

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863 FAX (831) 427-4877
www.coastal.ca.gov

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CENTRAL COAST DISTRICT (SANTA CRUZ) DEPUTY DIRECTOR'S REPORT

For the

May Meeting of the California Coastal Commission

MEMORANDUM

Date: May 9, 2008

TO: Commissioners and Interested Parties
FROM: Charles Lester, Central Coast District Deputy Director
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the Central Coast District Office for the May 9, 2008 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast District.

REGULAR WAIVERS

1. 3-07-063-W Bruce & Elizabeth Fryman (Pacific Grove, Monterey County)

DE MINIMIS WAIVERS

1. 3-08-011-W Virg's Fish'N, Attn: Darby Neil (Morro Bay, San Luis Obispo County)
2. 3-08-012-W City of Morro Bay, Attn: Bruce Ambo, Public Services Director (Morro Bay, San Luis Obispo County)
3. 3-08-015-W Tracy Gibbons (Pacific Grove, Monterey County)

IMMATERIAL AMENDMENTS

1. 3-87-258-A6 California Department Of Parks & Recreation, Monterey District (Pacific Grove, Monterey County)

TOTAL OF 5 ITEMS

DETAIL OF ATTACHED MATERIALS

REPORT OF REGULAR WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 13250(c) and/or Section 13253(c) of the California Code of Regulations.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-07-063-W Bruce & Elizabeth Fryman	Remodel and addition to an existing single-family residence.	115 - 10th Street, Pacific Grove (Monterey County)

REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-08-011-W Virg's Fish'N, Attn: Darby Neil	Replacement of a maintenance shed used to store fishing tools, equipment, and related materials associated with an existing commercial fishing operation.	1215 Embarcadero Road (lease site 128W located along the Embarcadero in the vicinity of the commercial fishing T-piers), Morro Bay (San Luis Obispo County)
3-08-012-W City of Morro Bay, Attn: Bruce Ambo, Public Services Director	Replacement of an existing underground sanitary sewer lift station, including reconfiguration within the Harbor Department's storage yard and construction of a new 300 square foot enclosed structure to be used for chemical containment, new electrical and control devices, and an ADA compatible public restroom.	Surf and Front Streets (within right-of-ways adjacent to the Harbor Department and the Front Street public parking lot), Morro Bay (San Luis Obispo County)
3-08-015-W Tracy Gibbons	Demolish an existing 4-unit apartment building, remove all impervious surfaces (i.e., concrete patio, walkways, driveway), and construct a new 1,630 square foot, two-story single-family residence with garage, carport, and covered porch.	182 Central Avenue, Pacific Grove (Monterey County)

REPORT OF IMMATERIAL AMENDMENTS

The Executive Director has determined that there are no changes in circumstances affecting the conformity of the subject development with the California Coastal Act of 1976. No objections to this determination have been received at this office. Therefore, the Executive Director grants the requested Immaterial Amendment, subject to the same conditions, if any, approved by the Commission.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-87-258-A6 California Department Of Parks & Recreation, Monterey District	Temporary replacement of storm-damaged boardwalk section to ensure public access trail continuity and safety.	Asilomar State Beach (amendment would only affect the damaged trail section near Pico Avenue and Sunset Drive, between trails number 10 and 11), Pacific Grove (Monterey County)

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: April 25, 2008
TO: Bruce & Elizabeth Fryman
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver Number 3-07-063-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13250(c) of the California Code of Regulations.

APPLICANT: Bruce & Elizabeth Fryman

LOCATION: 115 - 10th Street, Pacific Grove (Monterey County) (APN(s) 006-218-11)

DESCRIPTION: Remodel and addition to an existing single-family residence.

RATIONALE: The project is located inland of the Pacific Grove shoreline, and thus inland of the recreational trail and main public access thoroughfare that winds along the Pacific Grove bluffs. The proposed addition/remodel would be compatible with the size, scale, and aesthetics of the residential neighborhood in which it is located, and it includes drainage BMPs to reduce stormwater runoff and remove contaminants prior to conveyance off-site. The project's impacts on coastal resources are not significant.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Friday, May 9, 2008, in Marina Del Rey. If three Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: DAN CARL
District Manager

A handwritten signature in black ink, appearing to read "DAN CARL", written over a horizontal line.

cc: Local Planning Dept.

Takikawa Designs, Attn: Teri Takikawa

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: April 25, 2008
TO: Virg's Fish'N, Attn: Darby Neil
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver De Minimis Number 3-08-011-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: Virg's Fish'N, Attn: Darby Neil

LOCATION: 1215 Embarcadero Road (lease site 128W located along the Embarcadero in the vicinity of the commercial fishing T-piers), Morro Bay (San Luis Obispo County) (APN(s) 066-351-13)

DESCRIPTION: Replacement of a maintenance shed used to store fishing tools, equipment, and related materials associated with an existing commercial fishing operation.

RATIONALE: The proposed replacement maintenance shed would be located in roughly the same location and would be roughly the same size and configuration as the previous maintenance shed at this location, and it would provide a necessary support facility for an existing coastal dependent use. The replacement shed would be a one-story (13.5' tall) pre-fabricated metal shed occupying a 675 square foot area on the Embarcadero pier at the commercial fishing docks. The shed includes a coated flooring material, and would be set in a curbed foundation containment system to prevent materials or liquids in the shed from leeching or spilling out into the Bay. Absorbent pads and other spill containment/cleanup materials would be also be stored on-site as a contingency measure. In addition, the project includes construction BMPs designed to protect the marine environment during construction. Disruptions to public access during construction will be minimized by maintaining access along the waterfront and restricting access only in the immediate area of construction. Accordingly, the project will not have any significant adverse impacts on coastal resources, including public access to the shoreline.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Friday, May 9, 2008, in Marina Del Rey. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: DAN CARL
District Manager

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: April 25, 2008
TO: City of Morro Bay, Attn: Bruce Ambo, Public Services Director
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver De Minimis Number 3-08-012-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: City of Morro Bay, Attn: Bruce Ambo, Public Services Director

LOCATION: Surf and Front Streets (within right-of-ways adjacent to the Harbor Department and the Front Street public parking lot), Morro Bay (San Luis Obispo County)

DESCRIPTION: Replacement of an existing underground sanitary sewer lift station, including reconfiguration within the Harbor Department's storage yard and construction of a new 300 square foot enclosed structure to be used for chemical containment, new electrical and control devices, and an ADA compatible public restroom.

RATIONALE: The proposed development protects and improves coastal water quality by replacing failing wastewater pumps with similarly sized and more reliable, energy efficient, pumps reducing the risk for spill/overflow into the Morro Bay estuary. The project further protects coastal water quality by placing chemicals used during operation of the pumps into a secure enclosed containment structure. Public access and recreation are also enhanced by the construction of an ADA compatible public restroom directly accessible from the Front Street parking lot. The building is small scale, no taller than 11 feet, and it will be finished with a natural stone surface treatment and a pitched metal roof. It will be located within the fenced Harbor Department yard. Existing trees landward of the proposed new structure will ensure that coastal views are not disrupted from public locations on the bluff above the site, and views from the bayfront will be enhanced by the consolidation of existing development within the fenced service yard. As proposed, the project will not adversely effect coastal resources and it is consistent with Chapter 3 of the Coastal Act.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Friday, May 9, 2008, in Marina Del Rey. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: DAN CARL
District Manager

A handwritten signature in black ink, appearing to read "Dan Carl".

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: April 25, 2008
TO: Tracy Gibbons
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver De Minimis Number 3-08-015-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: Tracy Gibbons

LOCATION: 182 Central Avenue, Pacific Grove (Monterey County) (APN(s) 006-235-08)

DESCRIPTION: Demolish an existing 4-unit apartment building, remove all impervious surfaces (i.e., concrete patio, walkways, driveway), and construct a new 1,630 square foot, two-story single-family residence with garage, carport, and covered porch.

RATIONALE: The project is located more than one block inland of the Pacific Grove shoreline, and thus one-block inland of the recreational trail and main public access thoroughfare that winds along the Pacific Grove bluffs. The proposed residence would be compatible with the size, scale, and aesthetics of the residential neighborhood in which it is located, and it includes drainage BMPs to reduce stormwater runoff and remove contaminants prior to conveyance off-site. The project has no potential for adverse effects on coastal resources and is consistent with Chapter 3 of the Coastal Act.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Friday, May 9, 2008, in Marina Del Rey. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: DAN CARL
District Manager

A handwritten signature in black ink, appearing to read "DAN CARL".

cc: Local Planning Dept.

Eric Miller & Associates, Attn: Dado Marquez

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**NOTICE OF PROPOSED PERMIT AMENDMENT**

TO: All Interested Parties
FROM: Peter Douglas, Executive Director **By DAN CAEL DCDL**
DATE: April 25, 2008
SUBJECT: **Permit No: 3-87-258-A6**
Granted to: California Department Of Parks & Recreation, Monterey District

Original Description:

for **Restore and maintain 50 acre dune habitat area at Asilomar State Beach and the State Park conference grounds, including construction of a system of public access trails through the dune area.**

at **Asilomar State Beach (amendment would only affect the damaged trail section near Pico Avenue and Sunset Drive, between trails number 10 and 11), Pacific Grove (Monterey County)**

The Executive Director of the Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following changes:

Temporary replacement of storm-damaged boardwalk section to ensure public access trail continuity and safety.

FINDINGS

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations this amendment is considered to be IMMATERIAL and the permit will be amended accordingly if no written objections are received within ten working days of the date of this notice. If an objection is received, the amendment must be reported to the Commission at the next regularly scheduled meeting. This amendment has been considered IMMATERIAL for the following reason(s):

The project will facilitate public access by restoring a key lateral public access route along the shoreline at Asilomar State Park and Beach. The project protects sensitive coastal resources by keeping access users on the trail system, and directing them away from sensitive dune plant and archaeological areas. The project includes, by design, appropriate construction and post-construction BMPs (such as protective fencing, offsite staging of equipment and materials, dune enhancement, and on-site monitoring by a qualified biologist) to ensure sensitive dune habitat is not adversely impacted by the repair work. As such, the project will enhance public access, and will not adversely impact coastal resources otherwise.

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson at the Central Coast District office.

cc: Local Planning Dept.

Asilomar State Beach & Conference Grounds, Attn: Lorrie Madison

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May 8, 2008

To: Commissioners and Interested Parties

From: Charles Lester, Senior Deputy Director, Central Coast District

Re: Additional Information for Commission Meeting Friday, May 9, 2008

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
F11c, SCO-MAJ-2-06 Part 2	Santa Cruz County	Correspondence	1



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 CENTRAL COAST AREA

**MAY 9, 2008, AGENDA ITEM 11C
 CENTRAL COAST DISTRICT:
 SANTA CRUZ COUNTY LCP AMENDMENT
 No. SCO-MAJ-2-06, (PART 2)**

TODD A. WILLIAMS
 (925) 979-3352
 twilliams@mmlaw.com

May 6, 2008

VIA FACSIMILE ((831) 427-4877) AND FEDERAL EXPRESS

Chairman Patrick Kruer and Coastal Commissioners
 California Coastal Commission
 c/o Central Coast District Office
 Dan Carl, District Manager
 Susan Craig, Coastal Planner
 725 Front Street, Suite 300
 Santa Cruz, CA 95060-4508

Re: Coastal Commission Meeting of May 9, 2008, Agenda Item 11.c.
 (Central Coast District: Santa Cruz County LCP Amendment No.
 SCO-MAJ-2-06, (Part 2) (Neighborhood Compatibility)
 Our File No. 10096-002

Note: Please include this letter for the Commission's consideration as part of the administrative record for its May 9, 2008 meeting regarding the above-listed item.

Dear Chairman Kruer and Coastal Commissioners:

We write this comment letter on behalf of Susan and Barry Porter (the "Porters"), in regard to the County of Santa Cruz's submittal to the Coastal Commission of its proposed Year 2006 Second Local Coastal Program amendment (SCO-MAJ-2-06 Part 2) regarding "Neighborhood Compatibility" (the "LCP Amendment") that is set on the Coastal Commission's May 9, 2008 agenda as Item 11c (Central Coast District).

Time Extension: As an initial matter, the Porters do not object to the recommendation of Coastal Commission staff that the Commission approve a time extension for consideration of the LCP Amendment pursuant to Coastal Act section 30517. Staff should be given a further opportunity to analyze the proposed LCP Amendment, and the County still must fully comply with 14 Cal. Code Regs section 13522. In the event the Commission considers the merits of the LCP Amendment, the Porters submit this substantive comment letter with attached exhibits.

Chairman Patrick Kruer and Coastal Commissioners
California Coastal Commission
c/o Central Coast District Office
Dan Carl, District Manager
Susan Craig, Coastal Planner
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1. Objection to Proposed LCP Amendment.

The Porters own property in Santa Cruz County within the Coastal Zone, and object to both the substance of the actions taken by the County in connection with the proposed LCP Amendment, as well as the process by which the County took those actions. In connection with the proposed LCP Amendment, the County has failed to proceed in the manner required by law, has violated the California Environmental Quality Act (CEQA), and the State's Planning and Zoning Law. We respectfully ask that the Commission reject the proposed LCP Amendment and return the matter to the County for further proceedings.¹

This letter attaches, and incorporates by reference, a letter sent to the Commission and County dated July 3, 2007, as well as letters sent to the County dated May 14, 2007 and December 4, 2006, attached hereto as Exhibits 1, 2 and 3. These letters set out multiple reasons why the County's submittal is deficient and its actions are improper. We summarize these comments below.

Background: The LCP Amendment consists of amendments to three provisions of the County Zoning code for residential sites. These concern (1) changing the definition of "Net Site Area," (2) increasing the "maximum lot coverage" on lots of 5,000 to 15,000 square feet from 30% to 40%, and (3) allowing "front-yard averaging." These amendments were originally adopted by the County by the passage of Resolution 388-2006 and Ordinance 4841 in December 2006, and first submitted to the Commission in January 2007.

Under the County Code, "Net Site Area" is used when calculating maximum allowable lot coverage and floor area ratio in consideration of development applications. With regard to the term's definition, the County initially amended Section 13.10.700-S of its Code to exclude from the definition (on residentially-zoned land inside the urban services line) "coastal bluffs, beaches, and Monterey Bay submerged lands, including all the area from the top of a coastal bluff to the bayward property line, but not including coastal arroyos." In other words, a parcel's net site area would deduct such areas from the lot's total area to determine the allowable size of development.

However, soon after the passage of Ordinance 4841, the County withdrew the proposed LCP Amendment in response to widespread objections that the new definition caused thousands of existing homes to become non-conforming since, in many cases, residentially-zoned parcels

¹ The Porters have filed a petition for writ of mandate and complaint against the County in Santa Cruz County Superior Court (Case No. CV156075) challenging its approval of the ordinances that comprise the LCP Amendment. That case is currently stayed while the County seeks the Commission's certification of the LCP Amendment.

Chairman Patrick Kruer and Coastal Commissioners
California Coastal Commission
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Dan Carl, District Manager
Susan Craig, Coastal Planner
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had their "Net Site Area" drastically reduced, and in some cases reduced to zero. In response, the County held three additional meetings (March 27, 2007 before the Board, April 25, 2007 before the Planning Commission, and May 15, 2007 before the Board). On May 15, 2007, the Board of Supervisors adopted further revisions to the Net Site Area definition, passing Resolution 138-2007 and Ordinance 4874. Under the revised amendment, "Net Site Area" has a different meaning depending on the property at issue. For so-called "coastal bluff top parcels," Net Site Area excludes the "coastal bluff" and "beaches," however, such land is counted for all parcels located at the "toe of a bluff" or "on the beachfront".² No definitions were included for these key terms. The maximum lot coverage and front-yard averaging amendments passed in December 2006 were not revised.³

2. The County's LCP Amendment Submittal Is Deficient.

After the additional Net Site Area revisions, the County resubmitted the LCP Amendment to the Commission on June 21, 2007. On July 3, 2007, my office submitted a letter to the Commission's Central Coast District Office and the County, pointing out deficiencies in the County's submittal pursuant to 14 Cal. Code Regs section 13522. (See Exhibit 1.) **Notably, the County did not appear to provide any of the approximately 50 written comment letters from any of the three public hearings regarding Net Site Area that occurred in 2007.** In addition, the County had not provided any summary of the oral testimony from those meetings.

The Commission then wrote the County on October 5, 2007, requesting additional information (see Exhibit 4), including:

- a list of commenters, summaries of their comments and any County response;
- a discussion of the LCP Amendment's relationship to and effect on other sections of the certified LCP; and

² Owners of "bluff top" property, many of whom were not provided notice when the County adopted the first changes in December 2006 or in March 2007 when the revisions were first proposed (in violation of County Code §§ 13.03.070 and 18.10.223), appeared at the May 15, 2007 meeting but were told that Board was only considering changes for beach and toe of bluff property owners. As a result, those who finally received expanded notice were denied the opportunity to be meaningfully heard.

³ Under the maximum lot provision, a home's footprint (assuming it was within FAR provisions) could increase from 30 percent to 40 percent of the lot's size. Under front-yard averaging, an owner could have a smaller front-yard setback than typically allowed under the County Code if the homes of their neighbors were similarly situated (i.e., out-of-compliance).

Chairman Patrick Krueger and Coastal Commissioners
California Coastal Commission
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Dan Carl, District Manager
Susan Craig, Coastal Planner
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- an analysis of potential significant adverse impacts on coastal resources from potentially allowable development.

The County's response, provided over five months later, consisted of a two-page letter. (See Exhibit 5.) Its one-paragraph discussion of potentially significant impacts contains speculative conclusions without any evidentiary support. It claims that the LCP Amendment will promote neighborhood compatibility without explaining how. For instance, the LCP Amendment potentially allows homes with a larger first floor to be built closer to a public street, but the County claims this will somehow promote unspecified public viewsheds. Similarly, it justifies the changes merely because some of the changes would revert the County Code to rules it previously contained, without explaining why these former rules were better than existing ones. As to the County's "summary" of public comment, the County offered a sentence, or less, of description of each speaker, leaving out virtually all substance, in favor of merely noting whether a speaker was for or against the revisions. No response to any of the comments was offered. Again, the County failed to provide any of the nearly 50 written comments it received in 2007 to the Commission staff.

3. The Proposed LCP Amendment Should Be Rejected.

Unanswered questions coupled with the County's unsupported assertions merit the Commission's rejection of the LCP Amendment. Several commenters, including my office (see Exhibits 2 and 3) and several others, pointed out legal deficiencies in the County's actions and voiced other concerns relating to the Net Site Area revisions. Those comments were not provided to the Commission by the County. The proposed changes have the effect of counting certain types of property as part of the net site area for some property owners while *excluding* the same area for other owners. No rational policy justification was given for this discriminatory and unequal treatment. Nor has the County provided any explanation as to why no environmental analysis was done (other than its misplaced reliance on CEQA exemptions) regarding the changes. Further, the County's LCP Amendment submittal:

- Offers no evaluation as to how many hundreds of parcels are affected by the proposed LCP Amendment, nor how many non-conforming structures are created as a result, nor the effect it will have on owners' ability to rebuild if their homes are destroyed;
- Offers no definition for the terms "coastal bluff-top parcel," "toe of a bluff" parcel, or "beachfront" parcel, nor explains how it will treat properties that include areas of more than one type leading to vague and uncertain application;
- Fails to address whether any other coastal jurisdictions have enacted similar laws and, if so, whether they have been effective;

Chairman Patrick Kruer and Coastal Commissioners
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- Fails to support the disparate treatment of affected parcels on any legitimate grounds;
- Fails to address the possibility that bluff top owners with beach property now have a greater incentive to subdivide thereby increasing coastal development;
- Fails to justify the County's reliance on inapplicable CEQA categorical and statutory exemptions, nor consider the impact of the LCP Amendment (and Countywide zoning changes) on lands outside of the coastal zone and beyond the Commission's jurisdiction;
- Fails to explain why all affected property owners (such as bluff top owners) were not originally notified of the proposed changes when they were first adopted in December 2006 (contrary to County Code §§ 13.03.070 (concerning notice for proposed LCP amendments) and 18.10.223), and why, when those owners finally received notice in 2007, the Board refused to consider concerns regarding their property;
- Fails to evaluate how the proposed changes will impact the County's ability to meet its General Plan Housing Element projections (*see e.g.*, Gov't Code §§ 65584 and 65863), since it may lessen the number of second units that may be constructed and may prohibit a now nonconforming multifamily unit from rebuilding if damaged or destroyed (contrary to Gov't Code §§ 65863.4 and 65852.25); and
- Fails to provide any evidence that the changes would actually promote "neighborhood compatibility" or explain how the County intends to define "neighborhood compatibility" in an area known for its eclectic character and irregular parcel configuration.

(See also Exhibits 2 and 3.)

4. Conclusion.

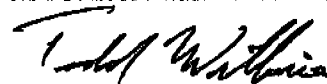
The LCP Amendment is ill-conceived, ineffective, discriminatory and ultimately unnecessary. The County violated the notice provisions of its own code concerning LCP amendments, performed no environmental analysis, and failed to comply with applicable state planning and zoning laws. The LCP Amendment offers blanket rules for hundreds of parcels where site-specific inquiries (e.g., design review) are better suited to achieve compatibility goals. Before Commission staff performs any detailed analysis of the proposed LCP Amendment, it is critical that the County provide all comment letters it received to the Commission, and that the

Chairman Patrick Kruer and Coastal Commissioners
California Coastal Commission
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County otherwise comply with the Coastal Act regulations as required for the Commission's full consideration and analysis of the proposed LCP amendment.

Sincerely yours,

MORGAN MILLER BLAIR



TODD A. WILLIAMS

TAW:taw
Attachments

cc: Christopher R. Cheledon, Santa Cruz Assistant County Counsel
Susan and Barry Porter

EXHIBIT 1



1321 NORTH CALIFORNIA BOULEVARD, SUITE 200 WALNUT CREEK, CALIFORNIA 94596-4944
925.937.3600 925.943.1108 FAX www.mmblaw.com

TODD A. WILLIAMS
(925) 979-3352
twilliams@mmblaw.com

July 3, 2007

VIA FACSIMILE AND FEDERAL EXPRESS

California Coastal Commission
Central Coast District Office
c/o Susan Craig, Coastal Planner
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

County of Santa Cruz
Planning Department
c/o Glenda Hill, Principal Planner
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

Re: County of Santa Cruz: Year 2006 Second LCP Amendment
Request (SCO-MAJ-2-06 Part 2)
Our File No. 10096-002

Dear Ms. Craig and Ms. Hill:

On June 28, 2007, my office received a copy of the County of Santa Cruz's submittal to the Coastal Commission dated June 21, 2007 concerning the County's submittal of further revisions to its proposed Year 2006 Second Local Coastal Program amendment (SCO-MAJ-2-06 Part 2) regarding "Neighborhood Compatibility."¹

Assuming the 20-page packet we received was the same as what the County provided to the Commission, it appears that the submittal fails to comply with the pertinent provisions of California Code of Regulations and the Coastal Act governing LCP Amendment submittals.

The letter and attachments we received (consisting of Ms. Hill's letter, Resolution No. 138-2007, Ordinance No. 4874 and a May 15, 2007 Board of Supervisors staff report [attaching the same resolution and ordinance, as well as a Notice of Exemption dated April 12, 2007]) did not include any of the following items as required by 14 Cal. Code Regs. § 13552:

- a discussion of the amendment's relationship to and effect on other sections of the previously certified LCP;
- an analysis that meets the requirements of Section 13511 of the Regulations;

¹ The County originally submitted its proposed LCP Amendment on December 15, 2006.

California Coastal Commission
c/o Susan Craig
County of Santa Cruz
c/o Glenda Hill
July 3, 2007
Page 2

- a summary of the measures taken to ensure public and agency participation as mandated under the Coastal Act, including a list of hearing dates, sample notice, and a mailing list;
- evidence of noticing the amendment to each local government contiguous to the jurisdiction proposing the amendment;
- names and addresses of all hearing participants (written and verbal) and commenters;
- copies or summaries of significant comments received at the local hearing and any response to comments by the local government.

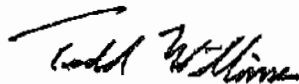
At the April 25, 2007 meeting of the Planning Commission and at the May 15, 2007 Board of Supervisors hearing regarding the further amendment to the definition of net site area, several commenters, including this office, pointed out legal deficiencies in the County's actions and voiced other concerns relating to the net-site area revisions which have the effect of counting certain types of property as part of the net site area for some property owners while *excluding* the same area for other owners. It is critical that these comment letters, and other materials, be provided to the Commission, and that the County otherwise comply with the Regulations as required for the Commission's full consideration and analysis of the proposed LCP amendment.

Please also consider this letter to be a formal request, on behalf of my clients Susan and Barry Porter, to the Commission that my office be notified of all actions or proposed actions the Commission takes or intends to take regarding this proposed LCP Amendment, including, but not limited to, any such action appearing on an agenda of a future Coastal Commission meeting.

If you have any questions, please do not hesitate to contact me and thank you for your attention to this matter.

Sincerely yours,

MORGAN MILLER BLAIR



TODD A. WILLIAMS

TAW:tlf

cc: Christopher R. Cheledon, Santa Cruz Assistant County Counsel
Charles Lester, Deputy Director, California Coastal Commission, Central Coast District
Susan and Barry Porter

EXHIBIT 2



Morgan Miller Blair
A LAW CORPORATION

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925.937.3600 925.943.1106 FAX www.mmblaw.com

TODD A. WILLIAMS
(925) 979-3352
twilliams@mmblaw.com

May 14, 2007

VIA FACSIMILE

Board of Supervisors
County of Santa Cruz
701 Ocean St.
Santa Cruz, CA 95060

Re: Santa Cruz County Board of Supervisors
Public Hearing on May 15, 2007 to Consider Proposed
Amendments to Net Site Area
Agenda Item No. 64

PLEASE INCLUDE IN THE RECORD, AND DISTRIBUTE TO ALL SUPERVISORS

Dear Members of the Board:

We submit this letter on behalf of our clients Susan and Barry Porter, who own property in the County and within the Coastal Zone. We request that the Board take steps to rescind all of the net site area definition changes it approved in December, not only the most recently proposed amendments.

In the guise of promoting neighborhood compatibility, the Board originally passed amendments to the net-site area definition (Section 13.10.700-S) in December 2006. Now, six months later, it is purporting to "fix" unintended consequences of the original change. A closer examination demonstrates that many unintended consequences will remain even if the proposed amendments are adopted. In fact, new ones will be created. The new definition is discriminatory and unfair, it fails to comply with CEQA and was not done with proper notice.

The issue of neighborhood compatibility is handled far better through the design review process where the unique aspects of a particular home, parcel and neighborhood can be properly evaluated. The changes to the net site area definition are akin to using a blunt object to perform major surgery: the more repair attempted, the more damage done.

Board of Supervisors
May 14, 2007
Page 2

1. Notice

When the County first proposed and adopted changes to the Net Site Area definition in December 2006, it failed to provide the required actual notice to affected property owners as required by County Code Section 13.03.070(a)(1-3). Thus, hundreds of affected property owners in the Coastal zone were not notified of the proposed and adopted changes. This lack of notice gave rise in part to the objections of beach and toe of bluff property owners that have now proposed the additional amendments. However, there is no indication that notice pursuant to Section 13.03.070(a)(1-3) was provided when the Board considered and referred the net-site area definition back to the Planning Commission at its March 27, 2007 meeting, again depriving hundreds of affected property owners of notice of how the definition was going to be changed.

In this second round of amendments, County planning staff has stated that individual notice has been provided to all affected properties in compliance with Section 13.03.070(a)(1-3). However, when coastal bluff-top property owners appeared at the April 25 Planning Commission meeting, they were informed by the Commission that issues relating to their parcels could not be addressed as they were only considering changes affecting toe of the bluff and beach parcels. As a result, the improved notice is a sham since such owners are not being provided a meaningful opportunity to be heard.

2. The justifications for the net-site area definition are invalid.

A. Neighborhood Compatibility

The staff report indicates that a "major concern" relating to neighborhood compatibility is the counting of unusable land towards lot size, allowing larger houses on parcels with unusable areas. (Staff Report at p. 1) However, the proposed amendments allow the counting of the same unusable area for beach and toe of bluff parcels, while excluding such area for coastal bluff-top parcels. In fact, every property in the County other than coastal bluff-top parcels is allowed to count such areas as net-site area. No valid reason has been put forth to support why coastal bluff-top parcels should be discriminated against in this matter.

The staff report also purports to establish what the "context" is for neighborhood compatibility for coastal bluff-top parcels and beach and toe of bluff parcels (see Staff Report at p. 2). There is no reference why these context distinctions are appropriate or how they were established. These statements appear to be derived from the recent neighborhood compatibility design guidelines staff presented to the Board at its March 27th meeting. These guidelines are not enforceable and should not be cited as regulating what constitutes the proper "context."

At the March 27th meeting, staff informed the Board that the guidelines were simply a way of showing how staff would apply existing regulations and need not be adopted by the Board. However, design guidelines are specifically mentioned in the County Code.

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Page 3

Section 13.11.076 requires that the Planning Commission recommend, and the Board adopt, a "design review standards and guidelines manual" by resolution. Section 13.11.076 states:

The Board of Supervisors, upon consideration of the Planning Commission's recommendation, may adopt, by resolution a "Design Review Standards and Guidelines Manual" setting forth standards and guidelines for the use of persons planning future developments subject to site, architectural, and landscape design plan approval. The purpose of the manual shall be to assist the public, the community, applicants, designers, architects, landscape architects, engineers, staff and the recommending and decision-making bodies in applying and evaluating conformance with the requirements of this Chapter. Review and revision of the Design Standards and Guidelines shall be conducted periodically in order to consider any changing aesthetic and environmental concerns of the community. (Ord. 4286, 12/14/93)

Thus, if these are "design guidelines" as staff has stated, they need to be reviewed by the Planning Commission and be adopted by resolution by the Board before they can be applied and used as a foundation for determining the context of neighborhood compatibility.

B. Geologic Hazards

Staff attempts to justify the disparate treatment of these parcels on geologic grounds. However, Section 13.10.700-D of the County Code already prohibits development on certain types of land (e.g. steep slopes, creek areas, landslides, etc.), and Geologic Hazards regulations require certain setbacks from coastal bluffs. There is no evidence in the record that any of the amendments to the net-site area definition for coastal bluff properties is necessary due to geologic hazards. Further, there is no justification given for why all unusable and undevelopable land should be counted for beach and toe of bluff parcels.

3. The terms used in the net site area definition are undefined.

The amendments now attempt to make distinctions between three types of parcels: a "coastal bluff-top parcel," "parcels located at the toe of a bluff" and parcels "on the beachfront." However, none of these terms is defined in the definition, or elsewhere in the Code. This lack of a definition makes them vague and unworkable. What happens to parcels that may contain property with more than one of these types of land? The ordinance as written seems to presume that all parcels affected by this ordinance each contain only one type of property. What happens if a parcel were to contain both "bluff-top" and "toe of bluff" areas, for example? This has not been defined anywhere, leading to uncertain application.

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4. Many "unintended consequences" remain, and new ones are being created.

A. The definition will impermissibly make many currently conforming uses non-conforming.

The alleged reason for the proposed amendments is to avoid many beach and toe of bluff homes from losing net site area thereby becoming nonconforming structures requiring a variance to rebuild or expand. The same reasoning should be applied to coastal bluff-top parcels.

Several owners of condominium units on coastal bluff-top parcels¹ spoke at the Planning Commission and stated that the new net site area definition would result in their buildings becoming nonconforming, potentially limiting their ability to rebuild or renovate without a variance. Government Code sections 65863.4 and 65852.25 limit a local agency's ability to prohibit multifamily dwellings from being rebuilt. The staff report contains no explanation as to whether the County has complied with these provisions.

In addition, owners of small homes on coastal bluff-top parcels also testified to the Planning Commission that the new definition would make their homes -- many of which are decades old -- nonconforming, and noted the negative impact the new definition will have on their property values, ability to make improvements and rebuild in case of a fire or natural disaster.

B. No analysis has been performed regarding the County's ability to comply with Government Code section 65863.

Government Code section 65863 prohibits counties from taking any action reducing the residential density of any parcel to a "lower residential density" than that used in its housing element inventory unless the County makes written findings based on substantial evidence that the reduction is consistent with the adopted general plan, including the housing element, and the remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584.

No such findings have been made and there is no substantial evidence supporting such findings. In addition, it does not appear that any analysis has been done whatsoever on the effect the net-site area definition will have on a homeowner's ability to add a second unit, and what effect this will have on the County's ability to meet its required goals for the General Plan's Housing Element which included a presumed number of second units within the urban services line as part of the housing element residential projections. The net site area definition is contrary

¹ Many such owners testified that they were previously unaware of the changes and had received notice for the first time in connection with the new amendments.

Board of Supervisors
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to goals and policies of the General Plan which require the promotion of opportunities for the construction of second units (see, e.g., Housing Element Policy 1.1).

C. The net site area amendments will encourage coastal bluff-top parcel owners with beach or toe of bluff property to subdivide leading to additional development.

The change in the net-site area definition for coastal bluff-top properties means that such parcels will no longer be able to count the coastal bluff and beach areas as part of their net site area. However, were such areas their own parcel, then all of that land would be counted as net-site area. Thus, such coastal bluff property owners now have an incentive to subdivide their parcels so that the beach and toe of bluff areas can be developed. Such a change may have the consequence of more development along the beach and greater environmental impacts.

5. The net-site area definition is poor policy.

The original amendments to net-site area, and the proposed amendments, will result in the County singling out and discriminating against coastal bluff-top parcels. No other type of property in the County (even those with large amounts of undevelopable land) is having its net site area reduced. The Code already contains many provisions limiting the size and location of a home on a coastal bluff-top parcel. The net-site area amendments do nothing to ensure or promote neighborhood compatibility. The County has not pointed to any other jurisdictions that have adopted such an approach, nor provided any rational basis for the changes to the definition.

Further, the County has provided no valid policy reasons behind counting one type of property for one owner, but excluding the same property for another owner as would occur under the proposed amendments. The staff report provides no support for the statement that homes on Coastal bluff-top parcels can "dwarf the inland houses in size and ... be incompatible with the neighborhood." In many such neighborhoods, there is a mix of larger and smaller homes on both sides of streets separating inland and bluff-top parcels.

For these reasons, and those stated above, the changes to the net site area definition represent an unfair, and poorly-crafted policy that the County should not endorse.

6. CEQA

CEQA provides categorical exemptions for classes of projects that generally are considered not to have potential impacts on the environment. The County has determined that the proposed amendments are eligible for a Class 5 and Class 8 categorical exemptions, which exempt certain actions for minor alterations in land use limitations, and by regulatory agencies for the protection of the environment. However, the draft resolution and the draft notice of exemption do not contain any findings to support the Section 15305 exemption. Class 8 consists of the following:

Board of Supervisors
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actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

CEQA Guidelines Section 15308.

the draft Notice of Exemption states that "[t]he proposed amendments will reduce impacts on environmentally sensitive areas (such as coastal bluff-top and beachfront parcels)." However, the proposed amendments would make it *easier* to develop on beachfront parcels, and, as noted above, may encourage the subdivision of parcels to facilitate additional development. Also, to the extent the purpose of proposed amendments is related to the issue of compatibility of new home design with the surrounding neighborhood, that purpose, on its face, does not qualify for a Class 8 exemption. Further, nothing in the draft resolution explains or supports the use of these exemptions.

Although CEQA authorizes categorical exemptions, the exemptions are subject to several exceptions, including activities that may have a significant effect on the environment. CEQA Guidelines Section 15300.2(c) provides that "[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

The proposed changes on coastal bluff-top parcels will have a significant environmental impact since the changes will result in reduced area for development which may be inconsistent with development contemplated under the General Plan. This displacement of development may cause development to occur in other areas that were not contemplated for development in the General Plan and further, may push development outside the County which may as a consequence result in adverse physical impacts on agricultural resources, biology, transportation and noise.

In order to begin to understand how the proposed changes may or may not result in environmental impacts, it is important to understand what lands will be affected by the changes. Even if it is difficult to identify each parcel that may be affected, at a minimum "areas" should be identified so it can be determined if these lands were identified for possible development in the General Plan. Also, this type of information is critical in determining how much potential development may be displaced in the County as a result of the proposed changes. Once this information is generated, the direct and indirect environmental impacts of the proposed changes can be analyzed.

The County, and not the Coastal Commission, is in a far better position to conduct such an analysis since the impacts may occur outside of the Coastal Zone. For this reason, the County's reliance on the statutory exemption under Section 15265 of the State's CEQA

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Guidelines is improper and the County should not send any proposed amendments to the net site area definition to the Commission until it conducts a proper environmental analysis.

Regardless of the intentions behind the change to the net site area definition, it is simply the wrong vehicle for the desired outcome with too many unintended consequences. While the proposed amendments may avoid harming one group of property owners, another group remains unfairly and disproportionately affected by what remains a poorly considered definition rife with negative consequences.

We respectfully request that the Board take steps to rescind all of the net site area definition changes it approved in December, not only the most recently proposed amendments.

Very truly yours,

MORGAN MILLER BLAIR



TODD A. WILLIAMS

TAW:tw

cc: Susan and Barry Porter
Patricia Curtin
Cris Carrigan

EXHIBIT 3



MorganMillerBlair
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bwenther@mmblaw.com

December 4, 2006

VIA FACSIMILE

Christopher R. Cheleden
Assistant County Counsel
County of Santa Cruz
701 Ocean St #505
Santa Cruz, CA 95060

Re: Santa Cruz County Board of Supervisors
Public Hearing on December 5 to Consider Proposed
Amendments to County Code Chapter 13.10

Dear Mr. Cheleden:

The purpose of this letter is to ask for clarification on the County's determination that the proposed amendments to various sections of the County's Code regarding neighborhood compatibility are exempt from review under the California Environmental Quality Act (CEQA). Based upon our review of the proposed amendments, it is not clear that they are eligible for a Class 8 categorical exemption from CEQA.

On November 8, 2006, the County Planning Commission adopted a resolution recommending approval of the above-referenced item to the Board of Supervisors. Generally speaking, the proposed amendments would make three changes to the County's land use regulations: 1) revise the definition of "net site area" for residential properties; 2) increase the maximum lot coverage allowed on lots of 5,000 to 15,000 square feet from 30 percent to 40 percent; and 3) amend the site regulations to allow front yard averaging. The Planning Department reviewed the proposed amendments and determined that they are exempt from CEQA. The Board is now scheduled to consider the item at its regularly scheduled public hearing on December 5, 2006.

CEQA provides categorical exemptions for classes of projects that generally are considered not to have potential impacts on the environment. The County has determined that the proposed amendments are eligible for a Class 8 categorical exemption, which exempts

Christopher R. Cheleden
December 4, 2006
Page 2

certain actions by regulatory agencies for the protection of the environment. In particular, Class 8 consists of the following:

actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

CEQA Guidelines Section 15308.

In its Notice of Exemption, the County determined that "[t]he proposed amendments will reduce developments impacts on environmentally sensitive areas." However, the Planning Commission's staff report indicates that the purpose of the County's decision to pursue the proposed amendments is "related to the issue of compatibility of new home design with the surrounding neighborhood." We believe this purpose, on its face, does not qualify for a Class 8 exemption.

Although CEQA authorizes categorical exemptions, the exemptions are subject to several exceptions, including activities that may have a significant effect on the environment. CEQA Guidelines Section 15300.2(c) provides that "[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

We are concerned that the proposed changes will have a significant environmental impact since the affect of the changes will result in reduced area for development which may be inconsistent with development contemplated under the General Plan. This displacement of development may cause development to occur in other areas that were not contemplated for development in the General Plan and further, may push development outside the County which may as a consequence result in adverse physical impacts on agricultural resources, biology, transportation and noise.

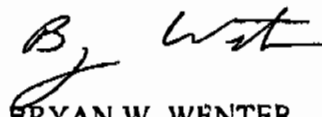
In order to begin to understand how the proposed changes may or may not result in environmental impacts, it is important to understand what lands will be affected by the changes. Even if it is difficult to identify each parcel that may be affected, at a minimum "areas" should be identified so it can be determined if these lands were identified for possible development in the General Plan. Also, this type of information is critical in determining how much potential development may be displaced in the County as a result of the proposed changes. Once this information is generated, the direct and indirect environmental impacts of the proposed changes can be analyzed.

Christopher R. Cheleden
December 4, 2006
Page 3

We hope this information is helpful in providing the CEQA analysis for the proposed changes.

Very truly yours,

MORGAN MILLER BLAIR

A handwritten signature in black ink, appearing to read "B. Wenter", is written over the printed name.

BRYAN W. WENTER

BWW:lg

cc: Cove Britton (via email)
Patricia Curtin

Christopher R. Cheleden
December 4, 2006
Page 4

bcc: Barry and Susan Porter

EXHIBIT 4

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877



October 5, 2007

Glenda Hill
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

Subject: LCP Amendment Requests – Additional Necessary Information

Dear Ms. Hill,

As we recently discussed, the California Code of Regulations requires that specific information be submitted as part of each LCP amendment request. We appreciate the organized manner in which the County submits its LCP amendment requests. However, in addition to the information the County regularly provides as part of its LCP amendment submittals, we also require the following information to ensure compliance with the California Code of Regulations:

1. To meet the requirements of California Code of Regulations (CCR) Section 13552, please submit a discussion of the amendment's relationship to and affect on other sections of the certified LCP, including the public access component. If the proposed amendment is to the Land Use Plan only, please provide an indication of which certified zoning provision(s) it carries out; if the amendment involves a zoning change only, please provide an indication of which certified land use plan provision(s) it carries out.
2. A list of interested persons who spoke at the various hearings regarding the proposed amendments. The regulations also require that a mailing address be provided for each of these individuals, if available. My understanding, after discussing this issue with you, is that the County does not require speakers to provide their address at the hearing. In light of this fact, please continue to provide a list of interested persons who spoke at the various hearings, with or without addresses. In addition, please provide a copy or summary of significant comments received from these persons or others and any County response to such comments.
3. To meet the requirements of CCR 13511, please submit an analysis of potential significant adverse impacts on coastal resources from potentially allowable development for each proposed LCP amendment.

Please provide the above information for the following LCP amendment submittals:

- **Timber Harvesting in Agricultural Zones (SCO-MAJ-1-07 Part 2)** (Please also let me know when this item was heard last by the Board of Supervisors – per our recent phone discussion, I believe it was heard a few months before the amendment was submitted.)

Glenda Hill
Santa Cruz County Planning Department
LCP Amendment Submittals Status Letter
October 5, 2007
Page 2

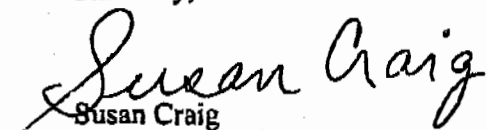
- **Neighborhood Compatibility (SCO-MAJ-2-06 Part 2)** (Once we receive the above information, this amendment will be filed.)
- **Density Bonus Regulations (SCO-MAJ-1-06 Part 3)** (Once we receive the above information, this amendment will be filed.)
- **Second Units on Agricultural Land (SCO-MAJ-3-03)** (In addition to the above, I believe there is additional information that Dan Carl had previously requested regarding this amendment that also needs to be submitted before the amendment can be filed. Please let me know if you feel this is incorrect.)
- **Small Family Daycare/Miscellaneous (SCO-MAJ-2-05 Part B)** (For this amendment, we only need #2 above, if applicable, i.e. if any interested persons spoke at the hearing.)

I would like to schedule the Rural Road Standards amendment (SCO-MAJ-1-07 Part 3) for the November 2007 Commission hearing. Upon further review of the amendment materials, I found some inconsistencies with the submitted signed zoning ordinance, strikethrough/underline document, and the County staff reports (missing pages). I have spoken with Sarah Neuse about these issues and she has said she will have corrections to me soon.

Regarding the Large Family Childcare in Non-Residential Zones amendment (SCO-MAJ-1-06 Part 2), this amendment was approved by the Commission with modifications on May 9, 2007. The Commission's regulations provide that the Commission's action of certification with the suggested modifications shall expire six months from the date of the Commission's action, or on November 9, 2007. To avoid this expiration, the Board of Supervisors needs to take action on the modifications by November 9, 2007 as described in our letter of May 10, 2007. Please let me know if the County intends to adopt the modifications prior to the November 9th deadline.

Thank you for all your help. Please do not hesitate to contact me at (831) 427-4891 if you should have any questions regarding the above amendment requests.

Sincerely,



Susan Craig
Coastal Planner
Central Coast District Office

EXHIBIT 5



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
TOM BURNS, PLANNING DIRECTOR

March 12, 2008

Susan Craig, Coastal Planner
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

SUBJECT: Year 2006 – Second LCP Amendment Request (SCO-MAJ-2-06 Part 2)

Dear Ms. Craig:

This letter serves as a response to your letter requesting additional information for the pending ordinance revisions concerning Neighborhood Compatibility. You requested three additional categories of information. As a reminder, the Board of Supervisors adopted Ordinance No. 4841 and, subsequently, revisited the definition of "Net Site Area" and adopted revised language in Ordinance 4874.

1. List of Interested Persons Who Spoke at the Hearings

Attached are the lists of persons who spoke at two public hearings and one meeting. The Board of Supervisors, at their March 27, 2007 meeting, considered whether to direct Planning staff to process the ordinance revisions that eventually became Ordinance No. 4874. This was a Consent item that was moved to the Regular agenda. While this was not a public hearing on the ordinance, the Board did allow public comment. I am including a list of the persons who commented at that meeting.

2. Ordinance Amendment's Relationship to and Affect on Other Sections of the LCP

The proposed regulations in Ordinance Nos. 4841 and 4874 are comprised of three areas of revisions:

1. An increase in the maximum allowed lot coverage from 30 to 40% for residential parcels 5,000 to 15,000 square feet in size;
2. The allowance for the averaging of adjacent front yards to establishing minimum front yards for residential parcels, subject to certain restrictions;
3. An amendment to the definition of "Net Site Area" for parcels within the Urban Services Line that excludes coastal bluffs and Monterey Bay submerged lands.

These ordinance amendments affect site standards for properties currently zoned for residential use and does not authorize new uses nor amend the number of residential units allowed.

None of the proposed revisions will affect public access to the beach. The increase in allowable lot coverage will encourage first-story development and may, therefore, result in fewer two-story residential buildings thereby further protecting public viewsheds.

The impetus of these amendments is providing regulatory tools to encourage and achieve neighborhood compatibility. In addition, the proposed amendments will contribute to furthering Santa Cruz County Section 13.20.130—Design criteria for coastal zone developments—which reads as follows:

Visual Compatibility. All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.

3. Analysis of Potential Significant Adverse Impacts on Coastal Resources

As discussed in No. 2 above, the proposed revisions affect residential site regulations only. The foreseeable impacts of these revisions are:

- a. A proposed house located on a block with reduced front yard setbacks will be allowed to follow the existing pattern of development. Front yard averaging was permitted for more than twenty years and resulted in many established neighborhoods with reduced front yards. No garages or carports will be allowed to have reduced setbacks thereby continuing to provide adequate on-site parking and sight distance. Only first-story components of the house may have a reduced setback thereby protecting light and air.
- b. For certain sized parcels, an increase in maximum lot coverage will allow for larger first-story components and smaller or no second stories. This will allow new homes to be in character with existing neighborhoods (the maximum lot coverage was 45% for more than 20 years) and also reduce second stories that may impact public viewsheds.
- c. Stop the current practice of counting the area on a coastal bluff or submerged ocean areas in the size of the lot for calculating maximum lot coverage and floor area ratio for coastal blufftop properties. This practice has resulted, in some cases, in homes that are markedly larger than those in the neighborhood that do not include coastal bluffs thereby appearing incompatible with the neighborhood character. In addition, if the lot fronts on a scenic road, the larger home may compromise public viewsheds.

The amendments do not authorize additional uses, density, or larger homes and, therefore, staff cannot identify any potentially significant adverse impacts to coastal resources from these proposed ordinance amendments.

I hope this letter has fully addressed your questions. Please feel free to contact me at 454-3216 or by e-mail if you have any further questions.

Sincerely,



Glenda Hill, AICP
Principal Planner

Attachments:

1. Persons who spoke at the March 27, 2007 Board of Supervisors meeting
2. Persons who spoke at the April 25, 2007 Planning Commission public hearing
3. Persons who spoke at the May 15, 2007 Board of Supervisors public hearing

Persons Who Spoke at March 27, 2007
Board of Supervisors Meeting

Hugh Carter—President, Architects Association of Santa Cruz County: concerned about impact on small lots on top of coastal bluff and the house size that would be allowed.

Ellen Mellon: supports changes to beach regulations.

Keith Adams—President, Santa Cruz County Coastal Property Owners Association: wants top of bluff property regulations revisited. Ordinance will result in houses that are too small.

Cove Britton—Architect: want ordinance process to be transparent. Wants additional noticing to property owners.

Rose Marie McNair—real estate broker: concerned about last minute ordinance language changes.

Kevin Goodwin—blufftop property owner: concerned about creation of nonconforming structures on blufftops.

Mike Guth: supports having the Planning Commission hear proposed revisions. Believes it is appropriate to delete submerged ocean lands from net site area.

Roger Kuhn—Attorney: supports proposed revisions.

Ed Mally: concerned about property values.

Sara Clarenbach—Attorney representing beach toe of bluff property owners: supports proposed revisions.

Persons Who Spoke at April 25, 2007
Planning Commission Public Hearing

Steve Graves—representing 100 property owners on the beach: supports ordinance amendments. They are consistent with the Geologic Hazards regulations.

Steve Hanley—representing 27 condo owners on a coastal blufftop: concerned about reconstruction of existing houses.

Keith Adams—President, Santa Cruz County Coastal Property Owners Association: supports ordinance amendments but does not support the ordinance changes for blufftop properties. Concerned about nonconformity.

William Rigby: supports ordinance amendments.

Burt Fiorichini—blufftop owner: does not support. Concerned about reconstruction after a fire.

George Powers—blufftop owner: does not support. He has a small lot and a small house. Believes he could not reconstruct his house to its present size.

Lisa Sprinkle: supports ordinance amendments. It will help current problems with neighborhood compatibility.

Bill Geisreiter—blufftop owner: concerned about reconstruction for blufftop properties.

Howard Levitz—blufftop owner: also concerned about reconstruction for blufftop properties.

Cove Britton—Architect: believes this is an unfair ordinance as it treats owners on blufftops differently than toe of bluff property owners. Inappropriate to create a law that relies on variances.

Jennifer Renout, Boulder Creek: worried about private property takings.

Poulton Glum: does not support ordinance amendments.

Jim Sheehan: supports ordinance amendments. It closes an existing loophole.

Curt Lanz: concerned about the stigma of nonconforming status for blufftop properties.

Gordon Stewart, Boulder Creek: does not support ordinance amendments. Existing houses should be grandfathered.

Harry Blanchard: does not want blufftop properties regulated.

Jeannie Soderman: concerned about Agenda 21 and Smart Growth.

Sara Clarenbach—Attorney representing 100 owners on beach; supports ordinance amendments.

Persons Who Spoke at May 15, 2007
Board of Supervisors Public Hearing

Steve Graves—representing 100 toe of bluff and beach property owners: supports ordinance amendments. Bluff top properties are different than toe of bluff and beach properties and should be regulated differently.

Ms. Riketello: supports ordinance amendments.

Dave Mally: supports ordinance amendments

Britt Hazelton: unfair to blufftop properties. Toe of bluff should be treated the same as blufftop. Concerned about health safety due to erosion.

JeffrieAnn Tatum—Pot Belly Beach Association: supports ordinance amendments.

Claire Marie McLaughlin: believes blufftop rules are a taking.

Betty Cost—represents Beach Drive and Beach Island owners: supports ordinance amendments. Beach and toe of bluff lands can be developed while blufftop properties have FEMA setbacks.

Dawn Embree: supports ordinance amendments.

Keith Adams—President, Santa Cruz County Coastal Property Owners Association: supports the ordinance amendments but wants blufftop regulations changed to not deduct areas from net site area. Wants ability to reconstruct nonconforming blufftop homes (if not damaged by bluff failure.)

Ron Powers, also speaking on behalf of the above Association: believes blufftop properties may have little or no net site area. Wants regulations allowing existing houses to be reconstructed.

Cove Britton—Architect: believes proposed ordinance is unfair.

Rose Marie McNair—real estate broker: concerned about implications of nonconformity as a result of ordinance on property owners and others.

Ellen Mellon: supports ordinance amendments. Will help protect neighborhood compatibility from oversized homes.

Steve Hanley: concerned about possible inability to reconstruct. Homes should be grandfathered.

Sara Clarenbach—Attorney representing about 100 property owners: supports ordinance amendments. There is a difference between blufftop and toe of bluff and beach properties.