

CALIFORNIA COASTAL COMMISSION

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Prepared July 19, 2012 (for August 9, 2012 Hearing)

To: Commissioners and Interested Persons

From: Madeline Cavalieri, District Manager
John Akeman, Coastal Planner

Subject: Santa Cruz County LCP Amendment Number 1-12 Part 3 (Geologic Review)

Proposed Amendment

Santa Cruz County is proposing to modify the definitions section of the Local Coastal Program's (LCP's) Geologic Hazard Ordinance (LCP Chapter 16.10) to refine the types of projects for which geologic review is required. The main change is to the definition of "development/development activities" in Chapter 16.10 (and that applies only to Chapter 16.10), and it is primarily structured to move away from a standard based on exterior wall modifications to one that is based on major structural components (i.e., foundation or floor, exterior wall, and roof framing) (see Exhibit A).

Minor LCP Amendment Determination

Pursuant to California Code of Regulations (CCR) Section 13555, the Executive Director may determine that a proposed LCP amendment is "minor". CCR Section 13554 defines minor LCP amendments. Among other things, minor LCP amendments include:

CCR Section 13554(a). Changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and which are found by the Executive Director of the Commission or the Commission to be consistent with the land use plan as certified by the Commission.

If the Executive Director determines that an amendment is minor, that determination must be reported to the Commission. If one-third of the appointed members of the Commission request that it be processed as a major LCP amendment, then the amendment shall be set for a future public hearing; if one-third of the appointed members of the Commission do not object to the minor LCP amendment determination, then the amendment is deemed approved, and it becomes a certified part of the LCP immediately (in this case, on August 9, 2012).

The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is minor.

The County indicates that the proposed amendment is designed to make it easier to determine when geologic review is necessary when structures are redeveloped, including to close a loophole of sorts where some applicants manipulate the amount of exterior wall modifications to avoid geologic review.

The proposed updated definitions will instead be based on a “whole structure” approach that looks to changes to major structural elements (i.e., foundation or floor, exterior wall, and roof framing) instead of exterior walls for meeting the definition of development/development activities in Chapter 16.10. The primary effect should be that more projects that should require geologic review will trigger such review through Chapter 16.10.

Within the coastal zone it is important to note that an additional development definition layer applies, namely the definition of development found in LCP Chapter 13.20 (that is identical to the Coastal Act definition) that is not superseded by these definitions in Chapter 16.10. Such is the case in both the existing certified LCP and the proposed amendments to Chapter 16.10. In other words, development in the coastal zone (as defined in Chapter 13.20) is still subject to the requirements of Chapter 16.10, notwithstanding the “development/development activities” definition for triggering geologic review within LCP Chapter 16.10. This is true for all coastal zone cases where geologic issues may be present (including at the immediate shoreline interface, blufftop projects, floodzone projects, mapped hazard areas, etc.), and the provisions of Chapter 16.10 will continue to apply to these projects as they always have under the certified LCP.

The Santa Cruz County LCP includes multiple examples, such as this one, where the parameters of Chapter 13.20 for coastal permits and the language of other LCP sections raise some question as to which applies and which trumps the other if there are conflicts between policies. This is a known issue with this LCP, and County and Commission staffs have long been in dialogue on potential fixes. In this case, development requiring a coastal permit in areas where hazards are present is subject to all of the parameters of Chapter 16.10, and there is not a need to provide more explicit language than is already present in Chapter 16.10 to ensure that this is the case. That said, the LCP could do a better job of explaining the interplay between coastal permit requirements and certain types of exception language written into other LCP sections that may be superseded by such requirements, such as this case. Commission staff will continue to work with the County more globally on appropriate LCP updates in this regard, including in terms of upcoming proposed changes to LCP Chapter 13.20 that are currently pending and the subject of continuing coordination between County and Commission staffs at the current time.

In conclusion, the proposed amendment will modify LCP Chapter 16.10 to make it more specific and easier to implement, and should result in geologic hazards being better addressed than provided for by the current certified LCP.

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. The County adopted a Negative Declaration for the amendment under CEQA. This report has discussed the relevant coastal resource issues with the proposal, and has concluded that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required.

Coastal Commission Concurrence

The Executive Director will report this minor LCP amendment determination, and any comments received on it, to the Coastal Commission at its August 9, 2012 meeting at the Santa Cruz County Board of Supervisors Chambers at 701 Ocean Street in Santa Cruz. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact John Akeman at the Central Coast District Office in Santa Cruz. If you wish to comment on and/or object to the proposed minor LCP amendment determination, please do so by August 3, 2012.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on July 9, 2012. It is IP only and the 60-day action deadline is September 7, 2012. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until September 7, 2012 to take a final action on this LCP amendment.

Exhibits:

Exhibit A: Proposed Chapter 16.10 Amendments



BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 52-2012

On the motion of Supervisor Stone
duly seconded by Supervisor Caput
the following is adopted:

RESOLUTION ADOPTING A NEGATIVE DECLARATION AND AMENDING THE SANTA CRUZ COUNTY GENERAL PLAN/LOCAL COASTAL PROGRAM REGARDING NONCONFORMING USES AND STRUCTURES, AND AMENDING CHAPTER 12.10 OF THE SANTA CRUZ COUNTY CODE TO DELETE THE ADMINISTRATIVE AMENDMENT DEFINING "STRUCTURE"; AMENDING CHAPTER 13.10 TO DELETE EXISTING PROVISIONS GOVERNING NONCONFORMING USES AND STRUCTURES AND ADOPT NEW PROVISIONS, AMEND VARIOUS CODE PROVISIONS TO FACILITATE COMMERCIAL USES, UPDATE SELECTED PARKING REGULATIONS, AND CORRECT ERRORS, OMISSIONS AND REFERENCES; AMENDING CHAPTER 13.11 TO CLARIFY BUILDING DESIGN REVIEW CRITERIA; AMENDING CHAPTER 16.10 TO UPDATE THE DEFINITION OF DEVELOPMENT AS IT PERTAINS TO GEOLOGIC HAZARDS; AND AMENDING CHAPTER 18.10 TO MODIFY APPEALS AND LEVEL IV PERMIT PROCEDURES; AND REFERRING THE AMENDMENTS TO THE CALIFORNIA COASTAL COMMISSION

WHEREAS, the Board of Supervisors has expressed its desire to modernize and improve regulations governing nonconforming uses and structures, in order to recognize the prevalence of legally established existing nonconforming uses and structures, the neighborhood benefit of well-maintained buildings, the public benefits of maintaining and improving the existing stock of housing and commercial buildings, and the public benefits of conserving material resources; and

WHEREAS, the Board of Supervisors has also expressed its desire to update regulations in order to ease the movement of tenants and businesses in and out of established commercial structures, through refinements to permit review processes and modernization of parking standards; and

WHEREAS, consistent with these goals, the Board of Supervisors on June 28, 2011 accepted a status report discussing these regulatory changes and directed staff to develop draft ordinance amendments, and to meet with business, homeowner and environmental groups to obtain input on the amendments; and

WHEREAS, the Planning Commission conducted a Public Workshop on September 14, 2011 to discuss the draft amendments to Chapters 13.10, 13.11 and 16.10 of the County Code; and

WHEREAS, on September 20, 2011 the Board of Supervisors considered the draft ordinance amendments and accepted public comments, regarding proposed changes to Chapters 12.10, 13.10, 13.11, 16.10 and 18.10 regarding, respectively, the building code definition of "structure"; nonconforming uses and structures; commercial changes of use; selected parking regulations; altered walls; clarification of the Design Review ordinance; the

definition of development that governs geologic review; Level IV permit procedures; and code corrections; and

WHEREAS, the Board of Supervisors, on September 20, 2011, accepted the draft ordinance amendments, with certain modifications, as the project description for the purpose of CEQA review, and directed staff to return the proposed ordinance to the Planning Commission for a public hearing after environmental review was completed; and

WHEREAS, environmental review has been completed for the project and the County of Santa Cruz Environmental Coordinator has determined that the proposed amendments will not have a significant impact on the environment, and a Negative Declaration has been prepared in accordance with CEQA; and

WHEREAS, the Planning Commission conducted a public hearing at its regular meeting of January 25, 2012 to consider the proposed amendments to the above described chapters as well as the proposed amendments to the County of Santa Cruz General Plan and Local Coastal Program (GP/LCP); and

WHEREAS, the Planning Commission adopted a resolution on January 25, 2012, finding the proposed amendments to the Santa Cruz County Code to be consistent with other provisions of the County Code, with the policies of the GP/LCP and with State law; and further finding that the proposed amendments to the General Plan/Local Coastal Program to be consistent with the California Coastal Act; and therefore recommended that the Board of Supervisors adopt the Negative Declaration and approve the proposed amendments to the County Code and to the General Plan and Local Coastal Program and submit them to the Coastal Commission; and

WHEREAS, at its regular meeting of February 7, 2011 the Board of Supervisors took action to set a public hearing on the proposed project, and at its regular meeting of February 28, 2012 the Board of Supervisors convened a duly noticed public hearing to consider the recommendation of the Planning Commission, the proposed ordinance and GP/LCP amendments, and the proposed adoption of the Negative Declaration; and

WHEREAS, at the public hearing convened on February 28, the Board of Supervisors considered the proposed amendments, Planning Commission recommendation and public testimony, and continued the public hearing to March 20 in order to consider additional refinements in response to issues raised by the Board of Supervisors and members of the public.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Board of Supervisors hereby makes the following findings, and hereby adopts the Negative Declaration; the General Plan amendments and Local Coastal Program amendments (Exhibit B attached hereto), and adopts the Ordinance amending Chapters 12.10, 13.10, 13.11, 16.10 and 18.10 of the Santa Cruz County Code (Exhibit A attached hereto); and further directs staff to submit the Local Coastal Program amendments to the Coastal Commission, with the Local Coastal Program amendments to go into effect upon certification by the Coastal Commission.

1. Environmental review completed for the proposed ordinance determined that the proposed ordinance and amendments to the General Plan and Local Coastal Program will not have a significant impact on the environment, and therefore a Negative

Declaration has been prepared in accordance with the California Environmental Quality Act (CEQA), which was circulated for public comment and review as required. All public comments received regarding the environmental review have been considered and do not change the determination that no significant impacts will result from this project.

2. In adopting the Negative Declaration, the Board of Supervisors finds, on the basis of the whole record before it, that there is no substantial evidence that the project, as presented on this date, will have a significant effect on the environment, and that the Negative Declaration reflects the lead agency's independent judgment and analysis.
3. The material which constitutes the record of proceedings upon which the Board's decision is based shall be located in the offices of the Clerk of the Board, located at 701 Ocean Street, Santa Cruz, California.
4. The amendments to the General Plan and to the Local Coastal Program (Exhibit B attached hereto) are internally consistent with other parts of the adopted General Plan, with other components of the Local Coastal Program, and with the California Coastal Act.
5. The amendments to the Santa Cruz County Code as presented in the Ordinance are found to be substantially consistent with other provisions of the County Code, with the policies of the General Plan and Local Coastal Program, with state law and the California Coastal Act, and with the California Environmental Quality Act.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 20th day of March, 2012 by the following vote:

AYES: SUPERVISORS Stone, Caput and Leopold
NOES: SUPERVISORS Pirie and Coonerty
ABSENT: SUPERVISORS None
ABSTAIN: SUPERVISORS None

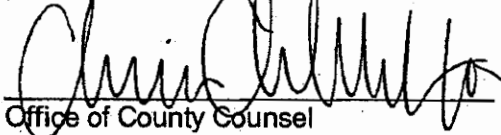
JOHN LEOPOLD

Chairperson of the Board of Supervisors

TESS FITZGERALD

ATTEST: _____
Clerk of the Board

APPROVED AS TO FORM:


Office of County Counsel

DISTRIBUTION: County Council
Planning Department

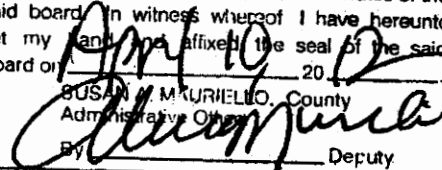
STATE OF CALIFORNIA) COUNTY OF SANTA CRUZ) ss
I, SUSAN A. MAURIELLO, County Administrative Officer and ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California do hereby certify that the foregoing is a true and correct copy of the resolution passed and adopted by and entered in the minutes of the said board. In witness whereof I have hereunto set my hand and affixed the seal of the said Board on <u>April 19</u> , 20 <u>12</u> .
SUSAN A. MAURIELLO, County Administrative Officer By  Deputy

Exhibit B
Geologic Review

Note: Proposed additions to the Santa Cruz County Code are shown in underlined text, and proposed deletions to the Santa Cruz County Code in strike-through text.

**A. AMEND CHAPTER 16.10 TO UPDATE THE DEFINITION OF
DEVELOPMENT AS IT PERTAINS TO GEOLOGIC HAZARDS**

Subdivision (s) of Section 16.10.040, "Definitions," of the Santa Cruz County Code, is hereby amended to read as follows:

(s) Development/Development Activities. For the purposes of this chapter, and this chapter only, any project that includes activity in any of the following categories is considered to be development or development activity. This chapter does not supersede Section 13.20.040 for purposes of determining whether a certain activity or project is considered development that requires a coastal permit; some activities and projects will require coastal permits although they do not fall under ~~the~~ this following specific definition.

(1) The construction or placement of any habitable structure, including a manufactured home and including a non-residential structure occupied by property owners, employees and/or the public;

(2) ~~Any repair~~ Modification, reconstruction, alteration, addition, or improvement or replacement of 65% of the major structural components -- consisting of the foundation, floor framing, exterior wall framing, and roof framing -- of an existing habitable structure within any consecutive five-year period, or modification, reconstruction or replacement of 50 (fifty) percent of the major structural components of an existing critical structure or facility, as defined by this chapter, within any consecutive five-year period, whether the work is done at one time or as the sum of multiple projects. For the purpose of this section, the following are not considered major structural components: exterior siding; non-structural door and window replacement; roofing material; decks; chimneys; and interior elements including but not limited to interior walls and sheetrock, insulation, kitchen and bathroom fixtures, mechanical, electrical and plumbing fixtures. The extent of alterations to major structural components will be calculated in accordance with administrative guidelines adopted by resolution of the Board of Supervisors that modifies or replaces more than 50% of the total length of the exterior walls, exclusive of interior and exterior wall coverings and the replacing of windows or doors without altering their openings. This allows a total modification or replacement of up to fifty (50) percent,

~~measured as described above, whether the work is done at one time or as the sum of multiple projects during the life of the structure;~~

(3) The addition of habitable ~~space~~ square footage to any structure, where the addition increases the habitable ~~space~~ square footage by more than fifty (50) percent or 500 square feet, whichever is greater, over the existing habitable space, within a consecutive five-year period measured in square feet. This allows a total increase of up to fifty (50) percent of the original habitable space of a structure, whether the additions are constructed at one time or as the sum of multiple additions ~~during the life of the structure~~ over a consecutive five-year period;

(4) An addition of any size to a structure that is located on a coastal bluff, dune, or in the coastal hazard area, that extends the existing structure in a seaward direction;

~~(5) Installation of a new foundation for a habitable structure;~~

~~(6) The repair, replacement, or upgrade of an existing foundation of a habitable structure that affects more than fifty (50) percent of the foundation (measured in linear feet for perimeter foundations, square feet for slab foundations, or fifty (50) percent of the total number of piers), or an addition to an existing foundation that adds more than fifty (50) percent of the original foundation area. This allows repair, upgrade, or addition up to fifty (50) percent, measured as described above, whether the work is performed at one time or as the sum of multiple projects during the life of the structure;~~

Subsection (5) below is being amended to be consistent with the definition of "Development" in Section 30100 of the California Coastal Act.

(75) A division of land or the creation of one or more new building sites, except where a land division is accomplished by the acquisition of such land by a public agency for public recreational use;

~~(86) Any change of use from non-habitable to habitable use, according to the definition of "habitable" found in Section 16.10.040, or a change of use from any non-critical structure to a critical structure;~~

(97) Any repair, alteration of, reconstruction, replacement or addition affecting any structure that meets either of the following criteria:

1. pPosted "Limited Entry" or "Unsafe to Occupy" due to geologic hazards, or
2. Located on a site associated with slope stability concerns, such as sites affected by existing or potential debris flows;

(108) Grading activities of any scale in the 100-year floodplain or the coastal hazard area, and any grading activity which requires a permit pursuant to Chapter 16.20;

(119) Construction of roads, utilities, or other facilities;

(1210) Retaining walls which require a building permit, retaining walls that function as a part of a landslide repair whether or not a building permit is required, sea walls, rip-rap erosion protection or retaining structures, and gabion baskets;

(1311) Installation of a septic system;

(1412) Any human made change to developed or undeveloped real estate in the Special Flood Hazard Area, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials. This is in addition to any activity listed in items 1-1311;

(1513) Any other project that is defined as development under Section 13.20.040, and that will increase the number of people exposed to geologic hazards, or that is located within a mapped geologic hazard area, or that may create or exacerbate an existing geologic hazard, shall be determined by the Planning Director to constitute development for the purposes of geologic review. (Ord. 4024, 10/24/89; 4080, 9/11/90)