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Prepared March 21, 2012 (for April 12, 2012 hearing)

To: Coastal Commissioners and Interested Persons

From: Dan Carl, District Director
John Akeman, Coastal Planner

Subject: Santa Cruz County Local Coastal Program (LCP) Amendment Number 1-11 Part 1 (Minor Exceptions)

Summary

Santa Cruz County proposes to amend the Implementation Plan (IP) component of its certified LCP to add and modify regulations to: (1) allow for minor deviations from certain site development standards (for height, setbacks, separation between structures, floor area ratio (FAR), and lot coverage); (2) reduce required side and rear setbacks for garages, allow reduced front/street setbacks if it advances environmental protection or public safety objectives, and eliminate the Planning Commission's discretion to establish modified setbacks; (3) allow height exceptions for certain parapets, flat plate solar collectors, and certain commercial and industrial buildings; and (4) conform LCP variance language to match State variance law.

The County indicates that the main thrust of the LCP amendment is to make it easier to pursue minor deviations from certain development standards, and to make the deviations themselves more consistent across the board (i.e., the maximum allowed deviations are identified). The new "minor exceptions" process would allow for the minor deviations without benefit of a public hearing (although such decisions could be appealed and then would require a public hearing). This new proposed process raises two primary issues of concern. The first is that by codifying the deviations (e.g., 5% in height, 15% in coverage and setbacks, 7.5% for FAR for small lots, etc.), the process simply increases certain LCP maximum scale allowances (related to FAR, coverage, setbacks, and height). The County addresses this issue by requiring variance findings to be made when a minor exception is granted. The LCP variance findings emanate from State law and are very difficult to make, including requiring a demonstration of special circumstances (related to property size, shape, topography, location, or surroundings) to allow a variance. Thus, the County's proposal means that only projects that would qualify for a variance could qualify for a minor exception, and this is not expected to be the case for a significant number of projects. As a result, it is not expected that the proposed minor exceptions process will lead to significant increases in the scale of the coastal zone built environment overall, or a codification of an overall increase in these parameters, rather it will address cases of special circumstances. In essence, because a variance process is currently available in the LCP, the new process means that applicants will be able to pursue the same deviations, just without the need for a public hearing, and where the LCP provide certainty about exactly how much increase is possible.

The second issue is related to the LCP's coastal development permit (CDP) process, and related to public hearing parameters. As written, the minor exceptions process is silent regarding its relationship to



the CDP process. The County indicates that this is because the CDP process is identified elsewhere in the LCP and it applies independently of the minor exceptions provisions. The County indicates that if a CDP is required, then the minor exceptions associated with a project would be considered in that process, including at a public hearing (because all CDPs require a public hearing per the Coastal Act and the LCP).¹ Staff understands this distinction, but at the same time believes that to omit reference to the CDP process in this section could lead to confusion on the part of the public as well as confusion in implementation overall should it be interpreted that the minor exception process is all that is necessary for coastal zone cases, including because the minor exception process does reference other LCP approval requirements. To avoid such confusion, staff recommends modifications so that the CDP process is explicitly referenced in the minor exceptions section of the LCP.

The County also proposes a variety of additional LCP changes, again generally to allow for certain minor deviations to development standards (for height, setbacks, and garages).² Staff believes that these are appropriately limited, and that the LCP’s coastal resource protection policies overall should be sufficient in such cases to ensure that such resources are adequately protected.

Thus, Staff recommends that the Commission approve the LCP amendment only if modified. The required motions and resolutions (there are two) to implement this recommendation begin on page 3 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on June 15, 2011. The proposed amendment includes IP changes only, and the original 60-day action deadline was August 14, 2011. On August 11, 2011, the Commission extended the action deadline by one year to August 14, 2012. Thus, the Commission has until August 14, 2012 to take a final action on this LCP amendment.

Staff Report Contents

	page
I. Staff Recommendation – Motions and Resolutions.....	3
II. Suggested Modifications.....	4
III. Findings and Declarations	5
A. Proposed LCP Amendment.....	5
B. LUP Consistency Analysis	8
C. California Environmental Quality Act (CEQA)	13
IV. Exhibits	

¹ Thus, at its most basic level, the County’s proposal would only eliminate a public hearing to consider variance findings for a deviation for those coastal zone cases where a CDP is not required (e.g., CDP exclusions and exemption cases, where LCP standards continue to apply).

² With respect to such deviations associated with garage setback standards, the proposed amendment text was awkwardly organized, and County staff has asked for a “friendly modification” to correct the organizational problem.



Exhibit A: Proposed IP Amendment Language, and Davenport and La Selva Beach Maps

Exhibit B: LCP Section 13.10.230 (Variance Approvals)

Exhibit C: LCP Section 18.10.230 (Findings Required)

I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed amendment if modified. The Commission needs to make two motions in order to act on this recommendation.

1. Denial of Implementation Plan Amendment as Submitted

Staff recommends a **YES** vote on the motion below. Passage of the 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.

Motion (1 of 2). I move that the Commission **reject** Major Amendment Number 1-11 Part 1 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County. I recommend a yes vote.

Resolution to Deny. The Commission hereby **denies** certification of Major Amendment Number 1-11 Part 1 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County and adopts the findings set forth below on the grounds that the amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment 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 Plan amendment as submitted.

2. Approval of Implementation Plan Amendment if Modified

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

Motion (2 of 2). I move that the Commission **certify** Major Amendment Number 1-11 Part 1 to the Santa Cruz County Local Coastal Program Implementation Plan if it is modified as suggested in this staff report. I recommend a yes vote.

Resolution to Certify with Suggested Modifications. The Commission hereby **certifies** Major Amendment Number 1-11 Part 1 to Santa Cruz County's Local Coastal Program Implementation Plan if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and adequate to carry



out the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan amendment may have on the environment.

II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Land Use Plan consistency findings. If Santa Cruz County accepts each of the suggested modifications within six months of Commission action (i.e., by October 12, 2012), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished.

1. Minor Exception Applicability. Add the following additional text to the end of new IP section 13.10.235(b):

If a coastal development permit is required (pursuant to LCP Chapter 13.20), then the minor exception shall be processed as part of and pursuant to the coastal development permit process, including that hearing requirements, noticing, appeal procedures, etc. shall be as is required for coastal development permits, and all required coastal development permit findings shall also be required.

2. Garages. Replace proposed IP section 13.10.323(e)(6)(f) with the following text:

Applicability. This subsection applies to residentially zoned parcels within the Urban Services Line, and to residentially zoned parcels within those portions of La Selva Beach and Davenport inside the Rural Service Line as shown in Figure 1 of Section 13.10.235 (map attached hereto).

Provisions. The following provisions apply to garages located in required rear and side yards.

- (i) On residentially zoned parcels smaller than 10,000 square feet in the applicable areas noted above, an attached or detached garage ("garage" as defined under 13.10.700-G but excluding carports) may be located within side and rear setback areas with up to a 50% reduction of the required setback distances to the rear and interior side property lines, provided that:
 - (a) There shall be no windows, doors or other openings on garage walls that are less than five (5) feet from the side or rear property lines;
 - (b) The garage shall be located a minimum of forty (40) feet from the front property line;



- (c) Eaves or other projections on garages with reduced setbacks shall extend no more than two additional feet closer to the rear and side yard property lines, and no closer than allowed by the California Residential Building Code (CRC); and
- (d) The garage shall have a maximum depth of thirty (30) feet.
- (ii) On residential parcels 10,000 square feet or larger in size, an attached or detached garage may be located within side and rear setback areas with up to a 50% reduction of the required setback distances to the rear and interior side property lines, subject to subsections (a) through (d) above, and provided that a minor exception is obtained in accordance with Section 13.10.235.
- (iii) A garage may be located up to zero (0) feet from the rear or interior side property line if a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.
- (iv) A garage located within a required rear or side setback area shall not exceed 17 feet in height or 1 story, unless a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

III. Findings and Declarations

The Commission finds and declares as follows:

A. Proposed LCP Amendment

The County proposes a variety of amendments to the IP component of its certified LCP (see Exhibit A for proposed LCP amendment text), and these can be categorized into 5 main components.

Minor Exceptions

The first component of the proposed amendment would add Section 13.10.235 to the LCP, a minor exception process to allow minor deviations to LCP limits related to height, setbacks, separation between structures, floor area ratio (FAR), and lot coverage (see pages 1 through 3 of Exhibit A). This minor exception process would only apply within the Urban Services Line (USL), and within those portions of La Selva Beach and Davenport inside the Rural Services Line (RSL) (see last page of Exhibit A for a map of these areas). Currently, the LCP does not include a process for minor variations to site standards other than the variance process, which necessitates a public hearing. The proposed minor exception process would require the same variance findings (see Exhibit B), but would do away with the public hearing requirement and allow the Planning Director to make minor exception determinations (although the Planning Director would have the discretion to determine that a hearing



was necessary and set the matter for hearing, and/or Planning Director decisions could be appealed and then would require a public hearing). The proposed exceptions to site standards are described below:

Height. Up to 5% increase in the maximum allowed height (e.g., a 28-foot height limit could be increased by up to 16.8 inches).

Setbacks. Up to 15% reduction in the minimum required front, side or rear setback (e.g., a 5-foot required setback could be reduced by up to 9 inches).

Separation between structures. Up to a 15% exception from the minimum required 10-foot separation between structures on the same property (i.e., the 10-foot requirement could be reduced by up to 1.5 feet).

Floor Area Ratio (FAR). Up to a 7.5% increase in the total maximum allowed 50% FAR for lots 4,000 square feet or less (i.e., the 50% maximum FAR could be increased up to 57.5% maximum FAR for such lots).

Lot coverage. Up to a 15% increase of the maximum allowed total lot coverage (e.g., a 40% maximum allowed lot coverage could be increased by up to 6%).

The procedure to obtain a minor exception approval would begin with an applicant providing an application to the County's Planning Department.³ The Planning Director or designee would then make a determination on the application for a minor exception. At the discretion of the Planning Director, the project could be referred to the County Zoning Administrator or the County Planning Commission for a public hearing. Not less than 21 days prior to the County taking an action, notice of the pending decision would be posted on the County's Planning Department's website and all owners and occupants within 100 feet of the subject parcel would also receive notice.⁴ Any decision to approve a minor exception would require the same findings as are required for variance approvals (pursuant to LCP Section 13.10.230(c), see Exhibit B), the same findings as are required for discretionary approvals (pursuant to LCP Section 18.10.230, see Exhibit C), and a stormwater finding for cases of increased lot coverage (See page 3 of Exhibit A).

Based on the required findings and other circumstances, the project "could be conditioned as needed to ensure compliance with County policies and ordinances, in accordance with Section 18.10.240". Since a public hearing would not be required for these minor exceptions, the decision on the minor exception would be appealable by any person whose interests were adversely affected, and the appeal would be heard at a public hearing before the Zoning Administrator, or by the Planning Commission if the Planning Director determines the development to be in the public interest. A notice of the public hearing for the appeal would be sent to all property owners and occupants within 300 feet of the subject property, and to local agencies that provide essential services to the subject parcel, at least 10 days prior

³ The minor exception shall contain such information as required by the Planning Director.

⁴ The normal pending permit application notice radius under the LCP is 300 feet.



to the hearing. A notice would also be posted at the site in accordance with Section 18.10.224. As is consistent with Section 18.10.340, any person whose interests are adversely affected by an appeal determination of the Zoning Administrator would be able to appeal the decision to the Planning Commission, and any person whose interests were adversely affected by an appeal determination of the Planning Commission would be able to appeal the decision to the Board of Supervisors. Appeals would be conducted in accordance with Section 18.10.310.

The County indicates that the intent of the proposed new minor exception process is to provide reduced costs and timeframes for permitting development to applicants and County staff. By eliminating the requirement for a public hearing for considering minor exceptions, the County indicates that the process would save an applicant over \$2,000 in fees and shorten the processing time by up to 6 months.

Setbacks

The second component of the proposed amendment would add Section 13.20.323(e)(6)(F) to the LCP to allow garages to be located within required rear and side yards under certain circumstances, and would reduce the required setback distance for garages and other detached accessory structures from alleys from 6 feet to 3 feet (see pages 3 through 5 of Exhibit A). The new provisions would only apply to residentially zoned parcels within the USL and within those portions of La Selva Beach and Davenport inside the RSL (see last page of Exhibit A for a map of these areas). For garages, different standards would apply to lots less than 10,000 square feet and lots greater than or equal to 10,000 square feet. For lots that are less than 10,000 square feet, a 50% reduction in setback would be allowed subject to certain criteria. For lots that are 10,000 square feet or greater, the same criteria would apply, and the changes would also require a minor exception approval (see previous section).

In addition, this component would delete Subsection 13.10.510(f) of the LCP and add subsection 13.10.510(i) to Section 13.10.510 (General Site Standards), which would allow reductions of up to 25% in the front and/or street setback when such reduction better protects the environment or public safety (see page 6 of Exhibit A). The section proposed for deletion generally allows the Planning Commission to establish building setback lines different from those required by the district standards when such standards impose a purposeless hardship on new buildings compared to the setback of existing buildings in the same block or areas, or where the topography of an area may call for a building setback line contrary to the requirements of any district.

Height Exceptions

The third component of the proposed amendment would amend the general LCP section that describes height exceptions (LCP Section 13.10.510(d)(2)) to add certain parapets to the list of allowed exceptions, and to allow flat plate solar collectors on existing structures to exceed the height limit by four feet (currently a 3-foot exception is allowed) (see page 5 of Exhibit A). Parapets, which are defined as a low screen or barrier wall, would be allowed to exceed the height limit by 3.5 feet, provided they are on non-residential buildings, located at least 5 feet from the edge of any exterior wall, and are constructed for the purpose of screening mechanical equipment or other building features. In much the



same way, firewall parapets for non-residential buildings that are upward extensions of an exterior wall (and are required by the Building Code for fire safety purposes) would be allowed to exceed the height limit by up to three feet.

Section 13.10.510(d)(2) would also be modified to allow buildings in commercial or industrial zone districts to exceed the height limit established by the zone district by up to 5 feet, subject to review and recommendation by the County's Urban Designer and a public hearing. In addition to typically required findings, such increases would only be allowed if the "additional height complements or completes the architectural design", and if it complies with all LCP policies if the site is in the coastal zone.

VariANCES

Finally, the fifth component of the proposed LCP amendment would conform LCP variance language to match State variance law (see pages 1 through 3 of Exhibit A).

B. LUP Consistency Analysis

1. Applicable Policies

The proposed amendment affects the IP component of the Santa Cruz County LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP. The proposed amendment primarily affects considerations of mass and scale in the built environment within the County's USL and in La Selva Beach and Davenport. Applicable LUP policies include:

LUP Objective 5.10a (Protection of Visual Resources). To identify, protect, and restore the aesthetic values of visual resources.

LUP Objective 5.10b (New Development in Visual Resource Areas). To ensure that new development is appropriately designed and constructed to have minimal to no adverse impact upon identified visual resources.

LUP Policy 5.10.2 (Development Within Visual Resource Areas). Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section....require discretionary review for all development....of the County's zoning ordinance to such development.

LUP Policy 5.10.3 (Protection of Public Vistas). Protect significant public vistas...from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations,... inappropriate landscaping and structure design.

LUP Policy 5.10.5 (Preserving Agricultural Vistas). Continue to preserve the aesthetic value of



agricultural vistas. Encourage development to be consistent with the agricultural character of the community. Structures appurtenant to agricultural uses on agriculturally designated parcels shall be considered to be compatible with the agricultural character of surrounding areas

LUP Policy 5.10.6 (Preserving Ocean Vistas). *Where public ocean vistas exist, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development.*

LUP Policy 5.10.7 (Open Beaches and Blufftops). *Prohibit the placement of new permanent structures which would be visible from a public beach, except where allowed on existing parcels of record, or for shoreline protection and for public beach access. Use the following criteria for allowed structures: (a) Allow infill structures (typically residences on existing lots of record) where compatible with the pattern of existing development. (b) Require shoreline protection and access structures to use natural materials and finishes to blend with the character of the area and integrate with the landform.*

LUP Policy 5.10.11 (Development Visible from Rural Scenic Roads). *In the viewsheds of rural scenic roads, require new discretionary development, including development envelopes in proposed land divisions, to be sited out of public view, obscured by natural landforms and/or existing vegetation. Where proposed structures on existing lots are unavoidably visible from scenic roads, identify those visual qualities worthy of protection (See policy 5.10.2) and require the siting, architectural design and landscaping to mitigate the impacts on those visual qualities. (See policy 5.14.10.)*

LUP Policy 5.10.12 (Development Visible from Urban Scenic Roads). *In the viewsheds of urban scenic roads, require new discretionary development to improve the visual quality through siting, architectural design, landscaping, and appropriate signage.*

LUP Figure 8-1 (Areas with Special Design Criteria or Guidelines)....*Coastal Zone and Coastal Special Communities, Davenport, Live Oak Planning Area, North Coast Beaches, Rio Del Mar Flats/Esplanade Area, Seac Cliff Beach Area Special Community...*

LUP Policy 8.6.6 (Protecting Ridgetops and Natural Landforms). *Protect ridgetops and prominent natural landforms such as cliffs, bluffs, dunes, rock outcroppings, and other significant natural features from development. In connection with discretionary review, apply the following criteria: (a) Development on ridgetops shall be avoided if other developable land exists on the property; (b) Prohibit the removal of tree masses when such removal would erode the silhouette of the ridgeline form. Consider the cumulative effects of tree removal on the ridgeline silhouette.*

Objective 8.8 (Villages, Towns and Special Communities). *To recognize certain established urban and rural villages as well as Coastal Special Communities for their unique characteristics and/or popularity as visitor destination points; to preserve and enhance these communities*



through design review ensuring the compatibility of new development with the existing character of these areas.

LUP Policy 8.8.1 (Design Guideline for Unique Areas). *Develop specific design guidelines and/or standards for well-defined villages, towns and communities.... New development within these areas listed in Figure 8-1...shall conform to the adopted plans for these areas, as plans become available.*

LUP Policy 8.8.2 (Coastal Special Community Designation). *Maintain a Coastal Special Community designation for the following areas shown on the General Plan and LCP Land Use Maps: Davenport, Seacliff Beach Area, Rio del Mar Flats/Esplanade, Harbor Area, East Cliff Village Tourist Area.*

LUP Policy 8.8.4 (Davenport Character). *Require new development in Davenport to be consistent with the height, bulk, scale, materials, and setbacks of existing development: generally small scale, one to two story structures of wood construction.*

LUP Policy 8.8.6 (New Development) *Require new development, additions or rehabilitation to be consistent with the objectives of this section and the following:(a) Clearly define State Park Drive....(b) Improve directional signing....(c) Reduce the numerous....(d) Landscape and improve.....*

LUP Policy 8.8.7 (New Development) *Require infill development, rehabilitations or new additions in the Rio Del Mar flats to maintain heights, bulks and setbacks similar to existing development as follows:(a) Commercial Development. Buildings should be designed...(b) Esplanade, landscaping, paving....and incorporate Aptos Creek as a design feature.*

2. Analysis

The proposed amendment is part of an ongoing County effort to make the County's land use regulations reflect common practice and to make the regulations easier to understand, use, and apply. In this case, the proposed amendment would add a minor exception process and new garage standards (for rear and side yard setbacks), and modify IP height exceptions and setback regulations to generally increase maximum allowable heights and reduce required setbacks, and to reduce certain permit (including noticing) and public review requirements (public hearing, unless otherwise recommended by the Planning Director, or appealed).

The County indicates that this amendment, and especially the minor exception section, is intended to provide a more streamlined review process for considering minor deviations from standards for height, setbacks, separation between structures, lot coverage, and floor area, subject to review and certain findings. The County indicates that eliminating the requirement for a public hearing for considering variances, and instead providing a minor exception process without such hearing, would save the typical



applicant over \$2,000 and shorten the permit processing time by up to 6 months.⁵ The County has also indicated that an additional goal is to encourage more property owners to build structures that are legal, safe and meet environmental protection standards, thereby reducing illegal construction in the County.

Reducing the County's processing costs and timeframes is an appropriate objective, and Santa Cruz County is not alone in embracing such an 'exceptions' concept statewide.⁶ However, there could be concern that a minor exception program could lead to increased development and coastal resource impacts over the short and long term. For example, the County's environmental document supporting the proposed changes states, "it is conceivable that the reduced processing time and costs for this subset of variances would lead some property owners to apply for a variance, and that the number of variances approved could potentially increase initially due to a potential increase in number of applications received." However, minor exceptions would require the same findings that are required for variance approvals (thus limiting the applicability of minor exceptions to those properties that currently would be eligible for a variance), and the County's environmental document further states that "any increase in development resulting from the minor exception process would be temporary only." In short, the County's conclusion on this point is that, yes, it is possible that there would be an increase in applications for minor exceptions (as opposed to variances), but the total number of such applications over the long term would not be any different than what could already occur today.⁷ The code amendment would not change the number or type of parcels that could potentially qualify for a variance, therefore, this amendment is not expected to significantly increase the amount of varied or excepted development.

Even so, the new proposed process raises two primary concerns. The first is that by codifying the deviations (e.g., 5% in height, 15% in coverage and setbacks, 7.5% for FAR for small lots, etc.), the process simply increases certain LCP maximum scale allowances (related to FAR, coverage, setbacks, and height). The County addresses this issue by requiring variance findings to be made when a minor exception is granted. The LCP variance findings emanate from State law and are very difficult to make, including requiring a demonstration of special circumstances (related to property size, shape,

⁵ There are, of course, other ways of saving applicants money that have been identified by others, such as reducing application and processing fees. However, there is no doubt that the required noticing and other requirements of the public hearing process ensure a certain amount of processing time, a baseline amount of which cannot be feasibly eliminated when public hearings are required.

⁶ As far as what other communities do in terms of minor exceptions or similar processes, there is a lot of variation. In general this ranges from Counties with no exception or "minor" variance process available (e.g., Mendocino County) to Counties which require public hearings for certain minor exceptions (e.g., San Mateo and Santa Barbara Counties) to Counties that allow some minor exceptions by right (e.g., Sonoma County) or by administrative approval by the Planning Director (e.g., San Luis Obispo County). Marin County employs an "administrative variance" process (that allows a 2-foot height extension, a 2% increase in FAR and up to a 40% reduction in required setbacks with approval of the Planning Director, which can be appealed to the Planning Commission) that also requires variance findings to be made. The City of Malibu allows minor modifications (for height increases, setback reductions of 20%, and remedial grading, etc.) by approval of the Planning Director without requiring variance findings, but such modifications do require a finding that the development does not adversely affect public views or neighborhood character.

⁷ On this point, it is noted that the County's minor exception process has been in effect outside the coastal zone since April 21, 2011 (approximately a year). Since going into effect, the County has taken in only one minor exception application outside the coastal zone (to allow an 18-foot front setback for a garage, where the required front setback was 20 feet (a 10% reduction)).



topography, location, or surroundings) to allow a variance (see Exhibit B). Thus, the County's proposal means that only projects that would qualify for a variance could qualify for a minor exception, and this is not expected to be the case for a significant number of projects. As a result, it is not expected that the proposed minor exceptions process will lead to significant increases in the scale of the coastal zone built environment overall, or a codification of an overall increase in these parameters, rather it will address cases of special circumstances. In essence, because a variance process is currently available in the LCP, the new process means that applicants will be able to pursue the same deviations, just without the need for a public hearing, and where the LCP specifies exactly how much increase is possible.

Issues are further reduced by the fact that the proposed minor exception process would apply only within the urban areas of the County's coastal zone (within the USL) and the rural communities of Davenport and La Selva Beach. In addition, the County's minor exceptions process is intended to proceed on a trial basis for 2 years, after which the County will reevaluate its utility and effectiveness and return with a report before expanding to include the entire County. Although this LCP amendment does not include a sunset clause or a similar trigger to respond to that two-year time frame, it is recognized that the County intends such reevaluation process, and it is possible that future LCP amendments designed to modify the program are possible.

The second potential issue with the minor exceptions process is related to the LCP's coastal development permit (CDP) process and, related, to public hearing parameters. As written, the minor exceptions process is silent regarding its relationship to the CDP process. The County indicates that this is because the CDP process is identified elsewhere in the LCP and it applies independently of the minor exceptions provisions. The County indicates that if a CDP is required, then the minor exceptions associated with a project would be considered in that process, including in a public hearing context (because all CDPs require a public hearing per the Coastal Act and the LCP).⁸ Although this distinction is clear when considering the LCP as a whole, the proposed text omits any reference to the CDP process, and this omission could lead to confusion on the part of the public as well as confusion in implementation overall should it be interpreted that the minor exception process is all that is necessary for coastal zone cases, including because the minor exception process does reference other non CDP LCP approval requirements. To avoid such confusion, modifications are necessary so that the CDP process be explicitly referenced in the minor exceptions section of the LCP (see suggested modification 1).

In terms of the other components of the proposed amendment, these are generally minor changes that do not raise the same concerns as the new minor exceptions process. These other changes are appropriately limited, and the LCP's coastal resource protection policies overall should be sufficient in such cases to ensure that such resources are adequately protected. With respect to the garage related components, the County indicates that the purpose is to facilitate the placement of residential garages toward the rear of

⁸ Thus, at its most basic level, the County's proposal would only eliminate a public hearing to consider variance findings for a deviation for those coastal zone cases where a CDP is not required (e.g., CDP exclusions and exemption cases, where LCP standards continue to apply).



parcels (away from the front of houses) in order to provide more flexibility in site designs, more community friendly front yards, and to facilitate reduced parking along residential streets. The proposed garage standards would allow garages on parcels under 10,000 square feet, meeting certain criteria, to encroach into the required rear and side yard setbacks, and allow for even further rear or side yard setback reductions, meeting other certain criteria, for garages to be considered with a Level IV discretionary approval (pursuant to LCP Chapter 18.10). On parcels greater than 10,000 square feet, the same above reductions could be approved only through the minor exceptions process. Although intended to provide a distinction between lots greater than and less than 10,000 square feet, the proposed text inadvertently does not clearly reflect this distinction, and is somewhat unclear in this respect. The County indicates that the intent is clear, and has asked for “friendly modifications” designed to address this drafting error (see Suggested Modification 2).

Conclusion

The primary concerns raised with respect to this proposed IP amendment are in relation to potentially inappropriately increasing the mass and scale of the coastal zone built environment, and, related, the relationship of the minor exception process to the CDP process. In terms of the former, the variance finding requirement should adequately address any such issues. In terms of the latter, this concern can be readily addressed through adoption of suggested modifications that specify that the proposed minor exception process does not exempt development from also satisfying LCP CDP requirements. In this way, coastal resource issues can be appropriately analyzed and addressed through the CDP process to avoid resource degradation.

As modified, the proposed amendment can be found consistent with and adequate to carry out the LUP.

C. California Environmental Quality Act (CEQA)

The Coastal Commission’s review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed.

The County, acting as lead CEQA agency, conducted an environmental review for the proposed project as required by CEQA and issued a Negative Declaration. This report has discussed the relevant coastal resource issues associated with the proposal. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

As discussed above, the proposed amendment as modified is not expected to have a significant adverse environmental effect. As such, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment as modified would have on the environment within the meaning of CEQA. Thus, the



proposed amendment as modified will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



ORDINANCE No. _____

ORDINANCE AMENDING CHAPTER 13.10 OF THE SANTA CRUZ COUNTY CODE TO ALLOW FOR EXCEPTIONS FROM CERTAIN ZONING SITE STANDARDS AND ALLOW GARAGES WITHIN REQUIRED SIDE AND REAR YARDS

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Subsection 13.10.230 (c)(1) of the Santa Cruz County Code is hereby amended to read as follows:

1. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

SECTION II

Section 13.10.235 is hereby added to Chapter 13.10 of the Santa Cruz County Code to read as follows:

13.10.235 Minor Exceptions

a) Purpose. To provide a streamlined discretionary review process to allow consideration of minor variations from the zoning district site standards established for height, setbacks, separation between structures on the same property, lot coverage and floor area ratio.

b) Applicability. Within the Urban Services Line, and within those portions of La Selva Beach and Davenport within the Rural Service Line as shown in Figure 1 of this subsection (map attached hereto), minor exceptions to the zoning site standards contained in the site and structural dimensions charts may be considered for the following zone districts: Agricultural districts (13.10.313(a)); Residential districts (13.10.323(b) and 13.10.323(e)6(c)); Commercial districts (13.10.333(a)); Industrial districts (13.10.343(a)); Parks, Recreation and Open Space Parks districts (13.10.353(a)); Public and Community Facilities districts (13.10.363(a)); Timber Production districts (13.10.373(a)); and Special Use districts (13.10.383(a)). Minor exceptions do not apply to special site standards contained in combining zone districts, specific plans or PUD's, unless specifically indicated.

Minor exceptions shall be limited to the following:

Height: Up to a 5% increase in the allowed height. For example, a 28-foot height limit could be increased by up to 16.8 inches ($28' \times 0.05 = 1.4'$).

Setbacks: Up to a 15% reduction in the required front, side or rear setback. For example, a 5-foot setback may be reduced by up to 9 inches (5' X .15 = .75').

Separation between structures: Up to a 15% exception from the 10-foot separation requirement between structures on the same property, allowing a reduction of up to 1.5 feet, or an 8.5-foot separation.

Floor Area Ratio: Up to a 7.5% increase in the total allowable 50% FAR for lots 4,000 square feet or less, allowing up to 57.5% FAR.

Lot Coverage: Up to a 15% increase of the total allowable lot coverage, resulting in the following maximum allowable increases:

Allowable Lot Coverage	Maximum Additional Lot Coverage Allowed with a 15% Minor Exception	Minor exceptions
40%	6%	
20%	3%	
10%	1.5%	

apply only to the zoning site standards noted above, and do not apply to or supersede limits or building setbacks required in other sections or chapters of the County Code, such as for riparian corridors, geologic hazards, sensitive habitats, or agricultural buffers.

(c) Procedures

- 1) Application. The application for the minor exception shall contain such information as required by the Planning Department.
- 2) Application Review. The Planning Director or designee shall review and make a determination on the application for a minor exception. At the discretion of the Planning Director, the project may be referred to the Zoning Administrator or Planning Commission for a public hearing.
- 3) Noticing. Not less than 21 days prior to the County taking action on an application for a minor exception, notice of the pending decision shall be posted on the County of Santa Cruz Planning Department Website and shall also be sent to owners and occupants of property within 100 feet of the subject parcel. The notice shall include the date after which a decision will be made on the project, the final date on which comments will be accepted, and information regarding the appeal process. The contents of the notice shall be consistent with Section 18.10.222(d).
- 4) Required Findings. Findings shall be in accordance with findings required for variance approvals in Section 13.10.230 (c), and in accordance with the findings required in Section 18.10.230 for discretionary approvals. In addition, the following finding shall be required for minor exceptions allowing an increase in lot coverage:

A. That there is no increase in stormwater leaving the property as a result of additional impermeable area created by a minor increase in lot coverage. The project as approved incorporates measures or conditions that direct runoff to the landscape, uses permeable paving material, reduce existing impermeable area, or incorporates other low impact drainage design practices to control any increase in stormwater runoff.

5) Project Conditions. The project may be conditioned as needed to ensure compliance with County policies and ordinances, in accordance with Section 18.10.240.

6) Appeal. The determination on the minor exception may be appealed by any person whose interests are adversely affected. Appeals shall be heard at a public hearing before the Zoning Administrator, or by the Planning Commission if the Planning Director determines this to be in the public interest. A notice of the public hearing for the appeal shall be sent to all property owners and occupants within 300 feet of the subject property, and to local agencies that provide essential services to the subject parcel, at least 10 days prior to the hearing. A notice shall also be posted on site in accordance with Section 18.10.224. As is consistent with Section 18.10.340, any person whose interests are adversely affected by an appeal determination of the Zoning Administrator may appeal the decision to the Planning Commission, and any person whose interests are adversely affected by an appeal determination of the Planning Commission may appeal the decision to the Board of Supervisors. Appeals shall be conducted in accordance with Section 18.10.310.

SECTION III

Subsection (e) 6E of Section 13.10.323 of the Santa Cruz County Code is hereby amended to read as follows:

Distance from Alleys. Detached accessory structures including garages shall not be located within three feet of any alley.

SECTION IV

Section 13.10.323(e) 6F is hereby added to the Santa Cruz County Code to read as follows:

Garages Located in Required Rear and Side Yards.

Applicability. This subsection applies to residentially zoned parcels within the Urban Services Line, and to residentially zoned parcels within those portions of La Selva Beach and Davenport inside the Rural Service Line as shown in Figure 1 of Section 13.10.235.

Provisions. On residentially zoned parcels smaller than 10,000 square feet in the applicable areas noted above, an attached or detached garage ("garage" as defined under 13.10.700-G but excluding carports) may be located within side and rear setback

areas with up to a 50% reduction of the required setback distances to the rear and interior side property lines, provided that:

- (i) There shall be no windows, doors or other openings on garage walls that are less than five (5) feet from the side or rear property lines;
- (ii) The garage shall be located a minimum of forty (40) feet from the front property line;
- (iii) Eaves or other projections on garages with reduced setbacks shall extend no more than two additional feet closer to the rear and side yard property lines, and no closer than allowed by the California Residential Building Code (CRC).
- (iv) The garage shall have a maximum depth of thirty (30) feet.
- (v) On residential parcels 10,000 square feet or larger in size, an attached or detached garage may be located within side and rear setback areas with up to a 50% reduction of the required setback distances to the rear and interior side property lines, subject to subsections (i) through (iv) above, and provided that a minor exception is obtained in accordance with Section 13.10.235.
- (vi) The garage shall not exceed 17 feet in height or 1 story, unless a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.
- (vii) A garage may be located up to zero (0) feet from the rear or interior side property line if a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

SECTION V

Section 13.10.510(d) 2, entitled Height Exceptions, is hereby amended to read as follows:

(2) Height Exceptions. Chimneys, church spires and steeples, water tanks, cooling towers, elevators, flagpoles, monuments, non-commercial radio and television antennas, fire towers, and similar structures not used for human habitation and not covering more than ten percent of the ground area covered by the structure, may be

erected to a height of not more than twenty-five (25) feet above the height limit allowed in any district. Parapets (a low screen or barrier wall) for non-residential buildings located at least 5 feet from the edge of any exterior wall that are constructed for the purpose of screening mechanical equipment or other building features may exceed the height limit by up to 3.5 feet. Firewall parapets for non-residential buildings that are upward extensions of an exterior wall and are required by the Building Code for fire safety purposes may exceed the height limit by up to 3 feet. Utility and commercial poles and towers may not be subject to the height limits prescribed in the district regulations. Height limits on windpowered generators shall be as established in Section 12.24. Non-commercial radio and television towers or free-standing antennas may exceed the height limits above by twenty-five (25) feet with the approval of a Level IV Use Approval. Flat plate solar collectors on existing structures shall be permitted to exceed height restrictions by four feet.

In an RM-5 to RM-9 District, for multiple dwelling projects of five or more units which are designed to contain all the required parking spaces under the dwelling structures, a maximum height of thirty-five (35) feet is permitted, provided that one foot of additional side yard beyond the ten (10) foot required minimum side yard is added for every foot of height above twenty-eight (28) feet. Solar access on neighboring sites shall not be obstructed.

In any commercial or industrial zone district, a building may exceed the height limit as established by the zone district by up to 5 feet, subject to review and recommendation by the Urban Designer and approval by the Zoning Administrator following a public hearing. In addition to the findings required in Chapter 18.10 for discretionary approvals, the project shall be subject to the following additional findings:

- A. The additional height complements or completes the architectural design.
- B. For properties located in the Coastal Zone, the proposed project complies with LCP policies, including policies protecting scenic corridors and public viewsheds.

SECTION VI

Subsection 13.10.510(f) of the Santa Cruz County Code is hereby deleted.

SECTION VII

Subsection 13.10.510(i) is hereby added to Section 13.10.510 to read as follows:

(i) Reductions in the Front Setback to Protect the Environment or Public Safety.

Within the Urban Services Line, and within those portions of La Selva Beach and Davenport inside the Rural Service Line as shown in Figure 1 of Section 13.10.235, up to a 25% reduction in the required setback established by the zone district for front yards or other yards fronting on a street or vehicular right of way may be allowed, subject to review and approval by the Planning Director (Level 3 approval), for any of the following purposes:

- 1) To minimize grading on steep lots;
- 2) To protect environmentally sensitive resources such as significant trees or sensitive habitats such as riparian corridors; or
- 3) To facilitate conformance with regulations for geologic hazards (Chapter 16.10).

In addition to the findings required in Section 18.10.230 for discretionary approvals, the following additional findings shall be required:

- 1) The reduced setback would result in an environmentally superior outcome or improved public safety, either by minimizing grading, affording better protection to an environmentally sensitive habitat or resource, or resulting in greater conformance with geologic hazard regulations.
- 2) The proposed project shall not unreasonably infringe on adequate light, air, or privacy of adjacent residential property.

SECTION VIII

This Ordinance shall take effect on the 31st day after the date of final passage outside the Coastal Zone and on the 31st day after the date of final passage or upon certification by the California Coastal Commission, whichever date is later, inside the Coastal Zone.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 2011 by the following vote:

AYES: SUPERVISORS
 NOES: SUPERVISORS
 ABSENT: SUPERVISORS
 ABSTAIN: SUPERVISORS

 Chair of the Board of Supervisors

ATTEST:

 Clerk of the Board

APPROVED AS TO FORM:

 County Counsel

Copies to: County Counsel
 Planning Department

Rural Services Boundary, Davenport

Rural Services Boundary, La Selva Beach

13.10.230 Variance Approvals. Amended Ord. 5087

(a) Description. A Variance Approval is a discretionary authorization of exceptions to the zoning district site and development standards for a property including Design Standards and Guidelines and regulations for special uses. The power to grant Variance Approvals does not allow changes in use which are affected only by Use Approvals pursuant to Section [13.10.220](#), rezoning of the property pursuant to Section [13.10.215](#), or amendment to the regulations of this Chapter. Variances to site area requirements may be approved only in the case where no new additional building sites would thereby be created (relief in which case may be provided only through rezoning of the property), or in any of the following instances:

1. To facilitate certificates of compliance.
2. To facilitate dedications of rights-of-way or other required improvements for public benefit.
3. To allow the consideration of the creation of new lots when the size of the lot is within 1% of the zoning requirement and is consistent with the General Plan.

(b) Procedures. All regulations and procedures regarding application, review, approval, appeal, enforcement, etc., for a Variance Approval shall be in accordance with the provisions of Chapters 18.10 and 19.01 for a Level V approval and paragraph (c) "findings" below except that site area variances which create new building sites under the circumstances described in Section [13.10.230\(a\)](#) shall be processed at Level VII.

(c) Findings. The following findings shall be made prior to granting a Variance Approval in addition to the findings required for the issuance of a Development Permit pursuant to Chapter 18.10:

1. That because of special circumstances applicable to the property, including size, shape, topography, location, and surrounding existing structures, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.
2. That the granting of such variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety or welfare or injurious to property or improvements in the vicinity.
3. That the granting of such variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated. (Ord. 746, 1/8/62; 1048, 2/1/65; 1578, 2/23/70; 1704, 4/25/72; 1739, 7/17/72; 2459, 7/19/77; 2506, 11/22/77; 2800, 10/30/79; 3186, 1/12/86; 3344, 11/23/82; 3432, 8/23/83; 3632, 3/26/85; 4836 §§ 5, 6, 10/3/06)

18.10.230 Findings required.

The approving body may grant an approval for a project as the project was applied for or in modified form if, on the basis of the application and the evidence submitted, the approving body makes the findings listed below; no approval and no permit shall be issued unless the findings below can be made:

(a) Development Permits. A copy of the findings made by the Planning Director shall be provided upon request for all Development Permits issued or denied pursuant to Levels I (No plans) through IV (Public notice). The findings shall be made in writing by the approving body and shall be provided to the applicant and be maintained for review by the public for all Development Permits issued or denied pursuant to Levels V (Zoning Administrator) through VII (Board of Supervisors). The findings are as follows:

(1) That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

(2) That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.

(3) That the proposed use is consistent with all elements of the County General Plan and with any Specific Plan which has been adopted for the area.

(4) That the proposed use will not overload utilities, and will not generate more than the acceptable level of traffic on the streets in the vicinity.

(5) That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

(b) Parcel Approvals. The findings set forth in Section [14.01.203](#) are required to be made for approval of a Land Division Permit. The findings set forth in Section [14.01.109](#) are required to be made for a Certificate of Compliance. The findings set forth in Section [14.01.107.4](#) are required to be made for approval of a Lot Line Adjustment.

(c) Ordinance and Policy Interpretations and Amendments. Findings shall be made in accordance with the following:

(1) Zoning Ordinance amendments and Rezoning pursuant to Chapter 13.10 (Zoning Ordinance), Section [13.10.215](#); Zoning Ordinance policy interpretations pursuant to Section [13.10.250](#).

(2) General Plan Amendment approvals pursuant to Chapter 13.01 (General Plan Administration), Section [13.01.090](#); General Plan interpretations pursuant to Section [13.01.050](#).

(3) Specific Plan approvals, amendments, and interpretations pursuant to Sections [13.01.050](#) and [13.01.090](#).

(4) Local Coastal Program Amendments pursuant to Chapter 13.03 (Local Coastal Program Administration), Sections [13.03.080](#) and [13.03.110](#).

(5) Agricultural Land Type Amendments pursuant to Chapter 16.50.

(d) Additional Findings. Additional specific findings may be required in compliance with specific ordinances. Variances, variation, or exception procedures and findings are also found in other specific ordinances. (Ord. 746, 1/8/62; 1578, 2/23/71; 1704, 4/25/72; 1746, 7/18/72; 2294, 5/25/76; 2757, 9/4/79; 2872, 3/14/80; 3503, 3/6/84; Ord. 4281, 12/14/93)