

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



# W35c

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## STAFF REPORT: REGULAR CALENDAR

**Map Adoption No.:** MA-2013-003

**Local Government:** City of Santa Cruz

**Local Government Staff:** Juliana Rebagliati, Director  
Planning and Community Development Department

**Location:** Coastal Zone area within and offshore of the City of Santa Cruz, Santa Cruz County.

**Map Description:** Revised Post-LCP Certification Permit and Appeal Jurisdiction Map, prepared by staff to depict the geographic areas where the Commission retains permit authority and where appeals of local government coastal development permit approvals are allowed within the City of Santa Cruz.

**Staff Recommendation:** Approval

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## SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission **approve** the revised map prepared by staff showing the geographic areas where the Commission retains permit authority pursuant to the California Coastal Act Section 30519(b), where the City of Santa Cruz obtains permit jurisdiction under Section 30613, and where appeals of the City of Santa Cruz’s coastal development permit approvals are allowed pursuant to Coastal Act Section 30603(a)(1) and (2).<sup>1</sup>

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## EXHIBITS

Exhibit 1 – Santa Cruz Location Map

Exhibit 2 – Map Legend and Map Notes

Exhibit 3 – Draft Revised Post-LCP Certification Permit and Appeal Jurisdiction Map

Exhibit 4 – Portion of Draft Post LCP Certification Map Showing Permit Jurisdiction Revisions

April 2013 - San Lorenzo River/Boardwalk Area

Exhibit 5 – Portion of Draft Post LCP Certification Map Showing Permit Jurisdiction Revisions

April 2013 - Santa Cruz Small Craft Harbor Area

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<sup>1</sup> The California Coastal Act is found in Public Resources Code sections 30,000 *et seq.*

## **I. RECOMMENDED MOTION AND RESOLUTION**

### **Motion:**

*I move that, for the reasons stated in the staff report and recommendation dated March 22, 2013, the Commission **approve** the revised Post-LCP Certification map MA-2013-003 for the City of Santa Cruz.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the revised Santa Cruz Post-LCP Certification map and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **Resolution:**

*The Commission hereby approves Map Adoption MA-2013-003 and adopts the findings set forth below on grounds that the revised map depicts the areas where the Commission retains permit authority pursuant to Coastal Act Section 30519(b), where the City of Santa Cruz obtains jurisdiction under Coastal Act Section 30613, and where appeals of City of Santa Cruz coastal development permits are allowed pursuant to Coastal Act Section 30603(a)(1) and (2).*

## **II. STAFF NOTE**

Between 1979 and the present the Commission has adopted approximately 72% and 80% of the Post-LCP Certification Permit and Appeal Jurisdiction maps for California's 61 coastal cities and 15 coastal counties, respectively. Most, if not all, of the jurisdictions with adopted maps require revisions and map re-adoption from time to time, to incorporate updates reflecting changing conditions in the Coastal Zone environment upon which the boundaries are based, to make corrections, and to make refinements made possible by the use of more accurate data and modern mapping technology. The use of geographic information system (GIS) software is presently an integral part of the map adoption, revision, and update process underway throughout the Coastal Zone, and maps that the Commission adopts through these actions will be distributed primarily in digital form in order to allow the widest possible use of consistent, official information within the Coastal Zone community. The staff is also currently working to finalize the draft post LCP Certification maps for a number of other jurisdictions (most notably the cities of Seaside, Redondo Beach, Del Mar, and San Diego) in preparation for their adoption at future Coastal Commission meetings during 2013.

## **III. BACKGROUND**

After the Commission certifies a local government's LCP, permit authority within that jurisdiction is delegated to that local government. However, pursuant to Section 30519(b) of the Coastal Act, the Commission retains permit authority (with certain exceptions) after LCP

certification over developments occurring on tidelands, submerged lands, and public trust lands. In addition to the retained permit jurisdiction, Section 30603 of the Coastal Act defines certain areas and types of development for which approvals by the local government may be appealed to the Commission. Appeal jurisdiction is retained, for example, on lands within 100 feet of streams or wetlands, lands subject to the public trust that are no longer within the Commission's retained jurisdiction, lands within 300 feet of coastal bluffs, beaches, or estuaries, and lands between the sea and the first public road paralleling the sea.

The Commission's administrative regulations (14 CCR Section 13576) provide that a map portraying the areas of continuing Commission permit and appeal jurisdiction be adopted in conjunction with the final LCP certification. An update procedure is also described and provides the basis for revision and re-adoption of the map by the Commission. Within these regulations is implicit the idea that, while the adopted map should portray the various jurisdiction boundaries as accurately as possible, it remains only a depiction, a cartographic representation and not a definition of the jurisdiction, and should not be used on its own without field determination procedures to establish a precise boundary location. Conditions on the ground may change and thus conditions on the ground control permit and appeal jurisdiction boundary location regardless of how accurate the mapped boundary may be at this time.

During formulation of the regulations governing the delineation of post-LCP Certification jurisdiction areas, the Commission also recognized that the diversity and complexity of the Coastal Zone is such that a literal interpretation of the "First Public Road" definition could result in the inclusion of large areas with the Post-LCP Certification permit and appeal jurisdiction where the grounds for appeal set forth in Coastal Act Section 30603(b) may not be an issue. The regulations therefore provide that the Commission may evaluate these areas and limit the effect of designating the "First Public Road Paralleling the Sea" to the area in which the grounds for appeal specified in Coastal Act Section 30603(b) are clearly an issue.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PREVIOUS SANTA CRUZ POST –LCP CERTIFICATION MAPS**

During the late 1970's and early 1980's the Commission's Technical Services Division began a project to complete Draft Post-LCP Certification Permit and Appeal Jurisdiction maps for all local governments within or partly within the Coastal Zone. The first effort consisted of producing a set of 161 draft maps using the USGS 7.5 minute quadrangle base (scale 1:24,000 or 1 inch equals 2000 feet), which was completed in 1981. The primary purpose of this project was to provide a consistent, *statewide* view of the *draft* permit and appeal boundaries for review by the local government staff, Commission staff, and other interested parties. It was fully anticipated that these maps would be reviewed and revised or refined, as indicated by the map notes and general correspondence sent out with maps for review. The area of the Coastal Zone within the City of Santa Cruz was covered by map sheets 72 and 73, the Santa Cruz and Soquel quadrangles. Copies of these regional 7.5-minute quadrangle-scale draft maps were distributed for review to the regional commission offices and local governments in April 1981.



A more detailed map of the draft Post-LCP Certification Permit and Appeal Jurisdiction areas within Santa Cruz was prepared and adopted in April of 1983 using a 1:8,400 scale (1 inch equals approximately 700 feet) base map obtained from the City. The 1:8,400 scale “post cert.” map was approved with some provisions for transfer of permit authority to the City, in specified areas along the San Lorenzo River, and around the Santa Cruz Small Craft Harbor, pursuant to Coastal Act Section 30613 (potential public trust lands that are filled, developed, and committed to urban use.). Developments approved by the City in these transferred areas remained within the Commission’s appeal jurisdiction.

A second notable feature of the 1983 map adoption was that the Commission, using its authority under the regulations (what is now 14CCR Section 13577(i)(2)), designated a “First Public Road Paralleling the Sea” (FPR) that followed Riverside Avenue across the San Lorenzo River, and Murray Street across the Santa Cruz Small Craft Harbor area to the eastern City limits, with the appeal area along these tidally-influenced water bodies, inland of the FPR, being 300 feet from the MHTL or the first row of parcels, whichever is the greater distance. This is in contrast to the general policy now in use wherein the staff would recommend that the Commission designate a FPR that includes all portions of the “Sea” where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the “Sea” to extend landward of the generally continuous coastline.

Towards the end of 1990, a proposed revision of the 1983 map requested by the City was reviewed by Commission staff. The changes being considered at that time involved adjustments to add an inadvertently omitted stream appeal area east of Natural Bridges State Park, and refinements of wetland appeals adjacent to Neary Lagoon and Jessie Street Marsh. In early 1991 the map adoption was agendized for Commission action, however, for reasons that remain unclear, the matter was postponed and these revisions were not adopted.

An additional request for a map revision was made by the City in mid-1998. This request involved a request to extend the City of Santa Cruz’s jurisdiction in the Santa Cruz Boardwalk area, based on the provisions of Coastal Act Section 30613. The map change was agendized for the hearing in November of 1998, however, the City asked that the map revisions be postponed, and the Commission unanimously voted to continue the matter on November 12, 1998. Thus, these requested changes were never approved.

## **B. STAFF ANALYSIS**

The depiction of the Commission’s permit and appeal jurisdictions on the Santa Cruz draft revised post-LCP Certification map presents no significant areas of controversy affecting the map adoption at this time. Coastal Commission staff has reviewed the draft revised post-LCP Certification map and jurisdictional boundaries with staff of the City of Santa Cruz and consulted with staff of the State Lands Commission regarding the staff recommendation. The Coastal Zone is relatively narrow in this part of Santa Cruz County, with the inland boundary located approximately 1000 yards from the Mean High Tide Line (MHTL), except at the western extent of the City where it follows High Street and Western Drive, and near the upper end of the Santa Cruz Small Craft Harbor where it shifts inland to just south of Soquel Avenue. The City’s Dimeo Lane Refuse Disposal Site is also entirely within the Coastal Zone and is depicted in an inset on the draft map. The Coastal Commission’s retained permit jurisdiction encompasses tidelands,

submerged lands and public trust lands, and the appeal jurisdiction boundary follows the First Public Road Paralleling the Sea, with several exceptions, where the boundary is located 300 feet from the inland extent of the beach, MHTL, or the top of the bluff. The route of the designated First Public Road Paralleling the Sea is set forth in the section entitled: **First Public Road Description**. As mentioned earlier in the **Background** section, while the map portrays the various jurisdiction boundaries as accurately as possible, it remains only a depiction, a cartographic representation and not a definition of the Commission's jurisdiction, and should not be used on its own without field determination procedures to establish a precise boundary location. Conditions on the ground may change, and thus conditions on the ground control permit and appeal jurisdiction boundary location regardless of how accurate the mapped boundary may be at this time.

### **Permit Jurisdiction**

Geographically, the Commission's continuing original permit jurisdiction includes tidelands, submerged lands, and public trust lands. Land that is a part of the University of California Santa Cruz campus is also subject to the Commission's jurisdiction unless it is included within a Long Range Development Plan (LRDP). UCSC's Marine Science Campus Coastal LRDP was certified by the Coastal Commission on January 7, 2009. Thus, UCSC is the primary entity responsible for ensuring that future development on the Marine Science Campus site is consistent with the certified LRDP, subject to ongoing Commission oversight.

Legislation that became effective in 1982 provided the Commission with the ability to delegate its original permit authority over potential public trust lands to local governments under certain circumstances. Coastal Act Section 30613 (added by AB 321, Stats. of 1981) allows the Commission, after consultation with the State Lands Commission, to make these delegations for areas that are determined to be filled, developed, and committed to urban uses. As mentioned in the previous section describing the 1983 map, the Commission approved such a request by the City for areas along the San Lorenzo River and around the Santa Cruz Small Craft Harbor at the time of the 1983 map adoption.

The current draft revised permit jurisdiction boundary reflects the City's most recent Coastal Act Section 30613 request (made in 2008) for transfer of permit authority at locations adjacent to the San Lorenzo River and in the portions of the Boardwalk area that are filled, developed, and committed to urban uses. The proposed transfer areas are shown in Exhibit 4 and cover approximately 10 acres. In the Boardwalk area the request is essentially the same as the previously withdrawn 1998 request. All of the areas recommended for transfer are presently developed with primarily neighborhood commercial or regional visitor serving uses, are served with urban infrastructure, and are zoned Commercial or Beach Commercial in the City's certified LCP. Because the Commission has reviewed and approved specific land use and zoning designations for the area, and placed appropriate density and site coverage requirements, height limitations, provisions for public access, visitor serving uses, and view protection on developments occurring in this area, the request meets all of the requirements of Coastal Act Section 30613 and it is appropriate to transfer permit authority for the areas depicted in Exhibit 4 to the City. All of the area transferred will remain within the Commission's appeal jurisdiction. The State Lands Commission has raised no specific concerns to date pertaining to this recommended action.

The recommended revisions to the permit jurisdiction boundary within the City of Santa Cruz also affect several areas adjacent to the Santa Cruz Small Craft Harbor located at the eastern margins of the City. As provided in the Commission's regulations, previously adopted maps can be revised from time to time to incorporate updates reflecting changing conditions in the Coastal Zone environment upon which the boundaries are based, to make corrections, and to make refinements made possible by the use of more accurate data and modern mapping technology. The use of geographic information system (GIS) software is currently an integral part of the map adoption, revision, and update process underway throughout the Coastal Zone, and the changes recommended for several areas near the upper harbor reflect this. Exhibit 5 depicts revision areas to the northwest of the harbor where the previously adopted 1983 map depicted an overly generalized and inclusive, positionally inaccurate permit boundary. The draft revised map corrects and refines the permit boundary in the upper harbor area where the 1983 map included areas based on their status as potential public trust lands, when, in fact, they never were historical tidelands and should have never been mapped as being within the Commission's original permit jurisdiction. Using GIS technology and more recent topographic and National Wetlands Inventory (NWI) data has allowed the staff to refine the overall accuracy and precision of the permit boundary in this area.

The primary sources for determining the Commission's continuing permit jurisdiction in the City of Santa Cruz are: the contemporary USFWS National Wetland Inventory maps for this area; vertical and oblique coastal aerial photography; and maps 72 and 73 (Santa Cruz and Soquel quadrangles, scale 1:24,000) from the set showing potential tidelands trust areas prepared for the Commission by the State Lands Commission staff in the late 1970's using, among other sources, tide and submerged land grant documents and historical US Coast Survey (now known as the National Geodetic Survey) topographic maps from the 19<sup>th</sup> century.

These maps, photos, and other documents and information were analyzed to establish the public trust component, when that was the controlling permit boundary criterion. Given the complexity involved in precisely mapping public trust boundaries, however, especially in areas of granted tidelands such as Santa Cruz, the permit boundary delineation on this map may not include all areas subject to the trust. Should additional public trust lands be identified in the future, those lands would be part of the Commission's retained permit jurisdiction. Questions regarding the exact location and extent of public trust lands must be referred to the State Lands Commission for determination.

Tidelands, the first component of the Commission's retained permit jurisdiction, are lands lying between the lines of mean high tide and mean low tide. The Mean High Tide Line (MHTL) is the landward tidelands boundary, an ambulatory boundary that moves with changes in the profile of the shoreline, particularly in sandy beach areas. The MHTL is and has been used by the U.S. Supreme Court, the California Supreme Court, federal and state courts, the state legislature, state regulatory and administrative agencies, and local governments as the boundary between public tidelands and private uplands.

The location of the fluctuating Mean High Tide Line is determined by establishing the intersection of the shore with the plane (elevation) of Mean High Water as calculated by the

National Geodetic Survey for a particular location. Surveys can be performed to establish MHTL or tidelands locations. The State Lands Commission, as administrator of California's tidelands, can and does perform such surveys. In the case of Santa Cruz the State granted all of the tidelands and submerged lands to the City in 1872 and 1969, and the granted lands survey was done by the State Lands Commission in 1974.

Review of the above-referenced primary source materials indicates that the Commission's continuing permit jurisdiction in the City of Santa Cruz exists only on tidelands, submerged lands and on public trust lands. For the purposes of the revised Post-LCP Certification map proposed for adoption by the Commission for the City of Santa Cruz, the landward boundary of the Commission's retained permit jurisdiction has been drawn to follow a combination of the shoreline as it is shown on the USGS 7.5 minute Santa Cruz and Soquel quadrangle (scale 1:24,000) in the Santa Cruz Small Craft Harbor area, and the inland extent of the active beach as mapped by the US Fish and Wildlife Service in its National Wetlands Inventory (NWI), and shown in the aerial images of the City for the area between the Small Craft Harbor and the western City boundary (**See Exhibit 3**).

### **Appeal Jurisdiction**

As with all other coastal cities, the appeal jurisdiction boundary in Santa Cruz is mapped according to the geographic criteria specified in Section 30603(a) of the Coastal Act, and further defined in the Commission's regulations at 14 CCR Section 13577. Along the shoreline of the ocean, the appeal jurisdiction boundary generally follows the First Public Road Paralleling the Sea, except where the designated road is situated closer than 300 feet inland from the beach, MHTL, or bluff top. In these locations the boundary is 300 feet from the inland extent of the beach, MHTL, or top of the seaward bluff face, as appropriate. *See* Coastal Act Section 30603(a)(1), and 14 CCR Section 13577(i).

The appeal jurisdiction boundary in the City of Santa Cruz is shown in Exhibit 3. Because the Coastal Zone is relatively narrow throughout most of the City, and the area is highly developed, the First Public Road Paralleling the Sea is the predominant controlling boundary criterion except in areas where the designated First Public Road is located less than 300 feet from the top of the coastal bluff or inland extent of the beach, or MHTL where there is no beach. In these areas the appeal jurisdiction encompasses everything within 300 feet of the beach or MHTL, or coastal blufftop. This is the case along West Cliff Drive, inland of the Boardwalk, and along the San Lorenzo River. East of the river the appeal boundary location is controlled mostly by the First Public Road and the public trust lands transferred to the City's permit jurisdiction pursuant to Coastal Act Section 30613.

A number of stream and wetland appeal areas are also located throughout the City. The proposed map revisions closely reflect the proposed 1990 stream and wetland appeal area revisions of the 1983 map that were never adopted. These changes being considered (shown in Exhibit 3) involve adjustments to add the inadvertently omitted Arroyo Seco Creek stream appeal area east of Natural Bridges State Park, and refinement of wetland appeal areas adjacent to Neary Lagoon and Jessie Street Marsh.

As with the permit jurisdiction boundary, the Commission's regulations also provided for appeal boundary revisions from time to time. Appeal boundary revisions are also intended to incorporate updates and changing conditions in the Coastal Zone environment upon which the boundaries are based, to make corrections, and to make refinements reflecting the use of more accurate data and modern mapping technology. The use of geographic information system (GIS) software is currently an integral part of the map adoption, revision, and update process underway throughout the Coastal Zone, and the appeal boundary changes recommended for bluff areas, wetlands, and beaches in the City of Santa Cruz illustrate how jurisdiction boundaries can shift even though the basis of the boundary remains unchanged.

### **First Public Road Paralleling the Sea**

The language of 14 CCR Section 13577(i)(1) was intended to ensure that the designated "First Public Road Paralleling the Sea" (FPR) extend inland around water bodies that are considered the "sea" as defined by Coastal Act Section 30115. The Coastal Commission's regulations provide that in order for a road to qualify as the First Public Road Paralleling the Sea, it must be a road that "does in fact connect with other public roads providing a continuous public access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline." *See* 14 CCR Section 13577(i)(1)(E). The appeal jurisdiction boundary, where based on the First Public Road, is aligned along the inland, or landward right of way boundary.

### **First Public Road Description**

The series of roadways and streets listed below and shown as a component of the Commission's appeal jurisdiction boundary on the attached Exhibit 2, constitute the current route of the "First Public Road Paralleling the Sea," for purposes of Coastal Act Sections 30600.5, 30601, and 30603, 30115, and all other applicable Coastal Act provisions. This system of coastal roadways and streets is consistent with, and meets the criteria set forth in 14 CCR Section 13577, in particular Section 13577(i).

From the western City boundary the route designated as the First Public Road Paralleling the Sea in the City of Santa Cruz follows Highway One to Mission Street, southeast and along Mission Street to Natural Bridges Drive to Delaware Avenue, east on Delaware Avenue to Swanton Boulevard, southwest on Swanton Boulevard to West Cliff Drive, east and along West Cliff Drive to Beach Street, east on Beach Street to Third Street, northwest on Third Street to Riverside Avenue, north on Riverside Avenue to East Cliff Drive, east and along East Cliff Drive to Seabright Avenue, south on Seabright Avenue to East Cliff Drive, east on East Cliff drive to First Avenue, north on First Avenue to Atlantic Avenue, northeast on Atlantic Avenue to Fourth Avenue, north on Fourth Avenue to Fairview Place, east and along Fairview Place to Marine Parade, west on Marine Parade to Seabright Avenue, north on Seabright Avenue to Murray Street, and east on Murray Street to the eastern City boundary.

### **C. BISECTED PARCELS**

In some areas a parcel is bisected by the appeal jurisdiction boundary. All development proposed within the appeal area defined as appealable is subject to the Commission's appellate jurisdiction. In addition, if a development is proposed partly on the portion of the parcel that

forms the basis for geographic appeal jurisdiction, and partly on the remainder of the parcel, and the Commission finds that the portion of the project within its appeal jurisdiction raises a substantial issue, then it will consider the project de novo. The Commission's de novo review is of the entire project approved by the local government, including the development that was authorized in the permit that is outside the Commission's appeal jurisdiction.

#### **D. DRAFT MAP REPRODUCTION**

Due to the cost of reproduction paper copies of the map legend sheet (Exhibit 2) and the large scale map sheet (Exhibit 3) are not mailed to Coastal Commissioners and other interested persons who receive the report digitally via the Commission's public website. Printed copies of Exhibits 2 and 3 are available for review at the City of Santa Cruz, and at the Coastal Commission's offices in San Francisco and Santa Cruz. Full-size maps will also be available for review at the April 10-12, 2013 Commission meeting in Santa Barbara.

#### **E. DRAFT MAP LEGEND AND MAP NOTES**

One of the important elements of the Commission's transition to using geographic information systems (GIS) technology is the ability to use and develop standardized base maps, boundary symbols, and map notes. In order maintain consistency across local city and county boundaries throughout the Coastal Zone, Post LCP Permit and Appeal Jurisdiction data have been developed using the Coastal Zone portions of the fifteen coastal Counties as the basic unit for this information. As such, the Map Legend (Exhibit 2) includes all of the possible types of boundaries and areas that may occur within a given County, and the draft map itself will include only those types of appeal areas found within that jurisdiction. In addition, due to the use of coastal counties as the basic mapping unit, the map or maps may depict permit and appeal areas outside of the area for which a particular map adoption is occurring. In the case of Santa Cruz, areas adjacent to, but outside the City limits have not yet been revised, and the Commission's action to adopt the map for the City of Santa Cruz does not affect boundaries outside the City limits.

## **Appendix A – List of Substantive File Documents**

- National Wetland Inventory Digital Data, U.S. Fish & Wildlife Service, May 2009.
- Potential Public Trust Land Maps, (Santa Cruz and Soquel Quadrangles), California State Lands Commission, 1979.
- U.S. Coast Survey Historical Topographic Maps, T-443 (1853 and 74) and T-444 (1853 and 74), NOAA, 2000.
- Post LCP Certification Permit and Appeal Jurisdiction Map and Staff Recommendation, California Coastal Commission, April 1983.
- Coastal Commission 1: 12,000-scale vertical aerial photography 1970-2001.
- California Coastal Records Project, 2010.
- U.S. Geological Survey (USGS) 7.5 Minute Series Topographic Maps, (Santa Cruz and Soquel Quadrangles), USGS, 1954 (revised 1994).
- U.S. Army Corps of Engineers (USACOE) Wetland Delineation for Neary Lagoon, 1990
- USACOE Wetland Delineation for Jessie Street Marsh, 1987

## **Appendix B – Relevant California Public Resources Code Sections**

30519 (a) Except for appeals to the commission, as provided in Section 30603, after a local coastal program, or any portion thereof, has been certified and all implementing actions within the area affected have become effective, the development review authority provided for in Chapter 7 (commencing with Section 30600) shall no longer be exercised by the commission over any new development proposed within the area to which the certified local coastal program, or any portion thereof, applies and shall at that time be delegated to the local government that is implementing the local coastal program or any portion thereof.

(b) Subdivision (a) shall not apply to any development proposed or undertaken on any tidelands, submerged lands, or on public trust lands, whether filled or unfilled, lying within the coastal zone, nor shall it apply to any development proposed or undertaken within ports covered by Chapter 8 (commencing with Section 30700) or within any state university or college within the coastal zone; however, this section shall apply to any development proposed or undertaken by a port or harbor district or authority on lands or waters granted by the Legislature to a local government whose certified local coastal program includes the specific development plans for such district or authority.

(c) The commission may, from time to time, recommend to the appropriate local government local coastal program amendments to accommodate uses of greater than local importance, which uses are not permitted by the applicable certified local coastal program. These uses may be listed generally or the commission may recommend specific uses of greater than local importance for consideration by the appropriate local government.

30603 (a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal



resource area.

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(5) Any development which constitutes a major public works project or a major energy facility.

(b) (1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

(2) The grounds for an appeal of a denial of a permit pursuant to paragraph (5) of subdivision (a) shall be limited to an allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in this division.

(c) Any action described in subdivision (a) shall become final at the close of business on the 10th working day from the date of receipt by the commission of the notice of the local government's final action, unless an appeal is submitted within that time. Regardless of whether an appeal is submitted, the local government's action shall become final if an appeal fee is imposed pursuant to subdivision (d) of Section 30620 and is not deposited with the commission within the time prescribed.

(d) A local government taking an action on a coastal development permit shall send notification of its final action to the commission by certified mail within seven calendar days from the date of taking the action.

30603.1 (a) In any city and county which so requests, the commission may adjust the inland boundary of the area within which the issuance of coastal development permits may be appealed to the commission pursuant to paragraph (1) of subdivision (a) of Section 30603. Any such adjustment shall be made solely to avoid the circumstance of having the boundary of that area bisect an individual parcel of property. The adjustment may be made landward or seaward, but shall be the minimum distance necessary, consistent with the policies of Chapter 3 (commencing with Section 30200), to avoid bisecting a parcel of property.

(b) If the commission subsequently finds that the circumstances which warranted a boundary adjustment pursuant to subdivision (a) have changed, it may, after notice to the city and county, readjust the boundary so that it is consistent with the changed circumstances.

The requirements of subdivision (a) shall apply to any such boundary adjustment.

30613 (a) The provisions of subdivision (b) of Section 30519, subdivision (b) of Section 30600, and subdivision (b) of Section 30610.5, which apply to lands subject to the public trust shall not apply to any lands which may be subject to the public trust but which the commission, after consultation with the State Lands Commission, determines are (1) filled and developed and are (2) located in an area which is committed to urban uses.

(b) No later than 120 days after receiving a request from a local government, the commission shall determine the lands within the jurisdiction of that local government to which the provisions of subdivision (a) apply.

(c) The provisions of this Section shall apply to lands which have been the subject of coastal development permits, local coastal programs, categorical exclusions or urban exclusions, which have previously been approved, authorized, or certified by the commission.

*(Note that the Commission will retain appeal authority after transfer of original permit jurisdiction to the local government.)*

## **Appendix C – Relevant California Code of Regulations Sections**

### **§ 13576. Map(s) of Areas of Commission Permit and Appeal Jurisdiction.**

(a) In conjunction with final Local Coastal Program certification or the delegation of coastal development permit authority pursuant to Public Resources Code Section 30600.5, whichever occurs first, the Commission shall, after public hearing, adopt a map or maps of the coastal zone of the affected jurisdiction that portrays the areas where the Commission retains permit authority pursuant to Public Resources Code Sections 30603 (a) (1) and (a)(2), or 30600.5 (d). These maps shall be drawn based on the criteria for permit and appeal boundary determinations, set forth in Section 13577 below, and will serve as the official maps of the Commission's permit and appeal jurisdiction. The Commission, in consultation with the local government, shall update these maps from time to time, where changes occur in the conditions on which the adopted maps were based, or where it can be shown that the location of the mapped boundary does not adequately reflect the intended boundary criteria. Revisions of the adopted maps shall be based on precise boundary determinations made using the criteria set forth in Section 13577. The revised maps shall be filed with the affected jurisdiction within 30 days of adoption by the Commission. In addition, each adopted map depicting the permit and appeal jurisdiction shall include the following statement:

"This map has been prepared to show where the California Coastal Commission retains permit and appeal jurisdiction pursuant to Public Resources Code Sections 30519(b), 30603(a)(1) and (a)(2) and 30600.5(d). In addition, development may also be appealable pursuant to Public Resources Code Sections 30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the local government and/or the Executive Director of the Commission for clarification and information. This plat may be updated as appropriate and may not include all lands where permit and appeal jurisdiction is retained by the Commission"

(b) In the case of local governments which have received Commission approval of their Phase III (implementation) Work Program and Budget prior to January 1, 1980, the permit and appeal area maps shall be adopted by the Commission prior to the certification becoming effective pursuant to Section 13547 of the Commission's regulations.

### **§ 13577. Criteria for Permit and Appeal Jurisdiction Boundary Determinations.**

For purposes of Public Resources Code Sections 30519, 30600.5, 30601, 30603, and all other applicable provisions of the Coastal Act of 1976, the precise boundaries of the jurisdictional areas described therein shall be determined using the following criteria:

(a) Streams. Measure 100 feet landward from the top of the bank of any stream mapped by USGS on the 7.5 minute quadrangle series, or identified in a local coastal program. The bank of a stream shall be defined as the watershed and relatively permanent elevation or acclivity at the outer line of the stream channel which separates the bed from the adjacent upland, whether valley or hill, and serves to confine the water within the bed and to preserve the course of the stream. In areas where a stream has no discernable bank, the boundary shall be measured from

the line closest to the stream where riparian vegetation is permanently established. For purposes of this section, channelized streams not having significant habitat value should not be considered.

(b) Wetlands.

(1) Measure 100 feet landward from the upland limit of the wetland. Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:

(A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;

(B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or

(C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.

(2) For the purposes of this section, the term "wetland" shall not include wetland habitat created by the presence of and associated with agricultural ponds and reservoirs where:

(A) the pond or reservoir was in fact constructed by a farmer or rancher for agricultural purposes; and

(B) there is no evidence (e.g., aerial photographs, historical survey, etc.) showing that wetland habitat pre-dated the existence of the pond or reservoir. Areas with drained hydric soils that are no longer capable of supporting hydrophytes shall not be considered wetlands.

(c) Estuaries. Measure 300 feet landward from the mean high tide line of the estuary. For purposes of this section, an estuary shall be defined as a coastal water body, usually semi-enclosed by land, having open, partially obstructed, or intermittent exchange with the open

ocean, and in which ocean water is at least occasionally diluted by freshwater from the land. The salinity level may be periodically increased to above that of the open ocean due to evaporation. The mean high tide line shall be defined as the statistical mean of all the high tides over the cyclical period of 18.6 years, and shall be determined by reference to the records and elevations of tidal benchmarks established by the National Ocean Survey. In areas where observations covering a period of 18.6 years are not available, a determination may be made based on observations covering a shorter period, provided they are corrected to a mean value by comparison with observations made at some suitably located control tide station.

(d) Tidelands. Tidelands shall be defined as lands which are located between the lines of mean high tide and mean low tide.

(e) Submerged Lands. Submerged lands shall be defined as lands which lie below the line of mean low tide.

(f) Public Trust Lands. Public Trust lands shall be defined as all lands subject to the Common Law Public Trust for commerce, navigation, fisheries, recreation, and other public purposes. Public Trust lands include tidelands, submerged lands, the beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed, and which were subject to the Public Trust at any time.

(g) Beaches. Measure 300 feet landward from the inland extent of the beach. The back beach, or dry beach, if it exists, shall be included. The inland extent of the beach shall be determined as follows:

(1) from a distinct linear feature (e.g., a seawall, road, or bluff, etc.);

(2) from the inland edge of the further inland beach berm as determined from historical surveys, aerial photographs, and other records or geological evidence; or

(3) where a beach berm does not exist, from the further point separating the dynamic portion of the beach from the inland area as distinguished by vegetation, debris or other geological or historical evidence.

(h) Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean:

(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and

(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).

Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.

(i) First Public Road Paralleling the Sea.

(1) The "first public road paralleling the sea" means that road nearest to the sea, as defined in Public Resources Code Section 30115, which:

(A) is lawfully open to uninterrupted public use and is suitable for such use;

(B) is publicly maintained;

(C) is an improved, all-weather road open to motor vehicle traffic in at least one direction;

(D) is not subject to any restrictions on use by the public except when closed due to an emergency or when closed temporarily for military purposes; and

(E) does in fact connect with other public roads providing a continuous access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline.

When based on a road designated pursuant to this section, the precise boundary of the permit and appeal jurisdiction shall be located along the inland right-of-way of such road.

(2) Whenever no public road can be designated which conforms to all provisions of (i)(1) above, and a public road does exist, which conforms to all provisions of (i)(1) except (i)(1)(v), the effect of designating the first public road paralleling the sea shall be limited to

the following:

(A) all parcels between the Pacific Ocean and such other public road; and

(B) those parcels immediately adjacent of the sea inland of such other public road.

(3) Where the Commission determines that the designation of the "first public road paralleling the sea" results in the inclusion of areas within the permit and appeal jurisdiction where the grounds for an appeal set forth in Public Resources Code Section 30603(b) are not an issue, the Commission may take action to limit the geographic area where developments approved by a local government may be appealed to the Commission, to that area where any such grounds are, in fact, an issue.

# EXHIBIT 1: SANTA CRUZ LOCATION MAP





Post LCP Certification

Permit and Appeal Jurisdiction

Index Map: County of Santa Cruz

City of Santa Cruz, City of Capitola, City of Watsonville

Index Map



Note 1

The coastal zone boundary depicted on this map may have been revised due to legislative amendments and/or minor boundary adjustments approved by the Coastal Commission pursuant to Public Resources Code §30103. The digital version of this Coastal Zone Boundary dataset (which is a conformed copy of the adopted inked version of the Coastal Zone Boundary) includes attribution that identifies each segment in which a boundary has changed as a result of legislative changes and/or minor boundary adjustments.

Note 2

The coastal zone boundary shown on this map is based on a digital version of the boundary depicted on maps adopted by the California Coastal Commission pursuant to §30103(b) of the California Coastal Act of 1976 (California Public Resources Code §30000 et seq.) and modified from time to time by legislative amendments and Minor Boundary Adjustments. Both this depicted boundary and the digital version of this data represent conformed copies of the original adopted boundary and also reflect subsequent legislative and Coastal Commission changes. In addition to the land area delineated, the coastal zone includes all offshore islands, and extends seaward to the State's outer limit of jurisdiction.

Under the provisions of §304(a) of the federal Coastal Zone Management Act of 1972, as amended, "excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the federal government, its officers or agents."

Under the provisions of §30008 of the California Coastal Act as amended in 1978, "within federal lands excluded from the coastal zone pursuant to the federal Coastal Zone Management Act of 1972, the State of California shall, consistent with applicable federal and state laws, continue to exercise the full range of powers, rights, and privileges it now possesses or which may be granted."



Permit Jurisdiction

This area includes tidelands, submerged lands, and lands that are subject to the public trust or were subject to the public trust at any time.



Appeal Jurisdiction

This area includes lands between the sea and the designated first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100 feet of streams and wetlands and lands within 300 feet of the top of the seaward face of any coastal bluff.



- First Public Road
- 100 Feet from Stream Top of Bank
- 100 Feet from Wetland Extent
- 300 Feet from Top of Coastal Bluff
- 300 Feet from Inland Extent of Beach
- 300 Feet from Mean High Tide Line
- Potential Public Trust Land P.R.C. §30613



Areas of  
Deferred Certification (ADC)

Development in this area remains subject to Coastal Commission original permit jurisdiction.



Federal Lands

Development in this area requires a Coastal Commission Coastal Development Permit or federal consistency certification or determination.



Certified Coastal Long  
Range Development Plan

Development in this area either remains subject to Coastal Commission review and approval, or Coastal Commission review of projects approved under a Long Range Development Plan.



Coastal Zone Boundary



City Boundary

Note 3

This map has been prepared to show where the California Coastal Commission retains post-LCP certification permit and appeal jurisdiction pursuant to P.R.C. §30519(b), and §30603(a)(1) and (a)(2), and §30613. In addition, developments may also be appealable pursuant to P.R.C. §30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the local government and/or the Executive Director of the Commission for clarification and information. This map may be updated as appropriate and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Commission.

Note 4

The Appeal Jurisdiction shown on this map may include areas adjacent to streams depicted on the corresponding USGS 7.5 minute quadrangle maps that have been channelized or otherwise altered. Pursuant to 14 C.C.R. §15777(a), channelized streams not having significant habitat value should not be considered as a basis for delineating stream appeal jurisdiction.

Note 5

In addition to the geographic areas of appeal jurisdiction depicted herein, the following types of development are appealable throughout the coastal zone pursuant to P.R.C. §30603 (a)(4) and (a)(5):

- Any development approved by a county that is not designated as a principal permitted use under zoning approved pursuant to the applicable Local Coastal Program;
- Any development that constitutes a major public works project or a major energy facility.

Note 6

In some areas individual parcels of land may be bisected by the appeal jurisdiction boundary. All development proposed within the appeal area defined as appealable is subject to the Commission's jurisdiction. In addition, if a development is proposed partly on the portion of the parcel that forms the basis for geographic appeal jurisdiction, and partly on the remainder of the parcel, and the Commission decides to hear the appeal, then the Commission reviews the local government approved permit de novo including all the development that was authorized in the permit.

Note 7

The boundaries shown on this map are not to be used for establishing or depicting State ownership boundaries or granted lands and are to be used in reference to the Coastal Commission's Post LCP Certification Permit and Appeal Jurisdictions only. This map has not been approved by the California State Lands Commission, is subject to change, and may not include all lands subject to the public trust. Any questions which arise, pursuant to the public trust, should be directed to the California State Lands Commission.





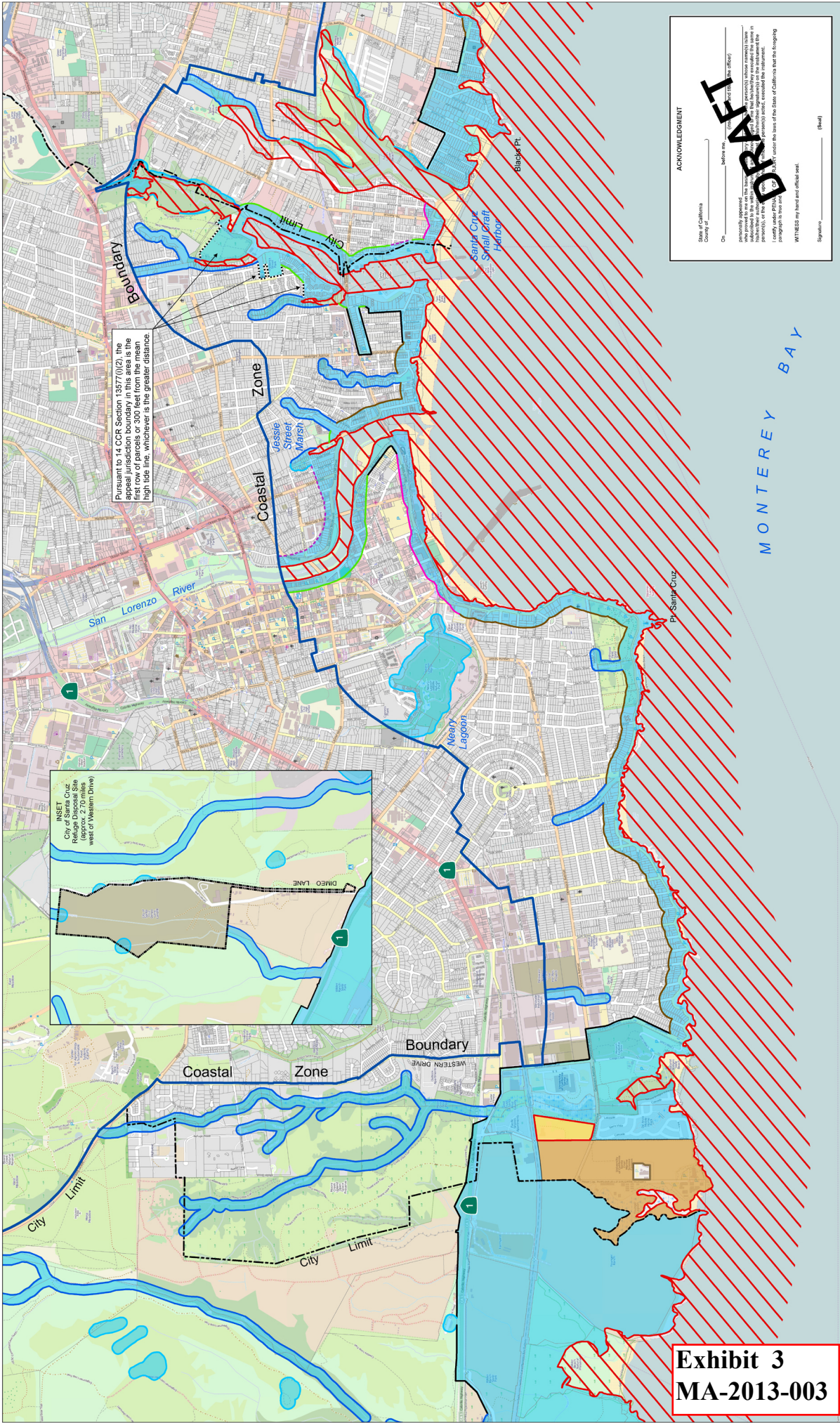


Exhibit 3  
MA-2013-003

ACKNOWLEDGMENT

State of California  
County of \_\_\_\_\_  
On \_\_\_\_\_ before me, \_\_\_\_\_ (Print Name of Officer)  
I personally appeared \_\_\_\_\_ (Print Name of Person(s) whose identity has been ascertained by me), known to me to be the person(s) whose name(s) have been subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the purposes and consideration therein expressed. I certify that this instrument is a true and correct copy of the original as recorded in my office.

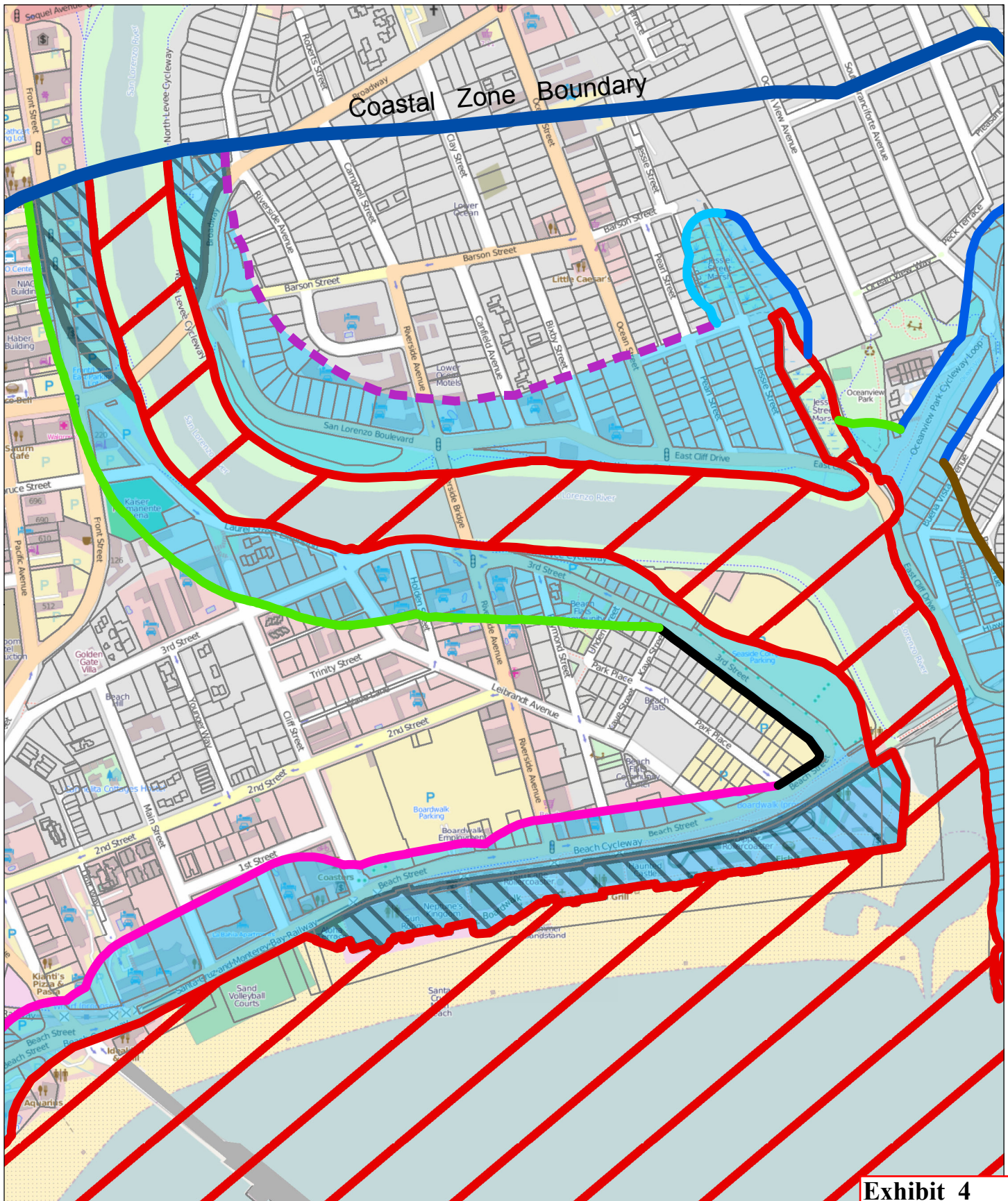
WITNESSE my hand and official seal.

Signature: \_\_\_\_\_ (Seal)

\*The Appeal Jurisdiction shown on this map may include areas adjacent to streams depicted on the corresponding USGS 7.5 minute quadrangle maps that have been channelized or otherwise altered. Pursuant to 14 C.C.R. §13577(a), channelized streams not having significant habitat value should not be considered as a basis for delineating stream appeal jurisdiction.



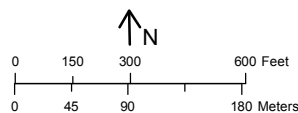
Exhibit 4- Portion of Draft Post LCP Certification Map  
 Showing Coastal Act Section 30613 Permit Jurisdiction Transfer Area  
 April 2013- San Lorenzo River / Boardwalk Area



Permit Jurisdiction Transfer Area



Technical Services Division - GIS Unit  
 California Coastal Commission

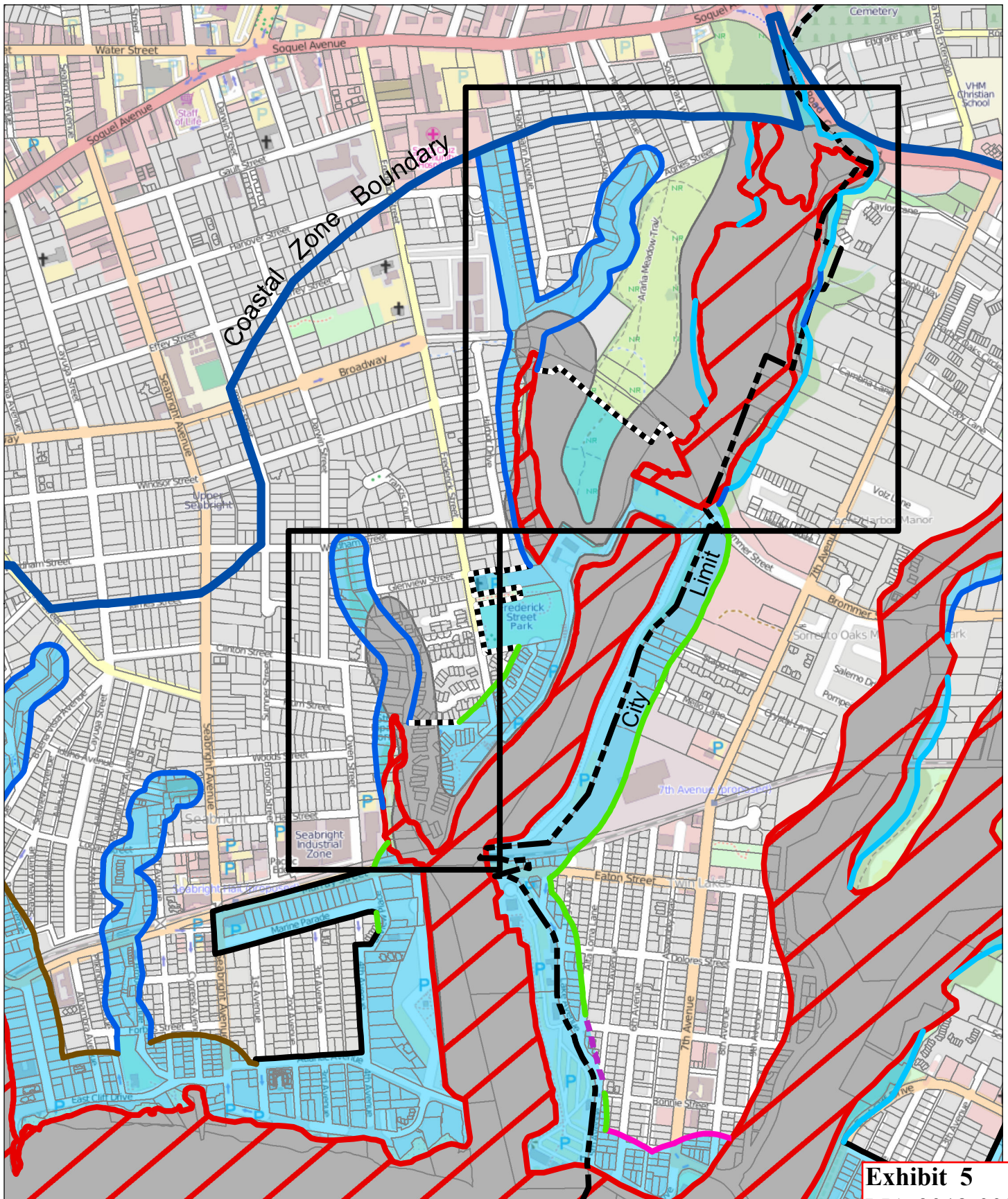


**Exhibit 4**  
**MA-2013-003**

Base map: (c) OpenStreetMap and contributors,  
 Creative Commons-Share Alike License (CC-BY-SA).  
 For illustrative purposes only.



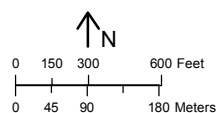
Exhibit 5- Portion of Draft Post LCP Certification Map  
Showing Permit Jurisdiction Revisions  
April 2013- Santa Cruz Small Craft Harbor





**Exhibit 5**  
**MA-2013-003**

Base map: (c) OpenStreetMap and contributors,  
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For illustrative purposes only.

**Technical Services Division - GIS Unit**  
**California Coastal Commission**



 Existing Permit Jurisdiction  
 Revised Permit Jurisdiction