specific enhancements as part of the approval of a development or redevelopment will further Goal #4 of the LUP's Environmental Quality Element, which is to "protect and enhance natural vegetation communities and wildlife habitats throughout the City." A management plan will also provide specific guidance to homeowners and other parcel owners along creeks and wetlands with respect to required riparian setbacks and allowable development within or adjacent to the riparian buffer zone area.



B. Amendment Description

1. Purpose and Intent of the Management Plan

The proposed amendment affects the LCP's certified land use plan component as well as the implementation plan (zoning ordinance). Specifically, the Citywide Creeks and Wetlands Management Plan (Management Plan) (please go to <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html> for the Management Plan document) is proposed as a component of the land use plan. The purpose and intent of the Management Plan is to:

- Identify appropriate development setbacks for each reach of each creek based on evaluation of habitat, stream, and existing land use characteristics;
- Recommend management actions that promote preservation of riparian and wetland resources;
- Define development guidelines and standards for areas where development adjacent to watercourses may be appropriate, and;
- Provide a framework for permitting development adjacent to watercourses.

The plan presents a strategic approach to stream corridor management that is intended to result in better protection, enhancement, and management of the City's riparian and wetland resources and water quality, while providing consistency and predictability to the City's permitting process.

In addition to the Management Plan, the proposed amendment includes modifications to Title 24 of the City's certified zoning ordinance to provide development standards to lands adjacent to watercourses within the City that will carry out the goals and requirements of the Management Plan. See attached Exhibit #4 for the proposed amendments to the City's zoning ordinance.

2. Methods

The Management Plan consists of mapping of all City watercourses and identification of the centerline of each watercourse and delineation of the 100-foot setback that is currently required under LCP Environmental Quality Policy 4.2.2. The City gathered an inventory of the resource characteristics of each watercourse reach, including stream or channel type, habitat type, extent of riparian vegetation, and wildlife potential. The inventory was used to assess the existing habitat and hydrological values for each watercourse reach, as well as the potential for habitat restoration and water quality enhancement. The inventory was based on high resolution aerial photographs, a GIS database, review of existing resource studies, and biological and land use site inspections where feasible or where allowed by landowners. Land patterns were identified, including the average distance between the watercourse and existing development. From this information, specific development setbacks were determined for each reach of each creek and wetland area.

3. Watercourse Categories

To determine the level of permit review required for the variety of watercourse types within the City, all



watercourses and watercourse reaches have been categorized as either an “A,” “B,” or “C” watercourse. Category “A” watercourses include watercourse reaches that support high quality riparian habitat, with a vegetated corridor that is continuous, with few gaps. Category “A” watercourses abut undeveloped lands or rural residential yard areas that provide the ability for wildlife to use these adjacent areas, with some available area for riparian vegetation to expand within the corridor over time. The goals of this category include protecting and restoring existing vegetated watercourses as wildlife movement corridors through removal of invasive nonnative plant species and restoration of native vegetation, as well as protection and improvement of water quality with implementation of proper erosion control and best management practices, and the planting of appropriate native plant species.

Category “B” watercourses are located in urban areas. These watercourses generally have limited riparian habitat confined by adjacent land uses that limits the ability for the riparian corridor to expand. The goals of this category include improvement of habitat by removing nonnative invasive species and the planting of appropriate native plant species, and improving water quality and flow with implementation of proper erosion control and best management practices.

Category “C” watercourses include drainage channels that are concrete and manmade, including above- or below-ground culverts, with little to no existing habitat value. The corridor is extremely fragmented with little to no room for restoration without significant land acquisition or easements. Category “C” watercourses would be exempt from the Citywide Creeks and Wetlands Management Plan regulations.

4. Setbacks

Based on an evaluation of biological, hydrological, and existing land use characteristics, the Management Plan recommends specific setback requirements for each reach of each creek and establishes a process for obtaining a watercourse permit for development within setback areas. For each section or reach of watercourse in the City, the recommended setbacks include a management area, a riparian corridor, and a development setback area. The riparian corridor is intended to provide an adequate riparian width to maintain or enhance habitat and water quality values. Allowable uses within the riparian corridor are extremely limited and primarily consist of habitat restoration and enhancement. The development setback is intended to provide an appropriate buffer between the riparian corridor and development. The management area includes the riparian corridor, the development setback area, and an additional 25 feet outward from the edge of the development setback. New development would be allowed in the area between the management area boundary and the development setback area, subject to review and approval of a watercourse development permit by the City. Any proposed development outside of the management area would not be subject to watercourse regulations. The Management Plan outlines the permit procedures for development and other uses proposed within a management area. See attached Exhibit #5 for a figure showing the proposed setback areas and attached Exhibit #6 for proposed allowable uses in the riparian corridor, development setback, and remaining management area. The following table details each reach of each creek in the coastal zone, its category, and the recommended setbacks (see next section for more discussion of setbacks):

Table 1. Summary of Watercourse Categories & Recommended Setbacks (Coastal Zone only)



(For watercourse maps, go to: <http://www.ci.santa-cruz.ca.us/pl/Creeks/maps/mapsindex.html>)

Watercourse Name & Reach	Category (A, B, C)	Riparian Corridor (measured in feet from centerline of watercourse)	Development Setback (measured in feet from centerline of watercourse)	Management Area (measured in feet from centerline of watercourse)	Map (Pages)
Arroyo Seco 1	C	0	0	0	L02, L03
Arroyo Seco 2	B	15	20	45	L03
Arroyo Seco 3	A	50	70	95	L03
Bethany Creek 1	B	20	30	55	M03
Bethany Creek 2	B	5	5	30	M04
Hagemann Gulch 1	B	40	60	85	Q06, Q07
Hagemann Gulch 2	B	10	15	40	Q07
Moore Creek 1	A	100	130	155	K02, K03
Moore Creek 2	A	100	150	175	K04-K07, L05
Moore Creek 3	A	100	130	155	K07, K08
Moore Creek 4	A	100	150	175	J07, K05-K07
Moore Creek 5	A	70	100	125	K06, K07
Natural Bridges Creek	A	80	100	125	K02, L02, L03
Ocean Villa Creek	B	50	70	95	P05, P06
Pilkington Creek 1	B	30	40	65	P05
Pilkington Creek 2	B	10	15	40	P05
Woods Creek 1	B	20	30	55	Q05, Q06
Woods Creek 2	B	10	15	40	Q06

Projects subject to approval of other City permits (such as a coastal permit) would also be subject to environmental review. During the environmental review process, site-specific review of sensitive habitat and species would be undertaken, if applicable, based on known and potential habitat areas identified on



Table 2-2 of the Management Plan (pages 2-8 to 2-9 at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>), and additional protective measures may be recommended. Although site visits were made to as many individual properties as possible during preparation of the Management Plan, the Management Plan focuses on creek segments and reaches. There may be some circumstances in which an identified setback is recommended to be increased based on the outcome of the environmental review.

For wetlands and other unique areas of ponding water, the Management Plan identifies general acceptable uses and enhancement actions, but requires further site-specific biotic review (as is currently required by the LCP), since detailed analysis or citywide wetland delineations were not conducted as part of the preparation of the Management Plan. The current minimum 100-foot setback required by LCP Environmental Policy 4.2.2 would remain in effect for wetland areas. Additionally, specific management plans have been developed and adopted for certain designated open space lands within the City, such as the certified San Lorenzo Urban River Plan and the certified Neary Lagoon Management Plan. New development proposed along watercourses or wetlands that are covered by a specific management plan would be subject to the requirements of those specific management plans and the Environmental Quality policies of the Land Use Plan.

5. Watercourse Variance

Projects that do not comply with the development setbacks or projects requesting exceptions to the Watercourse Development Standards would be subject to Planning Commission review and approval as a Watercourse Variance at a public hearing. Lesser setbacks would be permitted only in unique or extraordinary circumstances, such as if application of the minimum setback standards would render the parcel physically unusable for a principal permitted use. In such cases, setbacks would be reduced only to the point at which a principal permitted use (as modified as much as is practical from a design standpoint) could be accommodated. See pages 4-20 to 4-22 of the Management Plan at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html> for more information regarding watercourse variances.

6. Periodic Plan Review

Section 4.4.3 of the Management Plan (see page 4-8 of the Management Plan at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>) requires a periodic review of the Management Plan every five years by the Planning Commission to evaluate how successful implementation of the Management Plan has been and to determine what, if any, components of the Management Plan may need to be modified to assure continuing adequate protection of watercourse and wetland resources. Also, if upon a periodic review it is discovered that a watercourse has been restored to such an extent that it may be upgraded to a different category, this would be evaluated at a public hearing. Any modifications made to the Management Plan at local public hearings would require submission of an LCP amendment to the Coastal Commission for certification.



C. Analysis of Land Use Plan Amendments

Environmentally Sensitive Habitat

Coastal Act Section 30240 protects environmentally sensitive habitat and states:

30240(a). *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b).* *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

As stated above, the purpose and intent of the Management Plan is to:

- Identify appropriate development setbacks for each reach of each creek based on evaluation of habitat, stream, and existing land use characteristics;
- Recommend management actions that promote preservation of riparian and wetland resources;
- Define development guidelines and standards for areas where development adjacent to watercourses may be appropriate, and;
- Provide a framework for permitting development adjacent to watercourses.

The Management Plan presents a strategic approach to stream corridor management that is intended to result in better protection, enhancement, and management of the City's riparian and wetland resources and water quality, while providing consistency and predictability to the City's permitting process. To ensure, however, that the proposed Management Plan provides consistency with the requirements of Coastal Act Section 30240, a number of modifications are required.

The City's certified LCP contains a number of Environmental Quality policies designed to protect and enhance natural vegetation communities and wildlife habitats throughout the City, including riparian and wetland areas. The City, however, did not amend these policies to reflect the fact that the Citywide Creeks and Wetlands Management Plan will be the primary land use plan policy document that will provide a framework for permitting development adjacent to watercourses within the City limits. **Modifications #1-3** amend three LUP Environmental Quality policies (4.2.2, 4.2.2.1, and 4.2.2.3) that provide setback requirements and regulate development along watercourses and wetland areas. Specifically, **Modifications #1-2** provide that required setbacks and allowable uses along watercourses are subject to the requirements of the Management Plan, unless the requirements of a specific management plan are in place for a particular wetland or riparian location within the City (such as the San Lorenzo Urban River Plan, the Neary Lagoon Management Plan, etc). The existing 100-foot setback LCP requirement would still apply to wetland areas that are not covered by the Citywide Creeks and Wetlands Management Plan or other specific management plans. Because the Management Plan provides a specific framework for allowable uses and development along watercourses (but not for



wetlands), **Modification #3** amends Environmental Quality Policy 4.2.2.3 so that it applies to wetland areas only. Additionally, **Modification #4** requires the City to update Environmental Quality Policies 4.2.2., 4.2.2.1, and 4.2.2.3 in Appendix G of the Management Plan.

The Commission's staff biologist evaluated the proposed Management Plan (Exhibit #7). One of the recommendations of staff is that restoration opportunities for Category "C" watercourses (which include drainage channels that are concrete or manmade, and above or below ground culverts) be considered and that appropriate setbacks be required. As shown in Table 1 above, Arroyo Seco Reach 1 is the only Category "C" watercourse located in the coastal zone. This reach of creek is located in an underground culvert. An alleyway, surrounded on both sides by single family residences on relatively small lots, is located over the buried culvert. This alleyway extends for several blocks. The residential parcels, however, do not extend into the alley; thus, the alleyway appears to be public land. The buried culvert extends under West Cliff Drive and then empties over the bluff onto the beach below. Although two of the houses located on West Cliff Drive use this alleyway to access their garages, it is possible that portions of this reach of Arroyo Seco Creek could be "daylighted" and undergo habitat restoration in the future. **Modification #5** requires that the City not abandon this alleyway nor allow development in the alleyway, and that the City considers partially or fully "daylighting" this reach of creek in the future.

As discussed above, Category "A" watercourses include watercourse reaches that support high quality riparian habitat, with a vegetated corridor that is continuous, with few gaps. Category "A" watercourses abut undeveloped lands or rural residential yard areas that provide the ability for wildlife to use these adjacent areas, with some available area for riparian vegetation to expand within the corridor over time. The goals of this category include protecting and restoring existing vegetated watercourses as wildlife movement corridors through removal of invasive nonnative plant species and restoration of native vegetation, as well as protection and improvement of water quality with implementation of proper erosion control and best management practices, and the planting of appropriate native plant species.

The Management Plan calls for development setbacks for Category "A" riparian corridors of between 20 and 50 feet from the edge of the riparian corridor as identified for each watercourse, with the bulk at 20 feet. The Commission's staff biologist recommends that the minimum development setback for Category "A" watercourses be 50 feet from the edge of riparian vegetation to best preserve the integrity and natural function of the rare and especially valuable habitats or species that exist along these watercourses (see page 2 of Exhibit #7). The Commission has required buffers of 100 feet from the edge of riparian vegetation in areas where such buffers are feasible. However, it is not unusual for the Commission to allow smaller buffers in urbanized areas where the existing land use patterns do not allow for increased riparian buffer areas. **Modification #6** requires the application of a minimum 50-foot development setback from the edge of the riparian corridor for Category "A" watercourses. The Commission notes, however, that where feasible, buffers should be increased to 100 feet or more, based on site-specific review, to assure maximum protection of riparian habitat and other resource values.

The Commission's staff biologist (Exhibit #7) also recommends a minimum development setback (the buffer adjacent to the riparian corridor) of at least 20 feet from the edge of riparian vegetation along more urbanized "B" category creeks in order to best preserve the integrity and natural function of the



riparian corridor and to create a zone where there will be little or no human activity, to “cushion” species and habitats from disturbance, and to allow native species to persist more naturally. The development setbacks proposed by the City for urbanized Category “B” riparian corridors range between 5 to 20 feet, with the bulk at 10 feet from the edge of riparian vegetation. The City derived the individual setbacks required for each reach of creek based on high resolution aerial photographs, a GIS database, review of existing resource studies, and biological and land use site inspections where feasible or where allowed by landowners. One of the purposes of the Management Plan is to apply consistent setbacks that avoid the need for variances. Increasing the development setback to 20 feet from the edge of riparian vegetation along Pilkington Creek, for example (see map P05 at <http://www.ci.santa-cruz.ca.us/pl/Creeks/maps/mapsindex.html>), would extend the management area into existing development, including large portions of existing residences, paved streets and driveways, and would render large portions of these small lots undevelopable. Along Pilkington Creek, however, there may be a few parcels that could comply with a 20-foot development setback. The Management Plan notes that proposed projects that are subject to approval of other city permits (such as a coastal development permit) would also be subject to environmental review and that the result of this review might be the imposition of additional protective measures. The Management Plan also notes that there may be some circumstances in which an identified setback is recommended to be increased based on the outcome of the environmental review required for a proposed project. Given these qualifications that provide for opportunities for increased setbacks for specific parcels along specific creek reaches, the setbacks for each reach of Category “B” watercourses in the Management Plan are adequate given the existing urban land use constraints.

With respect to allowable uses, the Management Plan includes several inappropriate activities in the riparian corridor and development setback (see Exhibit #7). Specifically, at-grade decks and patios are inappropriate uses in the development setback (the Management Plan would allow for permeable patios or decks to occupy up to 25% of a development setback). However, for category “B” creeks, which do not have the same inherent biological qualities as Category “A” creeks, allowing limited patio or deck development on what are generally small parcels (often in the 5,000 square foot range) would not result in significant biological impacts. The same, however, is not true for Category “A” parcels, which generally consist of larger, rural parcels that would have area outside the development setback to accommodate a deck or a patio. **Modification #7** prohibits the use of the development setbacks located along Category “A” creeks for development of patios or decks. This modification also prohibits the use of nonnative, noninvasive plant species in the development setback area for Category “A” creeks and instead requires that only appropriate native plant species be allowed in this area.

Modifications #8-16 provide additional specificity about required restoration efforts and allowable uses and activities in the riparian corridor and development setback area. For example, while the proposed Management Plan requires the removal and control of nonnative plant species and the planting of native plant species in the riparian corridor along Category “A” watercourses, the proposed Management Plan only requires voluntary restoration of Category “B” watercourses as a condition of development (see pages 4-2 and 4-8 of the Management Plan at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>). Although generally confined by surrounding land uses, Category “B” watercourses would greatly benefit from restoration efforts. To ensure that restoration of the riparian corridors along Category “B”



creeks takes place, Modifications #11, #12, & #16 remove the voluntary component and require restoration efforts equivalent to those required along Category “A” watercourses as a condition of development. Additional modifications require landscaping with native plant species in the development setback area along Category “A” watercourses, prohibit the installation of paved surfaces in the development setback area along Category “A” watercourses, prohibit the clearing of dense native understory vegetation, limit the installation of solid fencing in the development setback area to the boundary between the development setback and remaining management area, and allow thinning of riparian vegetation only for fire management purposes as directed under a fire management plan.

Finally, the Commission’s staff biologist has concluded (see Exhibit #7) that two creeks do not appear to be afforded enough development setback protection and recommends that reach 1 of Woods Creek (maps Q05 & Q06) and reach 1 of Hagemann Gulch (Maps Q06 & Q07) be upgraded from “B” to “A,” with an increase in the development setback (maps may be viewed at <http://www.ci.santa-cruz.ca.us/pl/Creeks/maps/mapsindex.html>). The eastern side of Reach 1 of Hagemann Gulch abuts the City-owned Arana Gulch greenbelt property. This greenbelt property is subject to the Arana Gulch Management Plan, which allows for only limited development to support open space and recreational uses. Thus, there is little development potential along the eastern side of Hagemann Gulch reach 1. The western side of Hagemann Gulch reach 1 is confined by residential development. Thus, the proposed development setbacks along the western side of this reach appear to be appropriate given the level of existing development along this stretch of creek. To the extent that they are not adequate given the resources on site and available development area, site-specific environmental review allows for consideration of expanded development setbacks where feasible.

Regarding reach 1 of Woods Creek, the Management Plan states that this reach is constrained due to existing residential and commercial development and that the average width of the vegetated corridor along this reach is 20 feet. However, in looking at Maps Q05 and Q06, the vegetated areas along the southern portion of this reach (south of about Clinton Street) appear to be more extensive than 20 feet. **Modification #17** requires the City to reevaluate this reach of creek (with onsite evaluations, if possible) to determine if this reach should be afforded a larger riparian corridor width and development setback.

The Management Plan provides a “Definition of Wetlands under the California Coastal Commission” (see page A-2 of Appendix A at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>). The text in this section of the Management Plan implies that the Coastal Commission definition of wetlands is based on the Cowardin definition of wetlands, which is a comprehensive classification system of wetlands and deepwater habitats that was developed for the U.S. Fish and Wildlife Service in 1979. However, the Cowardin definition of wetlands is not equivalent to the definition of wetlands found in Section 13577 of the Coastal Commission’s regulations. **Modification #18** ensures that the Management Plan’s “Definition of Wetlands under the California Coastal Commission” is consistent with Section 13577 of the Coastal Commission’s regulations. **Modification #19** ensures that the Management Plan recognizes that wetland delineations performed in the coastal zone be conducted pursuant to Coastal Commission criteria.



The Management Plan provides lists of invasive plant species that are prohibited from use and recommended for removal along riparian areas (see Table 4-6 on page 4-16 of the Management Plan and Appendix C on page C-6 at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>). However, according to the California Invasive Plant Council, there are many additional nonnative plant species that are invading riparian areas along the Central West geographic region of California, which includes Santa Cruz. For example, *Arundo donax* (giant reed) is a highly invasive plant that has severe ecological impacts on the physical processes, plant and animal communities, and vegetation structure of riparian areas. This species, and a number of others, are not listed in the Management Plan. **Modifications #20 & #21** require that the Management Plan's invasive species lists include all potentially invasive plant species (pursuant to the California Invasive Plant Council listings) that have been noted to be problematic in riparian habitats in this area of California.

The Management Plan contains several tables (Table 4-5 on page 4-15 and Table C-1 on pages C-2 to C-3 at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>) that list the names of native plant species suitable for riparian and wetland revegetation. *Artemesia californica* is incorrectly listed (this is a coastal scrub/sagebrush plant). **Modification #22** corrects this reference to *Artemesia douglasiana*.

With all the above modifications, the proposed Land Use Plan amendment is consistent with Coastal Act Section 30240 regarding protection of environmentally sensitive riparian habitats.

D. Analysis of Implementation Plan Amendments

The City of Santa Cruz's Land Use Plan Environmental Quality Policies 4.2.2 and 4.2.2.1 (as modified above) provide setback requirements for development along watercourses and wetlands and set standards for development along watercourses pursuant to the Management Plan or other certified plans, as follows:

4.2.2: *Minimize the impact of development upon riparian and wetland areas through setback requirements of at least 100 feet from the center of a watercourse for riparian areas and 100 feet from a wetland or with setback requirements as provided in the Citywide Creeks and Wetlands Management Plan, unless the riparian area or wetland area is already covered by a specific management plan as described in Policy 4.2.1 (e.g., the San Lorenzo Urban River Plan, Neary Lagoon Management Plan, etc.). Include all riparian vegetation within the setback requirements, even if it extends more than 100 feet from the watercourse or beyond the setback requirements of the Citywide Creeks and Wetlands Management Plan or other specific management plan, even if there is no defined watercourse present.*

4.2.2.1: *Require that all development and uses within the designated setback area (management area) as described in the Citywide Creeks and Wetlands Management Plan be consistent with the Management Plan's provisions. For creeks and wetland areas that are covered by a management plan other than the Citywide Creeks and Wetlands Management Plan, require that all development and uses within 100 feet of these areas be consistent with the applicable management plan provisions under EQ 4.2.1 and L 3.4.*



The City proposes to amend the certified Zoning Ordinance to add standards for development along watercourses through the imposition of a watercourse development permit (see Exhibit #4 for proposed zoning ordinance amendments). A watercourse development permit would be required for development that takes place in the designated management area along a creek, as defined in the Management Plan. The proposed amendment, however, adds section 24.08.230(14) to the zoning ordinance that would render all watercourse development permits exempt from coastal permitting requirements (see pages 10-13 of Exhibit #4). However, as certified, section 24.08.230.1 of the zoning ordinance does not allow for exemptions to coastal permitting requirements for development in natural resource areas or along streams or wetlands. Thus, proposed section 24.08.230(14) would result in an internal inconsistency within the certified zoning ordinance. Furthermore, California Code of Regulations Sections 13250, 13252, and 13253 do not allow for exemptions for development in environmentally sensitive habitat areas, including areas adjacent to streams and wetlands. For the above reasons, **Modification #23** deletes proposed zoning ordinance section 24.08.230(14).

The proposed implementation amendment would add section 24.08.230.2(8)(d) to the zoning ordinance, which would exclude all watercourse development permits located in Coastal Exclusion Zone B from coastal permitting requirements (see Exhibit #4 pages 13-15). However, zoning ordinance section 24.08.230(B) states that “Coastal Exclusion Zone B is the Santa Cruz City Coastal Zone but not including the (a) Coastal Appeal Zone/shoreline Protection District or projects otherwise appealable to the Coastal Commission pursuant to section 24.04.186...” Zoning Ordinance Section 24.04.186(2)(a)(3) provides that “Developments...located...within one hundred feet of any wetland, estuary, stream...” are appealable to the Coastal Commission. Thus, proposed section 24.08.230.2(d) would result in an internal inconsistency within the certified zoning ordinance. Furthermore, a request for an exclusion must adhere to the requirements of California Code of Regulations Section 13241. These requirements include that the local government must provide materials and information that enable Commission staff to make findings consistent with Coastal Act Sections 30610(e) and 30610.5(b) and the California Environmental Quality Act. These findings must demonstrate that the exclusion will not result in any significant adverse effect, either individually or cumulatively, to coastal resources. The requirements of California Code of Regulations Section 13241 have not been met. For the above reasons, **Modification #24** deletes proposed zoning ordinance section 24.08.230.2(8)(d).

The proposed implementation plan amendment would add Section 24.08.2140 to the zoning ordinance, which would provide that certain types of projects with little potential for impact to riparian resources would be exempt from the Watercourse Development Permit requirements (see pages 21-23 of Exhibit #4). Certified Zoning Ordinance Section 24.08.230.1, however, provides for coastal permitting exemptions for projects in the coastal zone. In order to exempt a watercourse project from coastal permitting requirements, the criteria of Section 24.08.230.1 must be met. If these criteria are not met, a coastal permit will be required for a watercourse project and appropriate watercourse development standards will be applicable. Thus, **Modification #25** ensures that, in the coastal zone, the exemptions cited in proposed Section 24.08.2140 will only apply if a coastal permit is not required pursuant to zoning ordinance section 24.08.230.1.

Section 24.08.2110(2)(k) of the proposed Zoning Ordinance amendment provides a definition of a



“wetland” area (see page 21 of Exhibit #4). **Modification #26** ensures that this definition is consistent with Section 13577 of the California Code of Regulations.

Modifications #27-33 provide additional specificity to the proposed zoning ordinance amendments regarding required restoration efforts and allowable uses and activities in the riparian corridor and development setback area (pages 22-26 of Exhibit #4). These modifications also provide internal consistency with the modified Management Plan (see modifications #7-16 above).

Section 24.08.2240 of the proposed zoning ordinance provides for the required findings that need to be made in order to approve a variance to the watercourse development permit requirements (see Exhibit #4 page 28). A variance to provide lesser setbacks would be permitted only in unique or extraordinary circumstances, such as if application of the minimum setback standards would render the parcel physically unusable for a principal permitted use. **Modification #34** adds an additional finding that ensures that setbacks have only been reduced to the point at which a principal permitted use, which has been modified as much as is practical from a design standpoint, can be accommodated.

Modification #35 corrects a typographical error in the zoning ordinance (Exhibit #4 page 30).

With the above modifications, the proposed implementation plan amendment is consistent with the modified Environmental Quality policies of the certified Land Use Plan and with the Citywide Creeks and Wetlands Management Plan, as modified.

IV. 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 City certified a Negative Declaration for the proposed amendments. This staff report has discussed the relevant coastal resource issues raised by the proposed amendments, including impacts to environmentally sensitive creeks and wetlands, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources and to ensure that the land use plan amendments will be consistent with and adequate to carry out the Coastal Act, and that the implementation plan amendments will be consistent with and adequate to carry out the amended 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.





Coastal Zone Boundary
City of Santa Cruz

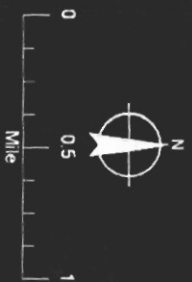


Exhibit 2

Citywide Creeks & Wetlands Management Plan

For this Exhibit, please go to:

<http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>

Exhibit 3

Citywide Creeks & Wetlands Management Plan MAPS

For this Exhibit, please go to:

<http://www.ci.santa-cruz.ca.us/pl/Creeks/maps/mapsindex.html>

Title 24

ZONING ORDINANCE

Chapter 24.04 Administration

24.04.030 Types of Permits and Other Actions Authorized by This Ordinance.

The following permits and actions are established in order to carry out the purposes and requirements of this title.

1. Appeals;
2. Coastal permit;
3. Conditional fence permit;
4. Conservation regulations modifications;
5. Design permit;
6. Demolition/conversion permit;
 - a. Demolition authorization permit for residential structures,
 - b. Historic demolition permit;
7. Extension of permits;
8. Historic building survey: building designation and deletion;
9. Historic alteration permit;
- 9a. Administrative historic alteration permit;
10. Historic landmark designation;
11. Mobile homes: certificate of compatibility;
12. Mobile home park conversion;
13. Planned development permit;
14. Relocation permit; 15. Revocation of permits;
16. Signs:
 - a. Design permit (for signs),
 - b. Building permit (for signs),
 - c. Sign permit - public art exception;
17. Use permit:
 - a. Administrative use permit, for uses requiring an administrative use permit plus the following:
 - (1) Any earth-disturbing activity on known archaeological sites,
 - b. Special use permit, for uses requiring a special use permit;
18. Variance;
19. Watercourse Development Permit;
20. Watercourse Variance;
- ~~21. 19.~~ Zoning Ordinance and General Plan text/map amendments;
- ~~22. 20.~~ Project modifications, pursuant to Section 24.04.160, subsection (4)(b).

(Ord. 99-17 § 1, 1999; Ord. 94-33 § 3, 1994; Ord. 86-13 § 1, 1986; Ord. 85-05 § 1 (part), 1985).

24.04.090 Public Hearing Requirement.

A public hearing shall be required for the following:

1. Appeals;
2. Coastal permit except for an accessory dwelling unit;
3. Conditional fence permit;
4. Design permit;

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- a. When accompanying another permit requiring a public hearing or upon a zoning administrator determination that a public hearing is required,
 - b. For new two-story structures and/or second-story additions on substandard residential lots,
 - c. For large homes in R-1 Districts per Section 24.08.450;
 5. Demolitions: residential and historical buildings;
 6. Historic building survey: building designation, deletion;
 7. Historic landmark alteration permit;
 8. Historic landmark designation;
 9. Mobile home park conversion;
 10. Planned development permit;
 11. Relocation of structures;
 12. Revocation of permits;
 13. Sign permit - public art exception;
 14. Use permits:
 - a. Administrative use permit, except when the proposed use is temporary, as defined in this title,
 - b. Special use permit (including historic district/historic landmark use permit);
 15. Variance;
 16. Watercourse Variance;
 - ~~17.~~ 16. Project modifications, pursuant to Section 24.04.160, subsection (4)(c);
 - ~~18.~~ 17. Zoning Ordinance and General Plan Text and Map amendments.
- (Ord. 2003-17 § 9, 2003; Ord. 2003-16 § 9, 2003; Ord. 94-34 § 1, 1994; Ord. 89-19 § 1, 1989; Ord. 85-05 § 1 (part), 1985).

24.04.130 Decision-Making Body With Final Authority on Application Approval.

The following table indicates the decision-making body who can approve, deny or conditionally approve an application, whether or not a public hearing is required and the bodies to which appeals can be made:

1. The zoning board and city council may refer certain aspects of any application to the zoning administrator for final action.
2. The zoning administrator may refer any of the matters on which he/she is authorized to act to the zoning board or historic preservation commission.
3. Recommendations for approval on General Plan matters and Zoning Ordinance text and map amendments shall require a majority vote of the planning commission; all other actions shall require a majority of the hearing body present at the meeting.

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Permits/Actions****	Public Hearing Requirement and Decisionmaking Body Which Can Approve an Application			Appeal Bodies (in order)
	No Public Hearing	Public Hearing		
	Action	Recommendation	Action	
Coastal Permit	ZA (ADU)		ZA*	ZB/CC/CCC*
Administrative Use Permit			ZA	ZB/CC
Conditional Fence Permit	ZA		ZA	ZB/CC
Slope Regulations Modifications (Variance)			ZB	CC
Slope Regulations Modifications (Design Permit)	ZA			ZB/CC
Design Permit –	ZA			ZB/CC
Substandard lots: new two-story structures and second-story additions			ZA	ZB/CC
Large homes per Section 24.08.450			ZA	ZB/CC
Signs Over 30 Sq. Ft	ZA			ZB/CC
New structures or improvements to existing structures in the WCD Overlay which are Exempt or Excluded from Coastal Permit requirements	ZA			ZB/CC
New structures or improvements to existing structures in the WCD Overlay which require a Coastal Permit			ZA	ZB/CC
Demolition Permit –				
1. Single-family residential	ZA			ZB/CC
2. Multifamily residential			ZB	CC
3. Historic demolition permit			HPC	CC
General Plan Text and Map Amendments		CPC	CC/CCC***	
Historic Alteration Permit			HPC	CC
Administrative Historic Alteration Permit	ZA			HPC/CC
Historic Building Survey: Building designation, deletion		HPC	CC	
Historic District Designation		HPC/CPC	CC	
Historic Landmark Designation		HPC	CC	
Mobile Homes (Certificate of Compatibility)	ZA			ZB/CC
Mobile Home Park Conversion			ZB	CC
Planned Development Permit		ZB	CC	

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Project (Major) Modification	Hearing by ZA or body approving application			Appeal to next highest body(ies)
Project (Minor) Modification	ZA			ZB/CC
Relocation of Structures Permit	ZA			ZB/CC
Revocation Permit	Hearing by ZA or body approving application			Appeal to next highest body(ies)
Special Use Permit			ZB	CC
Variance			ZA	ZB/CC
<u>Watercourse Variance</u>			<u>ZA</u>	<u>ZB/CC</u>
<u>Watercourse Development Permit</u>	ZA			<u>ZB/CC</u>
Zoning Ordinance Text and Map Amendments				
Amendments recommended by CPC		CPC	CC/CCC***	
Amendments not recommended by CPC		CPC		CC/CCC***
CCC = California Coastal Commission CC = City Council ZB = Zoning Board CPC = City Planning Commission HPC = Historic Preservation Commission ZA = Zoning Administrator				
* For projects seaward of the mean high tide line, and in the case of appealable actions, the California Coastal Commission shall be the decision-making body which can finally approve an application. *** California Coastal Commission in case of CLUP policy, CLIP elements. **** At a regularly scheduled meeting, a majority of the council may take an action to direct any project or amendment to be called from a lower hearing body prior to a final action or during an appeal period in accordance with Section 24.04.175.2.				

Chapter 24.08 LAND USE PERMITS AND FINDINGS

Part 1: USE PERMITS

- 24.08.010 Purpose.
- 24.08.020 General provisions.
- 24.08.025 Use permit modifications.
- 24.08.027 Master use permits.
- 24.08.030 Procedure-Administrative use permit.
- 24.08.040 Procedure-Special use permit.
- 24.08.050 Findings required.

Part 2: VARIANCES

- 24.08.100 Purpose.
- 24.08.110 General provisions.
- 24.08.120 Procedure.
- 24.08.130 Findings required.
- 24.08.140 Recurrent conditions.
- 24.08.150 Precedents.

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Part 3: COASTAL PERMIT

- 24.08.200 Purpose.
- 24.08.210 General provisions.
- 24.08.220 Permit procedures.
- 24.08.230 Exemptions.
- 24.08.230.1 Exemptions-Projects.
- 24.08.230.2 Exclusions.
- 24.08.230.3 Notice of exclusion.
- 24.08.230.4 Challenges to determination of coastal permit requirement, exclusion or applicable process.
- 24.08.230.5 Exception.
- 24.08.240 Coastal access.
- 24.08.250 Findings required.
- 24.08.260 Notice of final action.

Part 4: RESERVED

Part 5: DESIGN PERMIT

- 24.08.400 Purpose.
- 24.08.410 General provisions.
- 24.08.420 Procedure.
- 24.08.430 Findings required-General.
- 24.08.440 Findings required-Substandard residential lot development.
- 24.08.450 Guidelines for large homes in single-family areas.

Part 6: SIGN PERMIT

- 24.08.500 Purpose.
- 24.08.510 Building permit.
- 24.08.520 Design permit.
- 24.08.530 Design permit review.
- 24.08.540 Public art exception procedure.
- 24.08.550 Inspection.
- 24.08.560 Abandoned signs.
- 24.08.570 Unsafe and unlawful signs.
- 24.08.580 Exception procedure.

Part 7: CONDITIONAL FENCE PERMIT

- 24.08.600 Purpose.
- 24.08.610 General provisions.
- 24.08.620 Procedure.
- 24.08.630 Findings required.

Part 8: PLANNED DEVELOPMENT PERMIT

- 24.08.700 Purpose.
- 24.08.710 Intent.
- 24.08.720 General provisions.
- 24.08.730 Eligibility criteria.

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- 24.08.740 General requirements.
- 24.08.750 Repealed by Ord. 93-09 § 7.
- 24.08.760 Procedure.
- 24.08.770 Findings required.
- 24.08.780 Modifications.
- 24.08.790 Application of PD Permit-P-D District rezonings.

Part 9: SLOPE REGULATIONS MODIFICATIONS

- 24.08.800 Purpose.
- 24.08.810 Procedure.
- 24.08.820 Findings required.

Part 10: HISTORIC ALTERATION PERMIT

- 24.08.900 Purpose.
- 24.08.910 General provisions.
- 24.08.915 Review of applications.
- 24.08.920 Procedure.
- 24.08.930 Findings required.
- 24.08.940 Unsafe or dangerous conditions.

Part 11: HISTORIC DEMOLITION PERMIT

- 24.08.1000 Purpose.
- 24.08.1010 Demolition of buildings listed in the historic building survey.
- 24.08.1011 Information about the building proposed for demolition.
- 24.08.1012 Demolition of buildings listed in the historic building survey - Procedure.
- 24.08.1014 Demolition of buildings listed in the historic building survey - Findings.
- 24.08.1020 Demolition of designated historic landmarks.
- 24.08.1022 Demolition of designated historic landmarks - Procedure.
- 24.08.1024 Demolition of designated historic landmarks - Findings required.
- 24.08.1030 Demolition of buildings or structures in the historic overlay district.
- 24.08.1032 Demolition of buildings or structures in the historic overlay district - Procedure.
- 24.08.1036 Demolition of buildings or structures in the historic overlay district - Findings required.
- 24.08.1040 Unsafe or dangerous conditions.
- 24.08.1050 Demolition appeal.
- 24.08.1060 (Reserved)
- 24.08.1070 Showing of hardship in cases of proposed material change construction.

Part 12: Repealed by Ord. 86-13 § 5

Part 13: Repealed by Ord. 94-33 § 24

Part 14: RESIDENTIAL, DEMOLITION/CONVERSION AUTHORIZATION PERMITS

- 24.08.1310 Purpose.
- 24.08.1320 General provisions.
- 24.08.1330 Demolition or conversion of single-family residence or duplex units.
- 24.08.1340 Demolition or conversion of dwelling groups, multiple dwellings and single room occupancy living units.
- 24.08.1345 Establishing low and moderate income occupancy.

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- 24.08.1350 Relocation assistance.
- 24.08.1360 Replacement housing requirements.
- 24.08.1362 Advance replacement housing proposal.
- 24.08.1370 In-lieu fees.
- 24.08.1380 Exception.

Part 15: RELOCATION PERMIT

- 24.08.1400 Purpose.
- 24.08.1410 General provisions.
- 24.08.1420 Procedure.
- 24.08.1430 Findings required.
- 24.08.1440 Time for completion.

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- 24.08.1500 Purpose.
- 24.08.1510 General provisions.
- 24.08.1520 Procedure.
- 24.08.1530 Review criteria.
- 24.08.1540 Cancellation of state registration.

Part 17: MOBILEHOME PARK CONVERSIONS

- 24.08.1600 Purpose.
- 24.08.1610 Conversion of a mobilehome park.
- 24.08.1620 Relocation plan.
- 24.08.1630 Date of conversion.
- 24.08.1640 Findings for conversion.
- 24.08.1650 Applicability.

Part 18: MOBILEHOMES, SMALL COACHES, AND RECREATIONAL VEHICLES

- 24.08.1700 Tenancy termination.
- 24.08.1710 Displaced small coach relocation assistance.

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Part 20: RECONSTRUCTION PERMIT

- 24.08.2000 Purpose.
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- 24.08.2030 General requirement.
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Part 21: WATERCOURSE DEVELOPMENT PERMIT

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- 24.08.2110 General Provisions.
- 24.08.2120 Procedure.
- 24.08.2130 General Requirements.
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- 24.08.2150 Permit Procedures.
- 24.08.2160 Emergency Projects.
- 24.08.2170 Watercourse Development Standards.
- 24.08.2180 Findings Required.

Part 22: WATERCOURSE VARIANCE

- 24.08.2200 Purpose.
- 24.08.2210 General Provisions.
- 24.08.2220 Procedure.
- 24.08.2230 Required Data and Reports.
- 24.08.2240 Findings Required.

Part 25: DEVELOPMENT AGREEMENTS

- 24.08.2500 Purpose.
- 24.08.2510 Applications and fees.
- 24.08.2520 Required content.
- 24.08.2530 Optional content.
- 24.08.2540 Limitations of a development agreement.
- 24.08.2550 CEQA and consistency requirements.
- 24.08.2560 Public notice.
- 24.08.2570 Adoption, amendments and repeals.
- 24.08.2580 Recordation.
- 24.08.2585 Compliance.
- 24.08.2590 Tentative map.

Part 2: VARIANCES

24.08.100 Purpose.

The purpose of this part is to allow variation from the strict application of the terms of this title where, by reason of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property, or by reason of exceptional size, shape, topographic conditions, or other extraordinary situation or condition of such piece of property, or because of the use or development of lands immediately adjoining such property, the literal enforcement of the requirements of this title would involve practical difficulties or would cause undue hardship, which are unnecessary to carry out the intent and purpose of this title. This section of the Zoning Ordinance is also part of the Local Coastal Implementation Plan.
(Ord. 94-33 § 11, 1994; Ord. 85-05 § 1 (part), 1985).

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24.08.110 General Provisions.

In no case shall a variance be granted to permit a use or a density other than a use or density permitted in the district in which the property in question is situated. Nonconforming uses of neighboring lands, structures, or buildings in the same district or other districts shall not be considered grounds for issuance of a variance.

(Ord. 85-05 § 1 (part), 1985).

24.08.120 Procedure.

A public hearing shall be held by the zoning administrator unless variance is accompanied by application which must be heard by a higher body in which case the higher hearing body (zoning board or city council) shall conduct a public hearing.

(Ord. 85-05 § 1 (part), 1985).

24.08.130 Findings Required.

A variance shall be granted only when all of the following conditions are found:

1. That a hardship peculiar to the property, not created by any act of the owner, exists. In this context, personal, family or financial difficulties, loss of prospective profits, and neighboring violations, are not hardships justifying a variance.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and in the same vicinity; and that a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his neighbors.

3. That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purpose and intent of this title or the public interest, nor adversely affect the General Plan.

(Ord. 85-05 § 1 (part), 1985).

24.08.140 Recurrent Conditions.

No grant of a variance shall be authorized if the zoning administrator finds that the condition or situation of the specific piece of property, or the intended use of said property for which the variance is sought, or one or the other in combination, is so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.

(Ord. 85-05 § 1 (part), 1985).

24.08.150 Precedents.

A previous variance shall not be considered to have set a precedent for the granting of further variances; each case must be considered only on its individual merits.

(Ord. 85-05 § 1 (part), 1985).

Part 3: COASTAL PERMIT

24.08.200 Purpose.

The purpose of the coastal permit is to insure that development projects in the Coastal Zone Overlay District are consistent with the Local Coastal Land Use Plan and the Local Coastal Implementation Program. This section of the Zoning Ordinance is also part of the Local Coastal Implementation Plan.

(Ord. 94-33 § 12, 1994; Ord. 85-05 § 1 (part), 1985).

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24.08.210 General Provisions.

The Coastal Zone Overlay District is a district which combines with the underlying zone. The city's coastal regulations shall prevail where they conflict with regulations governing the underlying district. Any permitted, administrative or special uses in the underlying zoning district within the Coastal Zone Overlay District are subject to coastal permit regulations and findings, and may be authorized only by approval of a coastal permit, except as provided in Section 24.08.230, Exemptions.
(Ord. 85-05 § 1 (part), 1985).

24.08.220 Permit Procedures.

An application for a coastal permit shall be reviewed in conjunction with whatever other permits are required for the project in the underlying zone. Uses requiring only a coastal permit shall be acted upon by the zoning administrator. Where a coastal permit is combined with another permit, the approving body for the coastal permit shall be the same as that for the permit required for the underlying zoning district. A public hearing shall be held in all cases, except for accessory dwelling units.
(Ord. 2003-17 § 11, 2003: Ord. 2003-16 § 11, 2003: Ord. 85-05 § 1 (part), 1985).

24.08.230 Exemptions.

Minor projects, lacking coastal significance, are exempted from the requirements of coastal development permit processing in accordance with the California Coastal Act of 1976 and the California Code of Regulations. Other projects are not subject to local coastal development permit jurisdiction.

24.08.230.1 Exemptions - Projects.

Upon Commission notification the city shall update Section 24.08.230.1 to remain consistent with legislative amendments to the Coastal Act and the California Code of Regulations, Title 14, California Coastal Commission. No local coastal permit is required for the following activities:

1. Projects described in Repair, Maintenance and Utility Hook-up Exclusions from permit requirements adopted by the California Coastal Commission on September 5, 1978, which is herein incorporated as Appendix II of the excerpted Local Coastal Program document.
2. Projects Undertaken by Federal Agencies.
3. Projects with Coastal Permit. Development authorized by a coastal permit (still valid) issued by the Coastal Commission or in areas where the Coastal Commission retains original permit jurisdiction.
4. Replacement After Natural Disaster. The replacement of any structure, other than a public works facility, destroyed by a natural disaster is exempt, provided that the replacement structure:
 - a. Will be for the same use as the destroyed structure; and
 - b. Will not exceed the floor area, height, or bulk of the destroyed structure by more than 10%; and
 - c. Will be sited in the same location on the affected property as the destroyed structure.
5. Improvements to Existing Single-Family Residences, Including Mobilehomes.
 - a. Exempt improvements to single-family residences include the following:
 - (1) Additions and other improvements in the CZ-O Coastal Zone Overlay District but outside the SP-O Shoreline Protection Overlay District to an existing single-family residence,

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including improvements to any fixtures or other structures directly attached to the residence or to structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, storage sheds, decks, gazebos, patios, greenhouses, driveway paving, and other similar nonhabitable improvements;

(2) On property located within the SP-O Shoreline Protection Overlay District, improvements that would not result in an increase in height of 10% or more or an increase of 10% or more of internal floor area of an existing structure, or an additional improvement of 10% or less where an improvement to the structure had previously been undertaken pursuant to this section, and not including any nonattached structure such as garages, fences, shoreline protective works or docks;

(3) Landscaping on the lot.

b. This exemption for improvements to single-family residences, including mobilehomes, does not include the following:

(1) Additions to single-family residences where the development permit issued for the original structure by the city or Coastal Commission indicated that any future additions would require a coastal permit;

(2) Where the structure is located on a beach, wetland, or seaward of the mean high-tide line; where the residence or proposed improvement would encroach within fifty feet of the edge of a coastal bluff;

(3) Where the improvement would involve any significant alteration of land forms on a beach, wetland, or sand dune, or is within one hundred feet of a coastal bluff or within any natural resource or natural hazard area as indicated in the Local Coastal Program;

(4) In areas having a critically short water supply as declared by resolution of the Coastal Commission, construction of major water using development not essential to residential use such as swimming pools or extension of landscape irrigation systems;

(5) Expansion or construction of water wells or septic systems.

6. Improvements to Existing Duplexes and Multifamily Residences.

a. Exempt improvements to duplexes and multifamily residences include the following:

(1) Additions and other improvements in the CZ-O Coastal Zone Overlay District but outside the SP-O Shoreline Protection Overlay District to an existing duplex or multifamily residence, including improvements to any fixtures or other structures directly attached to the residence or to structures on the property normally associated with a duplex or multifamily residence, such as garages, swimming pools, fences, storage sheds, decks, gazebos, patios, greenhouses, driveway paving, and other similar nonhabitable improvements;

(2) On property located within the SP-O Shoreline Protection Overlay District, improvements that would not result in an increase in height of 10% or more or an increase of 10% or more of internal floor area of an existing structure, or an additional improvement of 10% or less where an improvement to the structure had previously been undertaken pursuant to this section, and not including any nonattached structure such as garages, fences, shoreline protective works or docks;

(3) Landscaping on the lot.

b. This exemption for improvements to duplexes and multifamily residences, including mobilehomes, does not include the following:

(1) Additions to duplexes or multifamily residences where the development permit issued for the original structure by the city or Coastal Commission indicated that any future additions would require a coastal permit;

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(2) Where the structure is located on a beach, wetland, stream or lake; seaward of the mean high-tide line; where the structure or proposed improvement would encroach within fifty feet of the edge of a coastal bluff;

(3) Where the improvement would involve any significant alteration of land forms on a beach, wetland, or sand dune, or is within one hundred feet of a coastal bluff or within any natural resource or natural hazard area as indicated in the Local Coastal Program;

(4) Improvement which would change the type or intensity of use of the structure;

(5) In areas having a critically short water supply as declared by resolution of the Coastal Commission, construction of major water using development not essential to residential use such as swimming pools or extension of landscape irrigation systems;

(6) Expansion or construction of water wells or septic systems.

7. Interior Remodeling. Interior remodeling, residential and nonresidential, is exempt except where the use is being converted into a more intensive use or results in a loss of visitor-serving or public-access facilities.

8. Any activity that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate or use, as defined in Section 11003.5 of the Business and Professions Code, is exempt except that the division of a multiple-unit residential structure into condominiums shall not be considered a time-share project, estate, or use.

9. Maintenance Dredging. Maintenance dredging of existing navigation channels or moving dredge material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.

10. Repair and Maintenance Activity. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; however, the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:

a. Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:

(1) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;

(2) The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work, except for agricultural dikes within enclosed bays or estuaries;

(3) The replacement of 20% or more of the materials of an existing structure with materials of a different kind; or

(4) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within twenty feet of coastal waters or streams.

b. Any method of routine maintenance dredging that involves:

(1) The dredging of 100,000 cubic yards or more within a twelve-month period:

(2) The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, or any sand area, within fifty feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams; or

(3) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the commission has declared by resolution to have a

critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.

c. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within fifty feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams that include:

- (1) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;
- (2) The presence, whether temporary or permanent, of mechanized equipment or construction materials.

11. Land Division. Land division brought about in connection with the acquisition of such land by a public agency for recreational purposes.

12. Non-Major Vegetation Removal.

a. Tree, fourteen inches and less in diameter, and shrub removal and trimming not subject to the heritage tree provisions (Chapter 9.56 of the Municipal Code) and not located in a Vegetation Community (Map EQ-8) or otherwise identified by the Local Coastal Program, including area and specific plans as within an area of potentially significant natural resources or in an erosion hazard area, are exempted except when located seaward of the first public road paralleling the sea.

b. Weed abatement not located in a Vegetation Community (Map EA-8) or otherwise identified by the Local Coastal Program, including area and specific plans as within an area of potentially significant natural resources or in an erosion hazard area is exempted except when located seaward of the first public road paralleling the sea.

13. Portions of Projects. Portions of projects on portions of parcels outside the CZ-O are exempt.

14. Watercourse Development Permits. Development that requires issuance of a watercourse development permit as set forth in Part 21.

(Ord. 95-02 § 3, 1995; Ord. 94-53 § 1, 1994; Ord. 94-33 § 13, 1994; Ord. 85-05 § 1 (part), 1985).

24.08.230.2 Exclusions.

Projects which will not result in a potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast are excluded from the requirements of coastal development permit processing as authorized by and in accordance with the procedures certified by the Coastal Commission.

The Coastal Commission original jurisdiction and areas of deferred certification are not subject to local government coastal permit jurisdiction and, hence, are not excludable. In addition to this limitation and pursuant to Coastal Act Section 30610.5(b), tide and submerged land, beaches, and lots immediately adjacent to the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, and all lands and waters subject to the public trust, shall not be excluded from coastal permit requirements.

Excluded projects as delineated below do not need to obtain a coastal permit, provided that a notice of exclusion is issued pursuant to Section 24.08.230.3. Requirements for any other city permit are unaffected by this section. Challenges to determination of exclusion may be made pursuant to Section 24.08.230.4.

A. Within Coastal Exclusion Zone A as identified on the Local Coastal Exclusion Map no coastal development permits shall be required for all categories of development, except

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that projects undertaken by public agencies must meet the terms of subsection B(2) of this section, on commercial, industrial, public and quasi-public development, to be excludable.

B. Coastal Exclusion Zone B is the Santa Cruz City Coastal Zone but not including the (a) Coastal Appeal Zone/Shoreline Protection District or projects otherwise appealable to the Coastal Commission pursuant to Section 24.04.186, or (b) within any natural resource, natural hazard area, or cultural resource area identified in the Local Coastal Program. The following categories of development are excluded from coastal development permits:

1. Residential Development - One to Four Units, including construction of guest houses or habitable accessory structures. The construction, reconstruction, demolition, relocation, or alteration of the size of any residential project (one to four units) on existing lots at densities specified in the Land Use Plan, on lots of record or lot combinations legal as of the date of Local Coastal Program certification.

2. Commercial, Industrial, Public and Quasi-Public Development.

a. Except as indicated in subsection (b) below, the exclusion for commercial, industrial, public and quasi-public development includes the following:

(1) The construction, reconstruction, demolition, relocation or alteration in size of any commercial structure less than five thousand square feet in size on legal lots of record zoned for commercial use; this exclusion also applies to additions to existing structures where the resulting size is five thousand square feet or less;

(2) Change of commercial, industrial, public or quasi-public use in an existing structure;

(3) Outdoor sales.

b. This exclusion for commercial, industrial, public or quasi-public development does not include:

(1) Any improvement made pursuant to a conversion of an existing structure occupied by visitor-serving hotels, motels or other accommodations.

3. Agricultural-Related Development. Agricultural-related development, as listed below, on all lands designated E-A-20 on the City Zoning Map, except on parcels less than ten acres in size:

a. The construction, improvement or expansion of barns, storage buildings, equipment buildings and other buildings necessary for agricultural support purposes, provided that such buildings will not exceed forty feet in height; will not cover more than ten thousand square feet of ground area, including paving; and will not include agricultural processing plants, greenhouses or mushroom farms;

b. Improvement and expansion of existing agriculturally related processing plants, mushroom farms or greenhouses, provided that such improvements will not exceed forty feet in height, and will not increase ground coverage by more than 25% percent or ten thousand square feet, whichever is less. This type of development may be excluded only one time per record parcel of land. If improvement or expansion is proposed after such development pursuant to this exclusion has been carried out, then a coastal permit must be obtained for the subsequent development;

c. Paving in association with development listed in subsections (3)(a) and (3)(b) above provided it will not exceed 10% of the ground area covered by the development;

d. Fences for farm or ranch purposes, except any fences which would block existing equestrian and/or pedestrian trails;

e. Water wells, well covers, pump houses, water storage tanks of less than ten thousand gallons' capacity and water distribution lines, including up to fifty cubic yards of associated grading;

f. Water pollution control facilities for agricultural purposes if constructed to comply with waste discharge requirements or other order of the Regional Water Quality Control Board.

4. Major Vegetation.

a. Tree Removal. Tree removal and trimming subject to the heritage tree provisions (Chapter 9.56 of the Municipal Code) except when located in a Vegetation Community (Map EQ-8) or otherwise identified by the Local Coastal Program, including area and specific plans as within an area of potentially significant natural resources or erosion hazards.

b. Land Clearing. Land clearing except when located in a Vegetation Community (LUP Map EQ-8) or otherwise identified by the Local Coastal Program, including area and specific plans as within an area of potentially significant natural resources or erosion hazards.

5. Boundary Adjustments. Boundary adjustments not resulting in an increase in the number of building sites, buildable lots, or density of permitted development.

6. Grading and Filling.

a. Grading and filling in conjunction with an approved project; or

b. Grading and filling not subject to conservation regulations.

7. Temporary Structures. All temporary (six months or less; nonrenewable) structures and uses consistent with the conservation and cultural resource regulations and do not conflict with public access and access policies.

8. Other Excluded Development.

a. Signs. All signs are excluded except those signs governing shoreline access;

b. Bikeways. Construction of new bikeways (within existing rights-of-way), except if new construction reduces parking in the Beach Recreation or Seabright Beach Areas;

c. Exclusion of Temporary Events. Special events shall be evaluated for exclusion status by the city pursuant to Coastal Commission Guidelines for Exclusion of Temporary Events from Coastal Commission Permit requirements (adopted May 12, 1994) in consultation with the Executive Director. The Executive Director shall retain exclusion review authority if it is determined that there are significant adverse impacts on coastal resources.

d. Watercourse Development Permits. Development that requires the issuance of a watercourse development permit as set forth in Part 21.

C. Coastal Exclusion Zone C is the Santa Cruz City Coastal Appeal Zone. The following categories of development are excluded from coastal development permits:

1. Signs. All signs are excluded except freestanding signs over eight feet in height and those signs governing shoreline access.

2. Bikeways. Construction of new bikeways (within existing rights-of-way), except if new construction reduces parking in the Beach Recreation or Seabright Beach Areas.

3. Exclusion of Temporary Events. Special events shall be evaluated for exclusion status by the city pursuant to Coastal Commission Guidelines for Exclusion of Temporary Events from Coastal Commission Permit Requirements (adopted May 12, 1994) in consultation with the Executive Director. The Executive Director shall retain exclusion review authority if it is determined that there are significant adverse impacts on coastal resources.

4. Temporary Structures Pursuant to Subsection B(7) of this Section.

D. Determination of Excludability. This exclusion shall apply to the permit requirements of the Coastal Act of 1976, pursuant to Public Resources Code Sections 30610(e) and 30610.5(b), and shall not be construed to exempt any person from the permit requirements of any other federal, state or local government agency.

The determination of whether a development is categorically excluded for purposes of notice, hearing and appeals shall be made by the zoning administrator at the time the application

for development within the Coastal Zone is submitted. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and zoning ordinances which are adopted as part of the Local Coastal Program. Only developments which fully comply with the policies and ordinances of the certified Local Coastal Program may be excluded under this categorical exclusion. Where an applicant, interested person, or the zoning administrator has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded:

a. The zoning administrator shall make a determination as to what type of development is being proposed (i.e., categorically excluded) and shall inform the applicant of the notice and hearing requirements for that particular development.

b. If the determination of the zoning administrator is challenged or if he/she wishes to have the Coastal Commission determine the appropriate designation, he/she shall notify the Commission by telephone of the dispute/question and shall request an executive director's opinion.

c. The Executive Director of the Coastal Commission shall, within two working days of the zoning administrator's request (or upon completion of a site inspection where such inspection is warranted), transmit determination as to whether the development is categorically excluded.

d. Where, after investigation, the Executive Director's determination is not in accordance with the zoning administrator's determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Coastal Commission shall schedule the hearing on the determination for the next practicable Commission meeting in the appropriate geographic region of the state following the zoning administrator's request.

(Ord. 95-02 § 4, 1995; Ord. 94-53 § 2, 1994; Ord. 94-33 § 14, 1994; Ord. 89-39 § 1, 1989; Ord. 85-05 § 1 (part), 1985).

24.08.230.3 Notice of exclusion.

Notices of exclusion shall be issued on forms prepared for that purpose by the department of planning and community development and shall indicate the developer's name, street address, if any, and assessor's parcel number(s) of the project site, a brief description of the development, and the date(s) of application for any other permit(s). A copy of the notice of exclusion shall be provided to the Coastal Commission and to any person who has requested such notice within five working days of issuance. The notice of exclusion may be issued at the time of project application but shall not become effective until all other approvals and permits required for the project are obtained. A copy of all terms and conditions imposed by the city shall be provided to the Coastal Commission.

(Ord. 94-53 § 3, 1994; Ord. 85-05 § 1 (part), 1985).

24.08.230.4 Challenges to determination of coastal permit requirement, exclusion or applicable process.

In the case of disputes over Santa Cruz City's determination of coastal permit requirement, exclusion or applicable hearing and appeals procedures, the planning director shall request an opinion of the Executive Director of the Coastal Commission. Local acceptance for filing and/or processing of the permit application shall cease until the department of planning and community development receives the determination of appropriate process from the Executive Director of the Coastal Commission or the Coastal Commission.

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(Ord. 94-53 § 4, 1994; Ord. 85-05 § 1 (part), 1985).

24.08.230.5 Exception.

Nothing in this part shall prevent demolition or the strengthening or restoring to a safe condition of any building or structure declared unsafe by the building official or fire marshal. (Ord. 85-05 § 1 (part), 1985).

24.08.240 Coastal Access.

Access easements may be required to create and/or maintain existing public access to the coastline or in accordance with Local Coastal Plan policy. (Ord. 85-05 § 1 (part), 1985).

24.08.250 Findings Required.

The hearing body must find that the development is consistent with the General Plan, the Local Coastal Land Use Plan and the Local Coastal Implementation Program and will:

1. Maintain views between the sea and the first public roadway parallel to the sea;
 2. Protect vegetation, natural habitats and natural resources consistent with the Local Coastal Land Use Plan;
 3. Be consistent with any applicable design plans and/or area plans incorporated into the Local Coastal Land Use Plan;
 4. Maintain public access to the coast along any coastline as set forth in the Local Coastal Land Use Plan;
 5. Be consistent with the Local Coastal Land Use Plan goal of providing visitor-serving needs as appropriate;
 6. Be consistent with the Local Coastal Land Use Plan goal of encouraging coastal development uses as appropriate.
- (Ord. 85-05 § 1 (part), 1985).

24.08.260 Notice of Final Action.

Within seven calendar days of the final local action on a coastal permit, the city shall provide notice of its action by first class mail to the Coastal Commission and to any persons who specifically requested notice of such final action by submitting a self-addressed, stamped envelope to the department of planning and community development. Such notice shall include conditions of approval and written findings and the procedures for appeal of the local decision to the Coastal Commission. Appealable coastal permits shall not be deemed complete and a final action taken until all local rights of appeal have been exhausted. (Ord. 94-33 § 15, 1994; Ord. 85-05 § 1 (part), 1985).

Part 7: CONDITIONAL FENCE PERMIT

24.08.600 Purpose.

The purpose of this permit is to regulate the installation of fences exceeding normal height limits set, forth in Section 24.08.610 herein. For the purposes of this title, the term "fence" shall include fences or structures in the nature of a fence. (Ord. 85-05 § 1 (part), 1985).

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24.08.610 General Provisions.

A conditional fence permit shall be required when the proposed fence is:

1. On that portion of any private property in the area between the street and the front or the exterior side yard setback line established by the Zoning Ordinance, the building code or other ordinances of the city and exceeds a height of three feet six inches from finished grade, except as provided in Section 24.12.160(a)(3).

2. On that portion of the property back of the setback lines described in subsection (1), above, and exceeds a height of six feet from finished grade, except as provided in Section 24.12.160(a)(3).

(Ord. 95-33 § 1, 1995: Ord. 85-05 § 1 (part), 1985).

24.08.620 Procedure.

The zoning administrator may approve a conditional fence permit without a hearing, unless the conditional fence permit is accompanied by an application which must be heard by a higher body (zoning board or city council), if it is consistent with the findings in Section 24.08.630 and the fence does not exceed a height of three feet six inches in the front or exterior side yard, or exceed a height of eight feet in the rear or interior side yards.

1. A conditional fence permit shall be required and a public hearing shall be held by the zoning administrator for any conditional fence permit that exceeds the height limits established in Section 24.08.620.

(Ord. 94-34 § 10, 1994: Ord. 85-05 § 1 (part), 1985).

24.08.630 Findings Required.

A conditional fence permit shall be granted when the following findings can be made:

1. The issuance of such a permit is reasonably necessary, by reason of unusual or special circumstances or conditions relating to the property, for the preservation of valuable property rights or full use and enjoyment of the property;

2. The fence will not create a safety hazard for pedestrians or vehicular traffic;

3. The appearance of the fence is compatible with the design and appearance of existing buildings and structures within the neighborhood;

4. The fence or hedge is a planned architectural feature which avoids dominating the site or overwhelming the adjacent properties and structures;

5. The orientation and location of the fence or hedge is in proper relation to the physical characteristics of the site and the surrounding neighborhood and does not impede reasonable solar access of any adjacent property; and

6. The fence will be of sound construction and located so as not to create a safety hazard.

(Ord. 85-05 § 1 (part), 1985).

Part 20: RECONSTRUCTION PERMIT

24.08.2000 Purpose.

The purpose of this permit is to allow reconstruction and major repair of nonconforming buildings and structures and the reestablishment of nonconforming uses, consistent with the purpose of the General Plan and Zoning Ordinance. It is appropriate to allow replacement of nonconforming structures and uses, as long as their impact on the surrounding area is consistent with their impact before the damage. This section of the Zoning Ordinance is also part of the Local Coastal Implementation Plan.

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(Ord. 94-33 § 25, 1994; Ord. 90-15 § 2 (part), 1990).

24.08.2010 General Provisions.

A nonconforming building or structure which was damaged as a result of a natural disaster by more than fifty percent as determined by the building official, may be repaired or reconstructed by first obtaining a reconstruction permit. A nonconforming building or structure damaged by less than fifty percent may be repaired subject to a building permit only.

Reconstruction of buildings or structures damaged more than fifty percent that are nonconforming only because of noncompliance with setbacks from a watercourse or wetland as required in Part 21 may be repaired subject to a building permit provided that the General Requirements in Section 24.08.2030 are met.

(Ord. 90-15 § 2 (part) , 1990).

24.08.2020 Procedure.

A public hearing shall be held by the zoning administrator, unless the application involves a use which requires a permit from the zoning board, then the reconstruction permit shall be heard by the zoning board.

(Ord. 94-34 § 14, 1994; Ord. 90-15 § 2 (part), 1990).

24.08.2030 General Requirement.

1. The amount of inside space (square footage) shall not be greater than the amount which existed in the building proposed for reconstruction;

2. The number of dwelling units shall not be greater than the number existing prior to the reconstruction or the number allowed by this title;

3. Setbacks shall not be less than those which existed prior to the reconstruction;

4. The height of the structure may only exceed district regulations when necessary to reconstruct the architectural features of the original structure;

5. Parking shall be no less than the parking provided prior to the reconstruction;

6. Except as provided below, a reconstruction permit shall be filed with the department of planning and community development within one year from the disaster. Reconstruction shall be started within two years from issuance of the reconstruction permit and diligently prosecuted to completion.

a. Buildings listed on the Historic Building Survey, and buildings in historic districts, shall be eligible for reconstruction permits without regard to the stated time lines.

(Ord. 92-20 § 1, 1992; Ord. 90-44 § 1, 1990; Ord. 90-15 § 2 (part) , 1990).

24.08.2040 Findings Required.

A replacement permit shall be granted when the following findings are made:

1. The project is consistent with policies of the General Plan.

2. The exterior design and appearance of the project maintains a similar relationship to the surrounding areas, and is consistent with the pre-existing fabric of the area in which it is located.

3. Previously nonconforming aspects of buildings and structures have been diminished to the extent feasible.

(Ord. 90-15 § 2 (part), 1990).

Part 21: WATERCOURSE DEVELOPMENT PERMIT

24.08.2100 Purpose.

The purpose of this section is to carry out the goals of the City-wide Creeks and Wetlands Management Plan by applying development standards to lands adjacent to watercourses within the City of Santa Cruz that will enhance and protect watercourse functions and values. This section of the Zoning Ordinance is also part of the Local Coastal Implementation Plan.

24.08.2110 General Provisions.

1. Applicability. The watercourse development permit requirements of this part apply to every zoning district within the City of Santa Cruz. Refer to the City-wide Creeks and Wetlands Management Plan to determine the category and development setback areas for each individual watercourse.

2. Definitions.

a. Best Management Practices (BMP). Any program, technology, process, siting criteria, operating method, measure or device which controls, prevents, removes or reduces discharge of pollutants or sediments into bodies of water.

b. Centerline of Creek. The midpoint of a creek channel as determined by taking the midpoint of the bank full width. Bank full width is the lateral extent of water surface at the point where the channel is completely filled to a point above which water would spill onto the floodplain.

c. Development. For the purpose of this part the term development shall include any work requiring a use, building, grading, or Public Works permit; the placement of a fence, wall, retaining wall, steps, deck, patio, any accessory structures, or walkway; grading, relocation or removal of stones from the creek channel; bank stabilization or repair structures; and certain landscape changes occurring within the management area.

d. Development Setback Area. The distance from the centerline of the watercourse and the edge of development, which provides a buffer between new development and the riparian corridor and watercourse.

e. Integrated Pest Management (IPM). An approach to pest management that relies primarily on non-chemical means (such as controlling climate, food sources, and building entry points) to prevent and manage pest infestation.

f. Management Area. The area of city permitting authority adjacent to watercourses that includes the riparian corridor, development setback area and extends 25 feet beyond the edge of the development setback area.

g. Riparian Corridor. The width of riparian vegetation and/or immediate watercourse influence area, measured outward from the centerline of the watercourse.

h. Vegetation Removal, Major. Clearing of woody and non-woody vegetation canopy cover or herbaceous ground cover that does not meet the definition of minor vegetation removal; removal of any native (indigenous) annual or perennial woody or non woody species within the riparian area; or pruning, trimming, cutting off, or removal of greater than 25 percent of the crown of any tree within a three-year period. Major vegetation removal is allowable under certain limited conditions for prevention of serious fire hazards, prevention of noxious weed infestation (provided that erosion control measures are implemented and the cleared area is replanted/reestablished and

seeded with appropriate native species to reduce the potential for erosion), or for other projects allowed under the Watercourse Development Permit procedures.

i. Vegetation Removal, Minor. Routine trimming of plant material; pruning of tree branches totaling less than 25 percent of the crown within a three-year period; removal of non-native invasive species of brush, annual or perennial vegetation, and herbaceous grass species that out compete or suppress existing native vegetation provided that sufficient vegetation remains to prevent erosion (bare soil shall not be left exposed); or the removal of vegetation as authorized by the Planning Director or his/her designee to alleviate an existing hazardous condition. Minor vegetation removal is permissible only for routine maintenance, increasing interior light and air circulation, improving tree structure, controlling plant disease or decay, promoting longevity of vegetation, habitat enhancement and under certain conditions, for fire safety and prevention.

j. Watercourse Categories. All watercourses and watercourse reaches included within City-wide Creeks and Wetlands Management Plan are categorized as either an "A", "B" or "C" watercourse. This designation is based on the quality of the riparian corridor associated with each watercourse.

k. Wetland. An area that is: a) identified as a known wetland or area of ponding water that needs further site specific review by the City-wide Creeks and Wetlands Management Plan or b) identified as part of a review process as inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions (hydrophytes).

24.08.2120 Procedure.

The zoning administrator may approve a watercourse development permit without a hearing in accordance with the findings in Section 24.08.2180 unless it is accompanied by an application that must be heard by a higher body (planning commission or city council).

24.08.2130 General Requirement.

The City-wide Creeks and Wetlands Management Plan identifies and categorizes all watercourses in the City and establishes a riparian corridor, development setback area, and management area for each watercourse. A watercourse development permit shall be required as specified by Section 24.08.2150, except as provided for in Section 24.08.2140 - Exemptions. Emergency projects are required to comply with Section 24.08.2160. All projects must comply with the watercourse development standards as described in Section 24.08.2170. Projects not listed below or requesting to vary from the watercourse development standards would require approval of a watercourse variance in accordance with Section 24.08.2200.

24.08.2140 Exemptions.

Certain types of projects that clearly would not impact riparian resources and support the goals of the City-wide Creeks and Wetlands Management Plan are exempted from the Watercourse Development Permit requirements. Such projects should incorporate applicable Best Management Practices in the project design. In situations where it is unclear whether a project is eligible for an exemption under this section, the determination would be made by the Zoning Administrator in accordance with the goals of the City-wide Creeks and Wetlands Management Plan. The following projects are eligible for an exemption:

1. Development and Structural Improvements to include the following:

- a. Any development on parcels that have been identified within a Category "C" watercourse in the City-wide Creeks and Wetlands Management Plan.
 - b. Development projects within a Category "B" watercourse located outside of the designated riparian corridor and development setback area (in the remaining management area).
 - c. Any development adjacent to a closed culverted section of a watercourse.
 - d. Any development on a parcel that either:
 - i. Has an established road right-of-way between the subject parcel and the watercourse (where the development would occur); or
 - ii. Has a separate parcel with legal development that is located between the subject parcel and the watercourse (where the development would occur).
 - e. Interior remodeling of an existing legal structure within the existing structure footprint.
 - f. Repair and maintenance of existing legal structures.
 - g. Demolition of existing structures outside the riparian corridor, in accordance with City demolition regulations, provided that no mechanized machinery is utilized and no disturbance occurs within the riparian corridor.
 - h. Reconstruction of a damaged nonconforming structure where nonconformance only relates to watercourse setbacks provided applicable watercourse development standards are implemented.
2. Exterior improvements, to include the following:
- a. Exterior treatments such as painting, roofing, surface treatments, window replacement, etc. that do not increase the density or intensity of land use, or increase surface coverage.
 - b. Exterior safety lighting in the development setback area such as low-level walkway lighting, motion detector security lighting, driveway lighting, and entry lighting that is hooded & directed downward, away from the watercourse. Lighting shall be prohibited within the designated riparian corridor.
 - c. Open style fencing (e.g. wire strand or split rail) that permits the free passage of wildlife limited to the outer edge of the riparian corridor. Fencing must otherwise meet the regulations in Section 24.12.160.
 - d. Installation of pervious surfaces (outside of the riparian corridor), including at-grade decks, patios, and walkways, when the total square footage is less than 25 percent of the development setback area, provided that the pervious surfaces meet those requirements specified in the Watercourse Development Standards. The total percentage allowed includes both existing and new surfaces.
3. Landscaping and vegetation, to include the following:
- a. Landscaping with non-native vegetation using non-invasive species, within the development setback area, as recommended in the City-wide Creeks and Wetlands Management Plan.
 - b. Minor vegetation removal as defined above.
 - c. Thinning of riparian vegetation within a flood or high fire hazard area when required by the Fire Department for public safety with review and approval of a fire-vegetation management plan or when required by the Public Works Department for flood protection maintenance with review and approval of a maintenance plan.
 - d. Removal of tree(s) that are hazardous or likely to have an adverse effect upon the structural integrity of a building, utility, or public right of way, or a tree that has the

- physical condition of health such as disease or infestation which warrants alteration or removal, in accordance with the City's Heritage Tree Ordinance and with a plan prepared by a qualified professional.
- e. Removal of impervious surfaces outside of the *riparian corridor*.
 - f. Mowing and grazing on public lands, consistent with an adopted Parks or Fire Management Plan.
4. Roads, public facilities and utilities, to include the following:
- a. Road maintenance of existing legal public roads, private roads and driveways (no expansion or improvements).
 - b. Construction of public trails and bridges on public lands, consistent with an adopted Parks Master Plan or Management Plan, including the location and siting of trails and bridges.
 - c. Installation and improvements to non-structural BMPs within the *development setback area*.
 - d. Repair, maintenance, or minor alteration of existing public utility, drainage, flood control, and water storage and provision facilities, including pumps and other appurtenant structures where there is no or negligible expansion of use.
5. Other projects, to include the following:
- a. Projects that concurrently are reviewed and approved by another authorizing permitting agency (CDFG, NOAA, USFWS or ACOE) for maintenance, flood protection, restoration or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment, provided proof of permit approval is submitted to the Planning Director.
 - b. Removal of fish passage barriers and installation of in-stream aquatic habitat enhancement structures, in accordance with a plan for said activities prepared by a qualified professional and approved by the Planning Director.
 - c. Interpretative signage designed to provide information about the value and protection of the resource that is limited to the outer edge of the *riparian corridor*, and must meet other City sign regulations.
 - d. Installation of new and maintenance of existing water flow gauges.
 - e. Water quality testing.
 - f. Continued operation and maintenance of existing cemetery plots.

24.08.2150. Permit Procedures.

Watercourse Development Permit required.

1. The following projects are permitted in the *riparian corridor* (as identified in the Creeks and Wetlands Management Plan) subject to the approval of a watercourse development permit:
- a. Watercourse and wetland restoration in accordance with a plan prepared by a qualified professional.
 - b. Major vegetation removal as defined above.
 - c. Removal of non-hazardous trees, (i.e. invasive species and/or for habitat or fire management) in accordance with the City's Heritage Tree Ordinance and a plan prepared by a qualified professional.
 - d. Removal of impervious surfaces.
 - e. Demolition of existing structures, in accordance with City demolition regulations, provided no mechanize machinery is used.
 - f. Installation of and improvements to non-structural stormwater BMPs.

- g. Channel bank protection and the repair of existing channel bank protection structures, utilizing the concepts of biotechnical bank stabilization to the maximum extent feasible in consultation with a qualified professional.
 - h. Improvements to existing roads, trails, and crossings, including replacement of existing bridge footings and abutments, as well as consideration of new footings, when studies prepared by qualified professionals demonstrate that the existing or new bridge footings and abutments will not substantially decrease biological values, cause an increase in floodwater surface elevations, redirect flow, or cause erosion to an extent greater than the existing structure, except for uses on public lands that are consistent with an adopted Parks Master Plan or Management Plan.
 - i. Public works facilities, including but not limited to, the installation of new, replacement of existing, or major improvements to existing underground pipes, culverts or other public facilities that are not exempt; or improvements to existing intake and outfall lines, when special studies have been submitted and approved by the Planning Director.
 - j. Channel maintenance, including, but not limited to vegetation management and removal of downed trees, in accordance with a channel maintenance plan prepared by a qualified professional and approved by the Planning Director.
 - k. Flood protection where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing legal development, when special studies prepared by qualified professionals demonstrate that the flood protection use shall not diminish creek capacity, percolation rates, or habitat values, if applicable. Channel redirection or hardening may be permitted only if less intrusive flood control/bank stabilization designs have been considered and have been found to be technically infeasible, including, but not be limited to integrated bank repair structures, vegetation, vegetative erosion control, and soil bioengineering.
 - l. Under channel borings at sufficient depth when special studies prepared by qualified professionals have been submitted and approved by the Planning Director that demonstrate that the under channel borings will result in no adverse impact to the watercourse, riparian corridor, or the development setback area.
2. The following projects are permitted in the **development setback area** (as identified in the City-wide Creeks and Wetlands Management Plan) subject to the approval of a watercourse development permit:
 - a. Projects a, b, c, f, h, and i, listed in section 1 above.
 - b. Upper floor additions to existing legal structures (where permitted in the Zoning Ordinance) within the existing footprint area.
 - c. Solid fencing that meets the City fencing regulations.
 - d. Installation of or improvements to structural stormwater BMPs.
 - e. Kennels and animal containment areas that comply with stormwater BMPs.
3. The following projects are permitted in the **management area** (as identified in the City-wide Creeks and Wetlands Management Plan) subject to the approval of a watercourse development permit:
 - a. All projects within Category “A” watercourses that are not otherwise eligible for an exemption.

24.08.2160 Emergency Projects.

If an emergency measure is required to protect life and property from imminent danger, or to restore, repair, or maintain public works, utilities, or services during and/or immediately following a disaster or serious accident, a Watercourse Development Permit or Watercourse Variance may be issued after the emergency, provided that: a) within three days of the disaster or discovery of danger the Planning Director is notified, agrees it qualifies as an emergency and a preliminary application is filed containing the nature of the disaster and the type and location of work to be performed; and b) that within 30 days a completed application for the necessary permits is filed. It should be noted that permits may be required by other agencies.

24.08.2170 Watercourse Development Standards.

Projects or activities that are listed above as permitted or exempted uses would be required to comply with the following applicable watercourse development standards.

1. Use of permeable paving materials.
 - a. Permeable paving materials to be considered, where feasible, with suggested materials outlined in the City-wide Creeks and Wetlands Management Plan.
 - b. Pedestrian surfaces, such as walkways or patios, shall be constructed with loose aggregate, wooden decks with spacing between, or well-spaced paving stones.
2. Drainage and Water Quality Protection.
 - a. Drainage from impervious surfaces shall be directed into a City-approved drainage system consistent with the City's urban runoff program and the City's Drainage Control Ordinance (i.e., use of drainage swales, filter swales, small detention basins, percolation pits, and french drains). Percolation of storm runoff on-site through vegetated swales, percolation pits, retention basis, permeable paving materials, or other similar methods to slow and clean runoff being discharged directly into the creek corridor shall be encouraged, where appropriate hydrologic conditions exist. Direct impermeable connections shall be discouraged.
 - b. The following measures shall be implemented, as appropriate, to protect the water quality of watercourses and wetlands:
 - i. Apply native or other appropriate erosion-control hydroseed mix at all locations with exposed soil and slopes greater than 5 percent.
 - ii. Implement BMPs, including erosion control, for storm water runoff during project design and construction, as described in greater detail in the Department of Public Works Best Management Practices Manual.
 - iii. Initiate bank stabilization projects that will minimize channel erosion when a project entails work on a bank (see Bank Protection and Erosion Control standards), which may require a Watercourse Development Permit.
3. Planting restrictions.
 - a. Only native riparian and wetland plant species are allowed to be planted in the designated riparian corridor. The City-wide Creeks and Wetlands Management Plan provides a list of some suitable plant species and revegetation guidelines.
4. Appropriate Lighting.
 - a. Lighting shall be prohibited within the designated riparian corridor, except for lighting on public lands and facilities for safety and security, consistent with an adopted Management Plan.

- b. Limited exterior safety lighting in the development setback area shall be allowed, including: low-level walkway lighting; motion detector security lighting; driveway lighting; and entry lighting
- c. All lighting shall be hooded and directed downward and away from the watercourse/wetland.
- 5. Habitat Enhancement.
 - a. Whenever possible, avoid mowing, clearing, or stripping riparian vegetation.
 - b. The following measures are required for Category A watercourses:
 - i. Expand and enhance riparian vegetation to meet designated riparian corridor width. Plant a variety of appropriate native riparian species including ground covers, shrubs, trees and native flowering plants to attract beneficial insects. Riparian vegetation should be planted in such a manner to facilitate filtration of pollutants from storm runoff.
 - ii. Avoid clearing dense native understory vegetation to create open areas.
 - iii. Prohibit planting non-native, invasive species.
 - iv. Remove or control the spread of non-native, invasive species.
 - v. Within landscaped areas, use Integrated Pest Management methods that encourage the use of non-chemical methods for weed removal; least-toxic pesticides may be used if alternative pest management techniques do not work (references are included in the City-wide Creeks and Wetlands Management Plan.
- 6. Construction Best Management Practices. Implement Best Management Practices (BMPs) during construction to protect water quality in adjacent watercourses in accordance with City requirements (see appendices in the City-wide Creeks and Wetlands Management Plan.
- 7. Management in High Fire Hazard Areas. In areas deemed a fire hazard area, riparian vegetation within the riparian corridor and development setback area is protected under the City-wide Creeks and Wetlands Management Plan. The following measures shall be implemented, as appropriate:
 - a. Protect riparian vegetation within the riparian corridor and development area.
 - b. Prohibit planting of combustible vegetation in high fire hazard areas.
 - c. New development within high fire hazard areas that offers inadequate distance for fire protection shall be responsible for fire prevention activities, such as, visible house numbering, use of fire-resistant and fire-retardant building and landscape materials, in addition to responsible management.
 - d. Increased setbacks may also be required in these areas where fire protection standards are inadequate to separate the structure(s) from wildfire hazards, rather than clearing of vegetation.
- 8. Erosion control measures. Erosion control shall be employed, specifically when a project entails work on or immediately adjacent to a watercourse bank, to protect water and reduce the amount of sediment entering watercourses and wetlands, as well as minimize adverse water quality, riparian and wetland impacts.
 - a. Implement erosion control measures, including hydro seeding and revegetation, as outlined in and consistent with measures in the City-wide Creeks and Wetlands Management Plan.
 - b. Channel bank protection, repair, and stabilization structures shall utilize the concepts of biotechnical bank stabilization to the maximum extent feasible, as set forth in the City-wide Creeks and Wetlands Management Plan. If hard surfaces

are used and riparian vegetation is removed, revegetation of adjacent disturbed area with riparian vegetation shall be required.

24.08.2180 Findings Required.

A watercourse development permit shall be granted when the following findings can be made:

1. The development and the project as a whole is consistent with the City-wide Creeks and Wetlands Management Plan.
2. That the development is permitted per Section 24.08.2150 or that the Zoning Administrator has determined that the project is in substantial conformance with the listed permitted uses.
3. That the development complies with the applicable watercourse development standards stated in Section 24.08.2170.
4. That the project has met the requirements of all other reviewing agencies including but not limited to State and Federal government requirements.

Part 22: WATERCOURSE VARIANCE

24.08.2200 Purpose.

The purpose of this part is to allow variation from the watercourse setbacks or development standards as outlined in Sections 24.08.2130 and 24.08.2170.

24.08.2210 General Provisions.

A watercourse variance shall be granted when, because of special circumstances applicable to the subject property the strict application of the watercourse setbacks or development standards denies a property owner privileges enjoyed by other watercourse property owners in the vicinity or creates an unnecessary hardship or unreasonable regulation which makes it obviously impractical to require compliance with applicable watercourse setback or development standards.

24.08.2220 Procedure.

Applications for a watercourse variance shall be acted upon by the Zoning Administrator at a public hearing unless the watercourse variance is accompanied by an application which must be heard by a higher hearing body such as the Zoning Board or City Council.

Required Data and Reports.

The watercourse variance shall be accompanied by the following data and reports, as applicable:

1. Site-specific Biotic and Hydrologic Studies prepared by qualified professionals submitted by the applicant that justify the requested narrower setback or other exceptions to the watercourse development standards requested from a biotic, hydrologic, and/or geomorphic standpoint. The studies must demonstrate that requested setbacks and exceptions to the watercourse development standards will ensure the following:
 - a. Provide adequate area to contain stormwater flows and provide water quality improvements;

- b. Protect existing biological values of the watercourse corridor such as shade provision, water temperature maintenance, nutrient filtering, wildlife movement corridors, unimpeded fish movement, and wildlife habitat;
- c. Maintain opportunities for restoration and enhancement, if the area lends itself to restoration or enhancement (contiguous to other habitat, able to sustain riparian area, etc);
- d. No special status plant or wildlife species, are present within that portion of the setback area requested to be disturbed or narrowed.
2. A Vegetation Management Plan prepared by a qualified biologist, arborist or restoration specialist that identifies native and non-native trees and shrubs to be removed. The plan shall identify the location, limits, and square footage of the proposed vegetation management, the specific size (diameter at breast height, and tree height), the species of native and non-native trees to be managed, their condition and health, and the reason for their removal. The plan shall also propose the method of removal (cutting, mowing, spraying).
3. An Erosion Control Plan for the portion of the project for which a watercourse variance is requested (prepared in accordance with the requirements of the City-wide Creeks and Wetlands Management Plan) and Section 24.14.060(4) of the Municipal Code.
4. A Restoration and Enhancement Plan, prepared by a qualified professional for restoration or enhancement of the proposed narrower setback, including riparian vegetation and fisheries enhancement, and a statement that the applicant has committed to implement the plan. The Plan shall also describe how the replanted vegetation shall be monitored.

24.08.2240 Findings Required.

In approving a watercourse variance, it shall be determined by the hearing body that:

1. There are exceptional or extraordinary circumstances or conditions applicable to the subject watercourse site that do not generally apply to other watercourse parcels.
2. Granting the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the variance would not be detrimental or injurious to property or improvements in the vicinity of the subject site or to the health, safety and welfare of the watercourse directly affected by this application.
4. Granting the variance is in conformance with all other goals, policies and objectives of City-wide Creeks and Wetlands Management Plan.

Chapter 24.12 COMMUNITY DESIGN

Part 2: GENERAL SITE DESIGN STANDARDS

24.12.100 Minimum building Site.

Each building site in each zoning district shall be planned and arranged so as to occupy only that portion of a lot not otherwise required as a yard, setback, easement, right-of-way, or other legally established open space; except that, where all other provisions of this title are met, a building site may be established in airspace when created through an approval of a community housing project.

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1. Lot Area Measurement.

a. For purposes of measuring and calculating lot size and area, public and private easements contained within the lot lines, other than street or alley easements, may be included.

b. For purposes of determining net lot area, only contiguous land with less than a thirty-percent slope and not within a Floodplain (F-P) District or within a riparian corridor, as defined in Section 24.08.2110.2.(f), or any stream or permanent body of water, shall be considered.

c. In any zoning district where no public sanitary sewer is accessible, no lot shall have an area less than that prescribed by the Santa Cruz County health department.

2. Frontage Requirement. The construction, erection, conversion, establishment, alteration, or enlargement of any structure on any real property is hereby prohibited and declared unlawful, unless the said real property shall have a frontage on a street improved to the standards of the city of Santa Cruz; or upon a publicly owned parking facility, plaza, mall, or wharf; or upon such other public access facility as may be provided in connection with an approved development plan.

(Ord. 85-05 § 1 (part), 1985).

24.12.160 Fencing and Screening.

1. Fencing. Regulations governing the installation, construction and placement of fences and structures in the nature of fences which exceed height limitations contained herein are set forth in Chapter 24.08, Part 7, Conditional Fence Permit.

a. Height Limitations. No person shall erect upon any private property in the city, any fence, or structure in the nature of a fence exceeding the following height limitations:

(1) On that portion of any private property in the area between the street and the front or the exterior side yard setback line established by the Zoning Ordinance, the Building Code or other ordinances of the city, fences shall not exceed a height of three feet six inches from finished grade, except as provided in Chapter 24.08, Part 7;

(2) On that portion of the property back of the setback lines, described under paragraph (1) above, fences shall not exceed a height of six feet from finished grade, except as provided in Chapter 24.08, Part 7.

(3) Any fence along a property line adjacent to a street, or in the adjacent required setback, except in the clear corner triangle, may include a gate, trellis or other entry feature exceeding the height limit stated in subsections (1) and (2) above. Such gate, trellis or entry feature shall be limited to ten feet in width and ten feet in height. Only one such gate, trellis or entry feature shall be permitted per street frontage except as provided in Chapter 24.08, Part 7.

b. Fire Hazard. The erection of any fence which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, or which will interfere with access in case of fire, by the fire department to buildings in the vicinity or which will constitute a hazard to street traffic or to pedestrians shall not be permitted.

c. Temporary Fences - Exceptions. Nothing contained in this title shall be deemed to interfere with the erection of temporary fences around construction works, erected or maintained pursuant to the Building Code and other ordinances of the city.

d. Barbed-Wire Fencing. No barbed-wire fences may be constructed, electrified or otherwise, without a conditional fence permit.

e. Hedges. Hedges or dense planting in the nature of a hedge shall not be grown or maintained on that portion of any private property in the area between the street and the front or the exterior side yard setback line established by this title, the Building Code, or other ordinances of the city to a height in excess of three feet six inches.

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(3) Details on drainage control facilities such as size and location of all culverts, pipe drains, drain inlets, berms, ditches, interceptor drains or swales, and energy dissipaters where necessary;

(4) Erosion control methods as outlined in Section 24.14.060.
(Ord. 94-33 § 66, 1994: Ord. 85-05 § 1 (part), 1985).

24.14.080 Intermittent/Perennial Streams, Wetland Areas, Wildlife Habitats and Plant Communities.

1. Applicability. The provisions of this section shall apply to Wildlife Habitat Areas and Plant Communities identified in Maps EQ-8 and EQ-9 of the Environmental Quality Element of the General Plan and Coastal Land Use Plan or as designated as part of an environmental review process.

~~the areas listed below:~~

~~a. Intermittent/Perennial Streams. Identified on the largest scale USGS topographic map by either a solid line or a dash-and-dot symbol and/or Map EQ-11 of the Environmental Quality Element of the General Plan and Coastal Land Use Plan and/or in riparian areas as designated by Map EQ-8 in the General Plan and refined by the environmental review process.~~

~~b. Wetlands, Marshes and Seasonally Flooded Grasslands. Identified by Map EQ-8 of the Environmental Quality Element of the General Plan and Coastal Land Use Plan or as designated as part of the environmental review process.~~

~~c.~~

2. Precise Boundaries of Designated Areas. Except for areas defined by the City-wide Creeks and Wetlands Management Plan, the precise boundary of areas identified in subsection (1), above shall be determined on a case-by-case basis by a biologist with relevant academic training and experience in instances of uncertainty.

~~3. Uses Prohibited.~~

~~a. Intermittent/Perennial Streams. Construction of main or accessory structures, grading, or removal of vegetation shall not be permitted in any designated riparian area or within one hundred feet from the center of a watercourse (as identified in subsection (1)(a) above), except as provided in subsections (4)(a) and (4)(b), below.~~

~~b. Wetlands, Marshes and Seasonally Flooded Grasslands. Construction of main or accessory structures, grading, or removal of vegetation shall not be permitted within one hundred feet of a wetland (as identified in subsection (1)(b) above), except as provided in subsections (4)(a) and (4)(c), below.~~

~~4. Uses Permitted. Only those uses listed below are permitted subject to the provisions of subsection (e).~~

~~a. General. The following uses of all areas, (as identified in subsections (1)(a) through (1)(c) above) including setbacks (as identified in subsections (3)(a) and (3)(c) above), may be permitted. Where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects:~~

~~(1) Maintenance and replacement of existing public works facilities, such as pipes, cables, lines or accessways;~~

~~(2) Maintenance of existing, or restoration of previously dredged, depths in existing flood control projects and navigational channels, pursuant to an approved management plan;~~

~~(3) Pervious, non-motor vehicular trails;~~

~~(4) Incidental public services projects including but not limited to, the burying of cables and pipes, or inspection of piers, and maintenance of existing intake and outfall lines;~~

~~—— (5) Small scale facilities associated with nature study or other similar resource-dependent activities;~~

~~—— (6) Construction, grading or removal of vegetation necessary for maintenance of existing improvements;~~

~~—— (7) Landscaping designed to provide a natural buffer and any grading necessary as part of such landscaping plan;~~

~~—— (8) Passive recreation;~~

~~—— (9) Habitat preservation and restoration;~~

~~—— (10) Other uses similar to the foregoing found by the zoning administrator or board as consistent with the intent of this part.~~

~~—— b. Intermittent/Perennial Streams. Construction, grading, or removal of vegetation shall be permitted within required setbacks only where necessary for protection against erosion, scouring and for maintenance of flow.~~

~~e. Wetlands, Marshes and Seasonally Flooded Grasslands. Construction, grading or removal of vegetation shall be permitted in wetlands, etc, and within required setbacks where:~~

~~—— (1) A restoration/management plan has been submitted and approved;~~

~~—— (2) Any construction and/or use is consistent with the approved plan.~~

3. b. Wildlife Habitats and Plant Communities. Construction, grading or removal of vegetation shall be permitted within wildlife habitats and plant communities where:

a. The development or project is in conformance with Section 24.08.2100 and with the policies of the City-wide Creeks and Management Plan.

b. Existing vegetation is preserved to the maximum extent possible;

c. The integrity of the area as a habitat is not compromised;

d. Landscaping is designed to provide a natural buffer and provide native food-bearing plant species to the greatest extent feasible;

e. Protected species under the federal Endangered Species Act, the California Endangered Species Act, and the California Native Plant Protection Act are not present or jurisdictional permits from the appropriate state or federal agency have been received for their removal.

4.e. Preservation of Vegetation. In conjunction with any of the above-listed uses, the following shall apply with regard to the preservation of existing vegetation:

a. Removal or planting of vegetation shall be in conformance with Section 24.08.2100 and with the policies of the City-wide Creeks and Wetlands Management Plan.

b. Existing vegetation shall be preserved to the maximum extent possible.

c. Existing trees or tree stands located on a site for which a discretionary permit is required shall not be removed until such a permit is approved by the decision-making body.

d. Trees subject to the Heritage Tree Ordinance and other trees designated for protection by a development proposal shall be protected through the use of barricades or other appropriate methods during the construction phases.

e. Landscaping, grading and building design shall ensure ongoing viability of remaining vegetation.

f. Wherever removal of vegetation is necessitated by any of the above uses, replacement vegetation of an equivalent kind, quality and quantity shall be provided.

(Ord. 94-33 § 69, 1994; Ord. 88-55 § 1, 1988; Ord. 85-05 § 1 (part), 1985).

Chapter 24.18 NONCONFORMING USES AND STRUCTURES*

* Editor's Note: Chapter 24.18, Nonconforming Uses and Structures, has been amended in its entirety by Ordinance 90-15, adopted 5-22-90. Prior ordinances contained in this chapter include portions of Ords. 85-05 and 89-10.

24.18.010 Purpose.

The purpose of this chapter is to provide for the control, improvement and termination of uses or structures which do not conform to the regulations of this title for the district in which they are located. This section of the Zoning Ordinance is also part of the Local Coastal Implementation Plan.

(Ord. 94-33 § 76, 1994; Ord. 90-15 § 1, 1990).

24.18.020 General Application.

1. Any lawfully established building or structure, use of a building or structure, existing at the effective date of this title, or of any amendments thereto, that does not conform to the regulations for the district in which it is located, shall be deemed to be legally nonconforming and may be continued, except as otherwise provided in this chapter.

2. Any legal nonconforming use may be continued, provided there is no increase in the intensity of such use.

3. Any legal nonconforming building or structure shall not be made more nonconforming.

4. A building, structure or part thereof for which a building permit was issued prior to the enactment of amendments to this title making aspects of the building or structure nonconforming may be completed provided that work is prosecuted continuously and without delay. When completed, such building shall be deemed to be a legal nonconforming structure and shall thereafter be subject to the regulations set forth herein.

5. A building, structure, or use nonconforming only because of noncompliance with setbacks from a watercourse or wetland as required in Section 24.08.2100, shall be considered legally nonconforming.

~~6.5-~~ Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the building official.
(Ord. 90-15 § 1, 1990).

24.18.030 Nonconforming Structures - Enlargement and Alterations.

A nonconforming structure may be enlarged or structurally altered, provided that it is not made more nonconforming.

1. Exception. When a single-family residence has nonconforming side or rear yards, additions to such structures shall be permitted on the first floor, while maintaining side and rear yards no less than existing yards, and provided a design permit is obtained.
(Ord. 90-15 § 1, 1990).

24.18.040 Nonconforming Structures and Uses - Reconstruction.

A nonconforming structure which is damaged or destroyed by fire, flood, wind, earthquake, or other disaster may be repaired or reconstructed. A nonconforming structure damaged to more than fifty percent of its value as determined by the chief building official shall require approval of a reconstruction permit (Chapter 24.08, Part 20). Buildings or structures damaged more than fifty percent as described above that are nonconforming only because of noncompliance with setbacks from a watercourse or wetland as required in Section Part 21 may

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be reconstructed subject to a building permit only provided that the General Requirements in Section 24.08.2030 are met.
(Ord. 90-15 § 1, 1990).

24.18.050 Nonconforming Use - Change.

1. Where a nonresidential use is nonconforming because of failure to meet parking requirements, another nonconforming use may be substituted, provided its sole nonconformity pertains to parking and its parking requirement does not exceed the parking requirement for the use it replaces.

2. When a nonconforming use in a residential R- District is changed to a permitted use, it shall meet the Zoning Ordinance requirement for the permitted use.
(Ord. 90-15 § 1, 1990).

24.18.060 Nonconforming Use - Expansion Prohibited.

Any nonconforming use may be maintained and continued, provided there is no expansion in the area or volume occupied or devoted to such nonconforming use, and further provided there is no increase in the intensity of such nonconforming use except as otherwise provided in this title.
(Ord. 90-15 § 1, 1990).

24.18.070 Nonconforming Use - Discontinuance.

1. Any nonconforming, nonresidential use that is nonconforming due to district use regulations and/or violates performance standards and which is discontinued or abandoned or otherwise ceases operation for a period of six months or more shall not be resumed, and all subsequent use of such structure or portion of structure or site shall conform to this title. An administrative use permit shall be required for a new use exceeding the parking requirement for the use it replaces. The approving body shall find that the reduction in parking requirements will not adversely affect parking on adjacent and nearby streets and properties.

2. Whenever any part of a building, structure or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this title, regardless of the period of time such conforming use occupies the building, such premises shall not thereafter be used or occupied by a nonconforming use.

3. Any uses nonconforming by reason of noncompliance with performance standards established herein shall be deemed illegal until compliance with performance standards is achieved.

4. Notwithstanding the provisions of subsection (1), above, any nonconforming use which operates on property being acquired by the city or redevelopment agency by eminent domain or under threat of condemnation and which is required to discontinue or otherwise cease operation because of construction activities undertaken by the city or redevelopment agency may resume said use without losing its status as nonconforming: (1) within two years; or (2) within six months after the city's or redevelopment agency's construction activities are completed so as to enable said use to resume, whichever is later. Nothing contained in this subsection shall be construed as having any effect upon the city's or redevelopment agency's proprietary interest in property acquired by eminent domain or under threat of condemnation.

(Ord. 2000-19 § 1, 2000; Ord. 98-13 § 1, 1998; Ord. 92-19 § 1, 1992; Ord. 90-15 § 1, 1990).

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24.18.080 Nonconforming Use - Maintenance, Repairs and Nonstructural Alterations to buildings.

1. Normal and routine maintenance or nonstructural alterations of any structure for the purpose of preserving its existing condition, retarding or eliminating wear and tear or physical depreciation, rendering the space more usable, or complying with the requirements of law shall be permitted.

2. Structural alterations or enlargement of the building containing nonconforming, nonresidential uses shall be permitted only to accommodate a conforming use, or when made to comply with the requirements of the law.

3. Buildings containing nonconforming residential uses may be altered to improve liveability, provided no structural alterations shall be made which would increase the number of dwelling units or the bulk of the building.

(Ord. 90-15 § 1, 1990).

24.18.090 Nonconforming Use - Conversion to Conditional Use.

Any use legally existing on the effective date of this title, or amendments thereto, which is listed as a conditional use in the district in which it is located but which has never obtained a conditional use permit, shall be and remain a nonconforming use until a conditional use permit is obtained as provided in this title.

(Ord. 90-15 § 1, 1990).

24.18.100 Reserved.

24.18.110 Burden of Proof.

1. In any administrative or judicial proceeding wherein it is claimed that a structure or use is allowable as a nonconforming structure or use, the party asserting that such nonconforming status exists shall have the burden of providing proof of the same.

2. In any administrative proceeding such burden of proof shall be met only if the following findings can be made:

a. That the structure or use was lawful when commenced; and

b. No conditions have occurred since then that would require its abatement; and

c. No unlawful expansion, enlargement, or intensification of this structure or use has occurred and remains in place.

(Ord. 90-15 § 1, 1990).

Chapter 24.22 DEFINITIONS

24.22.498 Lot Area, Net.

The area within the lot lines with less than thirty-percent slope and not within a riparian corridor as defined in Section 24.08.2110 (g) or a Floodplain (F-P) District, ~~any stream or permanent body of water.~~

(Ord. 85-05 § 1 (part), 1985).

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24.22.650 Residential Density.

A computation expressing the number of dwelling units per acre, based on the net lot area, where acreage excludes land with greater than thirty-percent slopes, within a riparian corridor as defined in Section 24.08.2110(g), and land dedicated to streets and alleys.
(Ord. 85-05 § 1 (part), 1985).

Section 2. This ordinance shall be in force and take effect thirty (30) days after its final adoption.

PASSED FOR PUBLICATION this ____ day of _____, 2002, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

PASSED FOR FINAL ADOPTION this ____ day of _____, 2002, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

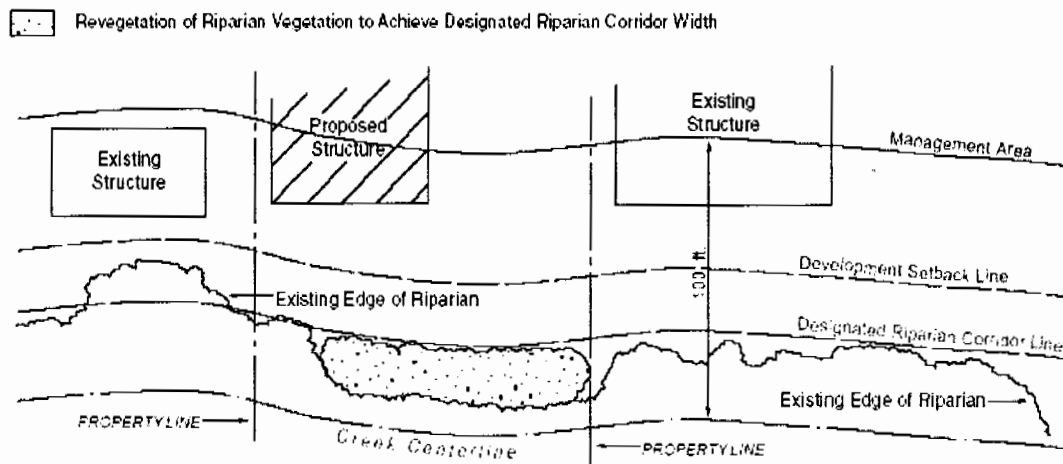
DISQUALIFIED: Councilmembers:

This is to certify that the above
and foregoing document is the
original of Ordinance No.
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz.

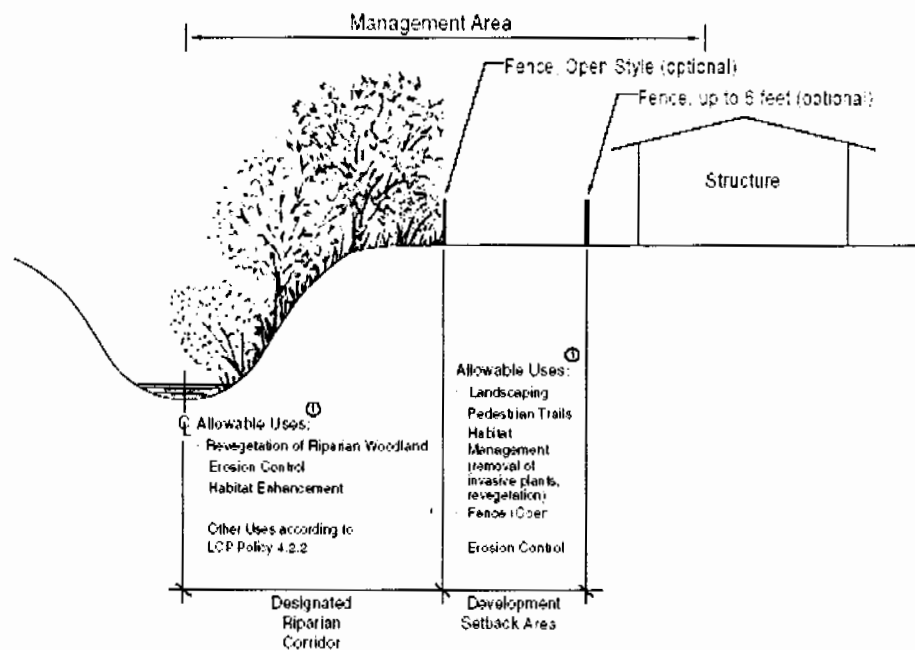
City Clerk

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FIGURE 3-1. PROPOSED SETBACK AREAS



PLAN VIEW (Sample Development Plan Layout)



CROSS-SECTION

SOURCE: Biotic Resource Group, 2001

① See Restrictions in Chapter 4

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**TABLE 4-3. ALLOWABLE USES AND ACTIVITIES
WITH A WATERCOURSE DEVELOPMENT PERMIT**

Allowable uses and activities in the *riparian corridor* include:

- Watercourse and wetland restoration, major removal of invasive and/or exotic vegetation where appropriate, minor removal of mature eucalyptus trees in known Monarch butterfly habit areas, removal of non-hazardous trees, (i.e. invasive species and/or for habitat or fire management) in accordance with the City's Heritage Tree Ordinance and a plan prepared by a qualified professional, and removal of impervious surfaces in the riparian corridor..
- Demolition of existing structures inside the *riparian corridor*, in accordance with City demolition regulations.
- Installation of and improvements to storm water BMPs provided that removal of riparian vegetation is avoided whenever possible.
- Channel bank protection and the repair of existing channel bank protection structures. Soft" measures (e.g., landscaping with appropriate native plants that will provide bank stabilization) rather than hardened structures should be used where possible.
- Improvements to existing roads, trails, and crossings, including replacement of existing bridge footings and abutments, as well as consideration of new footings, when studies prepared by qualified professionals demonstrate that the existing or new bridge footings and abutments will not substantially decrease biological values, cause an increase in floodwater surface elevations, redirect flow, or cause erosion to an extent greater than the existing structure, except for uses on public lands that are consistent with an adopted Parks Master Plan or Management Plan. The goal of the replacement and/or improvements would be to reduce the hydrologic and geomorphic impacts of the existing roads and bridge structures with the new structures, consistent with the City's floodplain management regulations.
- Property line fences that provide adequate room for flow conveyance and wildlife movement.
- Incidental public works facilities, including but not limited to, the installation of new, replacement of existing, or improvements to existing buried cables, pipes, and culverts, or inspection of piers and improvements to existing intake and outfall lines, when special studies prepared by qualified professionals have demonstrate that there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.
- Channel maintenance, including, but not limited to vegetation management and removal of downed trees, in accordance with a channel maintenance plan prepared by a qualified professional and approved by the City.
- Flood protection when no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing legal development, when special studies prepared by qualified professionals demonstrate that the flood protection use shall not diminish creek capacity, percolation rates, and/or habitat values, if applicable. Channel redirection or hardening may be permitted only if less intrusive flood control/bank stabilization designs have been considered and have been found to be infeasible, including, but not limited to integrated bank repair structures, vegetation, vegetative erosion control, and soil bioengineering.
- Under channel borings at sufficient depth when special studies prepared by qualified professionals have been submitted and approved by the City's Planning Director that demonstrate that the under channel borings will result in no adverse impact to the watercourse, *riparian corridor*, or the *development setback area*.

Allowable Uses and activities in the *development setback area* include:

- All uses allowed in the *riparian corridor*.
- Upper floor additions to existing legal structures (where permitted by the Zoning Ordinance) within the existing footprint area.
- Retaining walls.
- Solid fencing that meets the City fencing regulations.
- Kennels and animal containment areas that comply with storm water BMPS.

Allowable Uses and activities in the *remaining management area* include:

- All other development projects within Category A watercourses allowed by the Municipal Code located in the *remaining management area* (outside of the designated *riparian corridor* and *development setback area*).

NOTE: Some allowable uses and activities may also require approval from the California Department of Fish and Game, the U.S. Army Corps of Engineers, and/or the National Marine Fisheries Service.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



M E M O R A N D U M

FROM: Jonna D. Engel, Ph.D.
Ecologist

TO: Susan Craig, Coastal Analyst

SUBJECT: City-wide Creeks and Wetlands Management Plan

DATE: June 7, 2007

Documents reviewed:

Craig, Susan. October 10, 2001. Letter to Sandy Brown, Associate Planner, Santa Cruz Department of Planning and Community Development. Subject: Administrative Draft of the City-Wide Creeks and Wetlands Management Plan.

Craig, Susan. March 1, 2002. Letter to Sandy Brown, Associate Planner, Santa Cruz Department of Planning and Community Development. Subject: City-Wide Creeks and Wetlands Management Plan – Second Administrative Draft.

Craig, Susan. July 11, 2002. Letter to Sandy Brown, Associate Planner, Santa Cruz Department of Planning and Community Development. Subject: City-Wide Creeks and Wetlands Management Plan – Final Draft.

Craig, Susan. December 2, 2005. Letter to Alex Khoury, Acting Director, Santa Cruz Department of Planning and Community Development. Subject: City-Wide Creeks and Wetlands Management Plan – Initial Study/Negative Declaration.

Craig, Susan. September 29, 2005. Letter to Alex Khoury, Acting Director, Santa Cruz Department of Planning and Community Development. Subject: City-Wide Creeks and Wetlands Management Plan – In-House Draft.

City-wide Creeks and Wetlands Management Plan. Prepared by City of Santa Cruz, Department of Planning and Community Development. Adopted by City Council, February 28, 2006 [Pending CCC approval]

Development Setbacks (Buffer Zones)

The Santa Cruz City-wide Creeks and Wetlands Management Plan identifies three setback areas or zones; riparian corridor, development setback, and management area.

Under the Coastal Act and the Santa Cruz City LCP, the “riparian corridor” is environmentally sensitive habitat or ESHA. The City-wide Creeks and Wetlands Management Plan must include a section defining ESHA, why the riparian corridor is ESHA, and why it is important to protect ESHA. Under the Coastal Act and LCP the “development setback” is a buffer or setback zone. And the “management area” does not have a complement in the Coastal Act or LCP.

The delineation of the riparian corridor is the extent of the stream bank or the extent of the riparian vegetation – whichever is greater. The boundary of the riparian corridor or ESHA is the point at which a buffer zone is established to protect the ESHA. The City-wide Creeks and Wetlands Management Plan calls this area the “development setback”.

For the majority of Santa Cruz creek reaches, the development setbacks presented in the City-wide Creeks and Wetlands Management Plan (Table ES-3) afford little riparian habitat buffering protection. These policies fall far short of the commission’s recommended 100 feet for wetlands. For many of the creek reaches in Santa Cruz, 100 feet is not a reasonable or attainable development setback, however, for a significant number, the required development setbacks can be increased and thus the development setbacks must be reviewed and revised as follows.

The development setbacks for Category A riparian corridors (highest quality) are between 20 to 50 feet with the bulk at 20 feet. The minimum development setback for Category A creeks should be 50 feet. The City-Wide Creeks and Wetlands Management Plan must update Category A development setbacks to 50 feet on undeveloped parcels and increase development setbacks up to 50 feet on developed parcels where possible. The development setbacks for Category B riparian corridors (urban areas) are between 5 to 20 feet with the bulk at 10 feet. Category B creek setbacks should be a minimum of 20 feet. The City-Wide Creeks and Wetlands Management Plan must update Category B development setbacks to 20 feet on undeveloped parcels and increase development setbacks up to 20 feet on developed parcels where possible. Category C (low quality) riparian corridors include drainage channels that are concrete or man-made, and above or below ground culverts. The City-Wide Creeks and Wetlands Management Plan ascribe Category C watercourses “low to no habitat value” and no development setback protection. Creek reaches and streams that have been highly modified (concrete or man-made) or are without riparian vegetation are generally in this state because of human disturbance. Therefore, where there are restoration opportunities, the development setback along Category C watercourses should be 10 feet and riparian vegetation restoration required.

Buffers (development setbacks) are important for preserving the integrity and natural function of rare or especially valuable habitats and species. The purpose of a buffer is to create a zone where there will be little or no human activity, to “cushion” species and habitats from disturbance, and to allow native species to go about their “business as

usual". Buffer areas are essential open space between development and environmentally sensitive habitat (ESHA). The existence of open space ensures that development will not significantly degrade ESHA. Critical to buffer function is the fact that a buffer area is not itself a part of the ESHA, but a "buffer" or "screen" that protects the habitat area from adverse environmental impacts.

A primary function of a buffer zone is to protect against human and domestic animal disturbance, that is, to keep disturbance at a distance. Human activity can produce disturbance in the form of noise pollution (machinery, voices, music, construction, etc.), light pollution (artificial lighting, shading, canopy addition or removal) and foot traffic. All of these may negatively impact native species. Domestic animals are often associated with development, and cats and dogs may hunt and otherwise disturb native organisms including pollinators, other insects, amphibians, reptiles, birds, and mammals associated with riparian habitats. Buffers also protect against invasive plant and animal species that are often associated with humans and development. Such invasive species arrive on car tires (both during and after construction), fill soils, construction materials, and in myriad other ways throughout the life of the development. Buffers may enable invasive species detection and eradication before they invade sensitive habitats. Another form of disturbance is the application of herbicides or pesticides for landscaping or building maintenance; chemicals that may be extremely harmful to natural communities. The buffer provides a spatial barrier between potential chemical pollutants and environmentally sensitive habitat. The buffer zone also provides ecosystem services including soil stabilization, interception of eroded materials, runoff and pollutants absorption (pesticides, herbicides, etc.), treating runoff (filter mechanism), fixing nitrogen, and storing nutrients.

Buffers also reduce habitat fragmentation. Many organisms have minimum density and proximity requirements, such that habitat fragmentation must be avoided. A buffer zone between development and creeks and wetlands facilitates ongoing riparian community dynamics. Part of these dynamics include plant population and successional stage fluctuations. For all these reasons, development setbacks (buffer zones) of adequate width are necessary to protect the biological functions of environmentally sensitive habitats.

Inappropriate activities in the riparian corridor and development setback

Table ES-2, "Projects exempt from watercourse development permits", under exterior improvements, lists installation of at-grade decks and patios within the development setback. These are inappropriate uses in the development setback (buffer zone). Under the landscaping and vegetation removal section, landscaping with non-invasive, non-native vegetation in the development setback is allowed. This is not appropriate for the development setback area (buffer zone). Only native species should be allowed in this zone. Mowing and grazing, consistent with an adopted Parks or Fire Management Plan, is also cited here. This should never happen in the riparian corridor and in only a few exceptional cases would it be appropriate for the development setback zone.

Development Setback Revisions

Table ES-1. I have not done on-the-ground surveys, but my impression from the aerial photographs is that many of the creek reaches are not afforded enough development setback (buffer) protection. Those that I highlight support apparently healthy/dense riparian vegetation and are adjacent to open space. These creek stretches, as well as those labeled Category C, should be reviewed and potentially revised:

-Woods Creek 1: upgrade from B to A and increase development setback.

-Hagemann Gulch 1 – upgrade from B to A and increase development setback.

RESOLUTION NO. NS-27,170

RESOLUTION OF THE CITY OF SANTA CRUZ AUTHORIZING AND
DIRECTING THE CITY MANAGER TO SUBMIT THE LOCAL COASTAL
IMPLEMENTATION PLAN AMENDMENT TO THE CALIFORNIA COASTAL
COMMISSION FOR FINAL CERTIFICATION

WHEREAS, on February 8, 2000 the City Council approved the scope of services for a City-wide Creeks and Wetlands Management Plan, which was partially funded under a grant from the California Coastal Commission; and

WHEREAS, over the last six years the City of Santa Cruz has been working on the City-wide Creeks and Wetlands Management Plan; and

WHEREAS, the codification of the City-wide Creeks and Wetlands Management Plan would involve amendments to several portions of Title 24 (Chapter 24.04, Chapter 24.08 Parts 21 and 22, Chapter 24.12 Part 2, Chapter 24.14 Part 1, and Chapter 24.18) that are also part of the City's Local Coastal Implementation Plan; and

WHEREAS, the Local Coastal Implementation Plan amendments are consistent with the provisions of the California Coastal Act; and

WHEREAS, the Planning Commission conducted a public hearings on December 1, 2005 and December 15, 2005 and recommended approval to the City Council; and

WHEREAS, the City Council conducted public hearings on February 28, 2006 and March 14, 2006 to consider approval of the City-wide Creeks and Wetlands Management Plan and the related amendments; and

WHEREAS, the City Council adopted a Negative Declaration per the provisions of the California Environmental Quality Act.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Santa Cruz hereby authorizes and directs the City Manager to submit the City-wide Creeks and Wetlands Management Plan and the related amendments to the California Coastal Commission for final certification.

BE IT FURTHER RESOLVED, that amendments to the Local Coastal Implementation Plan will become effective upon final certification by the California Coastal Commission.

PASSED AND ADOPTED this 14th day of March, 2006, by the following vote:

AYES: Vice Mayor Reilly; Councilmembers Rotkin, Fitzmaurice, Porter,
Coonerty; Mayor Mathews.

NOES: None.

ABSENT: Councilmember Madrigal.

DISQUALIFIED: None.

ATTEST: *Justin Cole*
City Clerk

APPROVED: *Cyril Mathews*
Mayor

CCC Exhibit 8
(page 2 of 2 pages)