

an agricultural activity. The Commission unanimously voted to support the proposed ordinance with certain modifications (see APAC minutes - Attachment 4). The Right-to-Farm Ordinance recommended by the APAC, with annotations, is included as Attachment 1.

Comparison of Model Right-to-Farm Ordinance and Existing County Policies and Ordinances

On August 11, 1998, your Board directed County Counsel to analyze the proposed ordinance, and directed the Planning Department prepare a report which analyzes the strengths and weaknesses of the model ordinance in relation to the existing County General Plan policies and County Code. County Counsel's report is included as Attachment 2. Staff has reviewed the proposed ordinance, the State Right-to-Farm Law and County Counsel's report, and has prepared a report for your Board's consideration. **This** report is presented in Attachment 3, keyed to the individual sections of the model ordinance. In reviewing these reports, you will notice that County Counsel and Planning would not recommend adopting a new Right-to-Farm Ordinance, but would prefer amending our existing Agricultural Land Preservation and Protection Ordinance to strengthen our current regulatory framework.

Discussion and Recommendation

If your Board wishes to adopt all or a part of the proposed Right-to-Farm Ordinance, there are two different ways that this can be done. These include:

- ▶ Adoption of an new Right-to-Farm Ordinance
- ▶ Amendment of the existing Agricultural Land Preservation and Protection Ordinance (County Code Chapter 16.50).

If your Board wishes to adopt a new ordinance which incorporates the model Right-to-Farm Ordinance **in the** form recommended by the Agricultural Policy Advisory Commission, several other amendments to the County Code would be necessary. These include deleting the disclosure requirements of Chapter **16.50** and replacing the references to Chapter 16.50 that are scattered throughout the Zoning Ordinance with a reference to the new ordinance. In addition, the General Plan references to the Agricultural Land Preservation and Protection Ordinance relating to the Statement of Acknowledgment (disclosure) would have to be amended. This alternative would allow the County to adopt a definition of 'agricultural operation' that would be consistent with State law for **the** Right-to-Farm Ordinance, but limited only to this particular ordinance.

If your Board wishes to incorporate all or part of the Right-to-Farm Ordinance into the existing Agricultural Land Preservation and Protection Ordinance, the required ordinance amendments would be limited to those necessary to add the new language from the model ordinance into the existing ordinance, and potentially revising the ordinance title. The primary conflict would be the definition of agricultural operation. In the current ordinance (and General Plan), the County does not consider timber harvesting as an agricultural use. The State Right-to-Farm law, however, specifically lists timber as an agricultural commodity protected by the provisions of the statute. If this definitional difference can be resolved, the incorporation of the nuisance and disclosure portions of the model

Right-to-Farm Ordinance, the two major parts of the proposed ordinance, into Chapter 16.50, can be accomplished fairly easily.

The issues for your Board to resolve are:

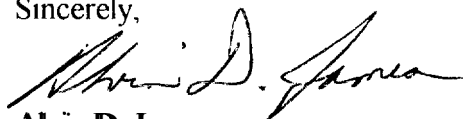
- In view of the fact that the County has already adopted the Agricultural Land Preservation and Protection Ordinance, does Santa Cruz County need a separate Right-to-Farm Ordinance?
- If your Board determines that a separate Right-to-Farm Ordinance is not necessary, what provisions of the model Right-to-Farm Ordinance should be incorporated into the current County Code Chapter 16.50, if any?
 - re-titling to reference Right-to-Farm Ordinance
 - nuisance statement
 - disclosure (County-wide noticing)
 - disclosure (buyer acknowledgment)

These issues are before your Board for policy resolution at this time.

It is, therefore, RECOMMENDED that your Board:

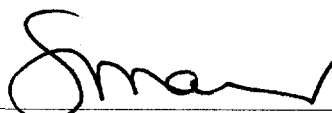
1. Accept and file this report, and
2. Consider the recommendations of the Agricultural Policy Advisory Commission, County Counsel and Planning Department regarding the Right-to-Farm Ordinance and provide staff with policy direction,

Sincerely,



Alvin D. James
Planning Director

RECOMMENDED



Susan A. Mauriello
County Administrative Officer

- Attachments:
1. Model Right-to-Farm Ordinance Recommended by the Agricultural Policy Advisory Commission
 2. Memo of Dwight Herr, dated September 16, 1998
 3. Planning Department Analysis of Model Right-to-Farm Ordinance
 4. Minutes of the Agricultural Policy Advisory Commission, September 25, 1998.
 5. Memo of Mark Deming, Principal Planner, to the APAC, dated September 16,

1998, with attachments.

6. Correspondence

7. County Code Chapter 16.50 - Agricultural Land Preservation and Protection Ordinance

cc: County Counsel
Agricultural Policy Advisory Commission
Santa Cruz Farm Bureau
Agricultural Commissioner

MODEL

RIGHT TO FARM ORDINANCE

(As recommended by the Agricultural Policy Advisory Commission on September 25, 1998. Specific language added by the Commission is shown in **bold**, deletions are shown with a strikeover.)

Section 1. Definitions.

As used in this Ordinance No. _____.

- (a) *"Agricultural Land"* shall mean all that real property within the boundaries of Santa Cruz County currently used for agricultural operations or upon which agricultural operations may in the future be established.

APAC felt that this section was unnecessary because of the County-wide nature of the recommended notification, but took no action on the definition.

- (b) *"Agricultural Operation"* shall mean and include, but not be limited to, the cultivation and tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, **mushroom farming, insectories, biomedical livestock operations**, timber or apiculture; the raising of livestock, fur bearing animals, fish or poultry and any commercial agriculture practices, **including composting**, performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

APAC wanted the added language to clearly state that all types of agricultural activities were to be covered by the ordinance.

Section 2. Finding and Policy.

Alternative 1

- (a) ~~It is the declared policy of this County to enhance and encourage agricultural operations within the County. It is the further intent of this County to provide to the residents of this County proper notification of the County's recognition and support through this ordinance of those persons' and/or entities' right to farm.~~
- (b) ~~Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations frequently become the subjects of nuisance complaints due to lack of information about such operations. As a result, agricultural operators are forced to cease or curtail their operations. Such actions discourage investments in farm improvements to the detriment of adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole. It is the purpose and intent of this section to reduce the loss to the County of its agricultural resources by clarifying the circumstances under which agricultural operations may be considered a nuisance. This ordinance is not to be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, Division 7 of the Water Code, or any other applicable provision of State law relative to nuisances, rather it is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.~~
- (c) ~~An additional purpose of this ordinance is to promote a good neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residence. Such concerns may include, but are not limited to, the noises, odors, dust, chemicals, smoke and hours of operation that may accompany agricultural operations. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact~~

PLANNING DEPARTMENT



COUNTY OF SANTA CRUZ 4

GOVERNMENTAL CENTER

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060
FAX (831) 454-2131 TDD (831) 454-2123 PHONE (831) 454-2580

Alvin D James
Planning Director

November 13, 1998

Agenda: November 24, 1998

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: RIGHT-TO-FARM ORDINANCE

Members of the Board:

On August 11, 1998, your Board considered a recommendation of Supervisor Belgard regarding a proposed Right-to-Farm Ordinance for Santa Cruz County. Supervisor Belgard presented a model ordinance based on the State's Right-to-Farm Law and recommended that the model ordinance be referred to the Agricultural Policy Advisory Commission (APAC) for its review and recommendations. After some discussion, your Board accepted the recommendation and directed that a transcript of the Board discussion be prepared and included in the materials for the review by APAC. In addition, your Board:

- Directed County Counsel to analyze the proposed ordinance, and
- Directed the Planning Department to prepare a report comparing the strengths and weaknesses of the proposed ordinance in relation to the existing General Plan policies and County Code provisions.

Agricultural Policy Advisory Commission Review

On September 25, 1998, the Agricultural Policy Advisory Commission reviewed the model Right-to-Farm Ordinance as directed by your Board. Staff provided Commissioners with a package of information (Attachment 5), including the letter from Supervisor Belgard, the model ordinance, the transcript from your Board's discussion on August 11, 1998, and the report from County Counsel (Attachment 2), requested by your Board, outlining the differences between the proposed Right-to-Farm Ordinance and existing County policies and ordinances.

The Commission, following two public presentations, discussed the proposed ordinance at length. The Commission, in general, felt that the existing disclosure system as set forth in County Code Chapter 16. SO was not working effectively; that agricultural operations were more frequently seen as a nuisance to nearby uses; and that timber should be included in the Right-to-Farm regulations as

~~of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.~~

OR

~~Alternative 2~~

- (a) The Board of Supervisors of Santa Cruz County finds that commercially viable agricultural land exists within the County, and that it is in the public interest to enhance and encourage agricultural operations within the County. The Board of Supervisors of Santa Cruz County also finds that residential and commercial development adjacent to certain agricultural lands often leads to restrictions on agricultural operations to the detriment of the adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole.
- (b) The purposes of the chapter are to promote public health, safety and welfare and to support and encourage continued agricultural operations in the County. This ordinance is not to be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, or any other applicable provision of State law relative to nuisances, rather it is only to be utilized in the interpretation and enforcement of the provisions of thus code and County regulations.

APAC supported the wording of the second alternative over the first alternative as it was more positively worded.

Section 3. Nuisance.

No agricultural activity, operation, or facility or appurtenances shall be or become a nuisance, public or private, if it has been conducted or maintained for commercial purposes, and in a manner consistent with

proper and accepted customs and standards ~~and with all proper and accepted customs and standards and with all chapters of the Santa Cruz County Code, as established and followed by similar agricultural operations, if it was not a nuisance when it began.~~

APAC agreed with Supervisor Symons that the language was redundant and unclear. Staff has rearranged the wording at the APAC's suggestion for clarity.

Section 4. Disclosure.

- (a) The disclosure statement required by this chapter shall be used under the following circumstances and in the following manners:
 - (1) The County of Santa Cruz shall mail a copy of the disclosure set out at subpart (b) 1 to all owners of real property in Santa Cruz County with the annual tax bill.

APAC felt that this was an extremely important part of the proposed ordinance and that it should include city residents, too.

- (2) Upon any transfer of real property by sale, exchange, installment land sale contract, lease with an option to purchase any other option to purchase, or ground lease coupled with improvements, or residential stock cooperative improved with dwelling units, the **title company** shall require that a statement containing the language set forth in subpart (b) shall be signed by the purchaser or lessee and recorded with the County Recorder in conjunction with the deed or lease conveying the interest in real property.

See APAC minutes for the full discussion of this item. The APAC generally felt that the current disclosure process was flawed.

- (3) Upon the issuance of a discretionary development permit, including but not limited to subdivision permits and use permits, for use on or adjacent to lands zoned for agricultural operations, the discretionary development permit shall include a condition that the owners of the property shall be required to sign a statement of acknowledgment containing the Disclosure set out in subpart (b) 1, on forms provided by the Planning Department, which form shall then be recorded with the County Recorder.
- (4) Prior to issuance of a building permit for a structure on or adjacent to lands zoned for agricultural operations, the property owner shall be required to sign a statement of acknowledgment containing the Disclosure set out in subpart (b) 1, on forms provided by the Planning Department, which form shall then be recorded with the County Recorder.**

Staff recommended, and the APAC agreed, that building permits needed to be added into the types of permits where a disclosure acknowledgment is required.

- (b) The disclosure required by Section 4(a)(2) is set forth herein, and shall be made on a copy of the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA DESCRIBED AS _____ . THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH ORDINANCE NO. _____ OF THE COUNTY CODE AS OF

_____, 1990. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

1.

SELLERS INFORMATION

The seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property. THE FOLLOWING ARE REPRESENTATION MADE BY THE SELLER(S) AS REQUIRED BY THE COUNTY OF SANTA CRUZ AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

1. The County of Santa Cruz permits operation of properly conducted agricultural operations within the County. If the property you are purchasing is located near agricultural lands or operations or included within an area zoned for agricultural purposes, you may be subject to inconveniences or discomfort arising from such operations. Such discomfort or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, and pesticides. One or more of the inconveniences described may occur as a result of any agricultural operation which is in conformance with existing laws and regulations and accepted customs and standards. If you live near an agricultural area,

you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector.

Seller certifies that the information herein is true and correct to the best of Seller's knowledge as of the date signed by the seller.

Seller _____ Date _____

Seller _____ Date _____

II.

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller _____ Date _____ Buyer _____ Date _____

Seller _____ Date _____ Buyer _____ Date _____

Agent (Broker Representing Seller) _____ By _____ Date _____

(Associate Licensee or Broker-Signature)

Agent (Broker Obtaining the Offer) _____ By _____ Date _____

(Associate Licensee or Broker-Signature)

State of California

County of _____

On this the _____ day of _____, before me, the undersigned Notary Public, personally appeared

_____, personally known to me.

_____ provided to me on the basis of satisfactory evidence to be the person(s) whose name(s) _____

subscribed to the within instrument and acknowledged that

_____ executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

Present A. P. No. _____

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

Section 5. Refusal to Sign Disclosure Statement.

If a Buyer refuses to sign the disclosure statement set forth in Section 4 (b) the transferor may comply with the requirements of this chapter by delivering the statement to the Buyer as provided declaration to the statement:

I, _____ (Name) _____, have delivered a copy of the foregoing disclosure statement as required by law to (Buyer's name) who has refused to sign.

I declare the foregoing to be true.

Date: _____ (Sign)

Print Name:

Section 6. Penalty for Violation.

Noncompliance with any provision of this chapter shall not affect title to real property, nor prevent the recording of any document. Any person who violates any provision of this chapter is guilty of an infraction punishable by a fine not exceeding one hundred dollars (\$100.00).

Section 7. Separability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance.

Section 8. Precedence.

This ordinance shall take precedence over all ordinances or parts of ordinances or resolutions or parts of resolutions in conflict herewith and to the extent they do conflict with this ordinance they are hereby repealed with respect to the conflict and no more.

APAC had no specific comments regarding sections 5 through 8, nor on the disclosure statements

460

COUNTY OF SANTA CRUZ
INTER-OFFICE CORRESPONDENCE

DATE: September 16, 1998
 TO: Planning Department, Attn: Mark Deming
 FROM: Dwight L. Herr, County Counsel *DLH*
 SUBJECT: Right To Farm Ordinance

This is to provide you with a copy of my comments on the proposed Right To Farm Ordinance.

Major Provisions Of Proposed Right To Farm Ordinance

1. Defines "agricultural land" to include a.11 land currently used for agricultural operations or "upon which agricultural operations may in the future be established". (Section 1. [A]).
2. Defines "agricultural operation" to include various specific aspects of farming and also includes the harvesting of timber. (Section 1. [B])
3. Declares finding and policy for the ordinance (Section 2)
4. Declares that an agricultural operation "consistent with proper and accepted customs and standards" and with the County Code shall not be or become a public or private nuisance if it was not a nuisance when it began. (Section 3)
5. Requires a specified disclosure statement regarding agricultural operations to be (a) mailed by the County to, all owners of real property in Santa Cruz County with the tax bills; (b) signed by purchaser or lessee of any real property and recorded by th2 transferor; and (c) required by the condition of any development permit or land division "for use on or adjacent to lands zoned for agricultural operations" to be signed by the owners of real property. (Section 4)
5. Provides for delivery of disclosure statement to the buyer by the seller if the buyer refuses to sign the statement. (Section 5)
6. Provides that any violation of the fortgoing provisions would be an infraction punishable by a fine not exceeding \$100.00. (Section 6)

Mark Deming
 September 16, 1998
 Page 2

7. Contains a severability paragraph. (Section 7)

8. Declares that the ordinance would take precedence over any inconsistent ordinances and resolutions. (Section 8)

Existing Provisions of County Code

1. Section 16.50.090 of the County Code requires that a specified disclosure statement be:

(a) Provided by a seller to a buyer of land "which is located adjacent to agricultural land, as designated on the Agricultural Resources Map of the County";

(b) Included in any deposit receipt and in any deed conveying such property; and

(c) Required as a condition of any building permit on such property to be recorded or included as part of the deed.

2. Section 14.01.407.5 of the County Code requires as a condition of approval of the land division of property adjacent to "agricultural land, as designated on the Agricultural Resources Map" that the disclosure statement be included on the Final Map or Parcel Map and in each parcel deed.

Analysis of Differences Between The Proposed Right To Farm Ordinance And Existing County Ordinances

1. The Countys definition of agricultural land subject to the disclosure requirement is precise by referring to the Countys Agricultural Resources Map whereas the proposed Right To Farm Ordinance is somewhat vague by referring to any land "upon which agricultural operations may in the future be established". The existing County definition is preferable for that reason.

2. The definition of "Agricultural Operation" in the Right To Farm Ordinance is somewhat more detailed than the existing County definition and expressly includes transportation activities. In addition, the Right To Farm Ordinance includes timber harvesting which is not treated as an agricultural activity by the Countys General Plan or County Zoning Ordinance (Please see attached memo dated August 15, 1997). The more detailed definition of Agricultural Operation in the Right To Farm Ordinance could be adopted if deemed desirable. However, the inclusion of timber harvesting as an agricultural operation is not consistent with the County General Plan or Zoning Ordinance. (See attached provisions of the General Plan and Zoning Ordinance.)

3. The Finding and Policy Statement of the Right To Farm Ordinance would not appear necessary since the County has already adopted disclosure statement requirements.

Mark Deming
September 16, 1998
Page 3

4 6 2

4. The proposed Right To Farm Ordinance contains an express provision insulating preexisting agricultural-operations from nuisance claims, whereas the County's existing disclosure statement provisions while making it difficult for adjacent residents to make nuisance claims do not completely preclude them. It is a policy decision whether to adopt the nuisance provision in the Right To Farm Ordinance..

5. The contents of the disclosure statements in the Right To Farm Ordinance and in the County's existing ordinances are substantially the same. The Right To Farm provisions are somewhat more detailed by expressly including such activities as "operation of machinery (including aircraft)" and "storage and disposal of manure" but such activities would be covered under the County's more general language regarding noise, dust, smoke, and odor. The County's provisions are more focused by only applying the disclosure statement requirement to identified agricultural land whereas the Right To Farm Ordinance requirement would apply to all property of whatever nature, and would require the County to include the statement in all tax bills. The County's more precise existing provisions as to the application of the disclosure statement requirements would appear to be preferable.

5. The penalty provisions of the Right To Farm Ordinance are not as stringent as the County's existing provisions, and do not completely conform to State law.

7. The severability clause in the Right To Farm Ordinance is standard language, but would not appear necessary if only minor amendments are to be made to the County's existing disclosure statement provisions.

8. The "precedence" provision of the Right To Farm Ordinance is not needed unless it were to be adopted with provisions inconsistent with the County Zoning Ordinance such as the inclusion of timber harvesting as agriculture. However, that action would not appear appropriate since such a definition of agriculture to include timber would also be inconsistent with the County General Plan.

2. Evidence that the above statement has been made part of the parcel deed. (Ord. 2621, 1/23/79; . 3336, 11/23/82; 3447, 8/23/83; 3750, 4/22/86)

16.50.095 AGRICULTURAL BUFFER SETBACKS.

- (a) The purpose of the agricultural buffer setback requirements is to prevent or minimize potential conflicts between either existing or future commercial agricultural and habitable land uses (i.e., residential, recreational, institutional, commercial or industrial). This buffer is designed to provide a physical barrier to noise, dust, odor, and other effects which may be a result of normal commercial agricultural operations such as: plowing, discing, harvesting, -spraying or the application of agricultural chemicals and animal rearing.
- (b) All development for habitable uses within 200 feet of the property line of any parcel containing Type 1, Type 2, or Type 3 Commercial Agricultural land shall:
1. Provide and maintain a 200 foot buffer setback between Type 1, Type 2 or Type 3 commercial agricultural land and non-agricultural uses involving habitable spaces, including dwellings, habitable accessory structures and additions thereto; and commercial, industrial, recreational, or institutional structures, and their outdoor areas designed for public parking and intensive human use. For the purposes of this Section, outdoor area's designed for intensive human use shall be defined as surfaced ground areas or uncovered structures designed for a level of human use similar to that of a habitable structure. Examples are dining patios adjacent to restaurant buildings and private swimming pools. The 200 foot agricultural buffer setback shall incorporate vegetative or other physical barriers as determined necessary to minimize potential land use conflicts.
 2. Provide and maintain a buffer setback distance of at least 200 feet where the subdivision of land results in residential development at net densities of one or more dwelling units per acre adjacent to Type 1, Type 2, Type 3 Commercial Agricultural land, with vegetative screening or other physical barriers as appropriate.
 3. Comply with Sections 16.50.090(c) and/or 14.01.407.5 of the Santa Cruz County Code pertaining to recording deed notices of adjacent agricultural use. Such deed notice shall contain a statement acknowledging the required permanent Provision and maintenance of the agricultural buffer setbacks and any required barriers (e.g., fencing or vegetative screening).

established a 200 foot agricultural buffer setback on the herein described property to separate agricultural parcels and non-agricultural uses involving habitable spaces to help mitigate these conflicts. Any development on this property must provide a buffer and setback as specified in County Code. Santa Cruz County has established agriculture as a priority use on productive agriculture lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations."

(c) The County Building Official shall require, prior to issuance of building permits for parcels adjacent to commercial agricultural lands, as designated on the Agricultural Resources Map, either:

1. Recordation of the following statement of acknowledgement by the owners of the property on a *form* approved by the Building Official:

"The undersigned . . . do hereby certify to be the owner(s) of the hereinafter legally described real property located in the County of Santa Cruz, State of California: . . . and do hereby acknowledge that the property described herein is adjacent to land utilized for agricultural purposes, and that residents or users of this property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides, and fertilizers; and from the pursuit of agricultural operations; including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. It is understood that the County has established a 200 foot agricultural setback on the herein described property to separate agricultural parcels and non-agricultural uses involving habitable spaces to help mitigate these conflicts. Any development on this property must provide a buffer and setback as specified in County Code."

"And further acknowledge that Santa Cruz County has established agriculture as a priority use on productive agricultural land; and that residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations."

"This statement of acknowledgement shall be recorded and shall be binding upon the undersigned, any future owners, encumbrances, their successors, heirs or assignees. The statements contained in this statement of acknowledgement are required to be disclosed to prospective purchasers of the property described herein, and required to be included in any deposit receipt for the purchase of the property, and in any deed conveying the property."; or

(e) The requirements of this section do not apply to condominium projects which consist of the subdivision of air space in an existing building when no new structures are added.

(f) For the purposes of this section; "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(g) Where neither lot size, lot configuration, or applicable zoning is sufficient to reasonably protect solar access to parcels in a new subdivision, the Planning Commission or Board of Supervisors may require the preparation and dedication of solar access easements or restrictive covenants. (Ord. 4243, 3/23/93)

(h) The burdens and benefits of the solar easement shall be transferable and run with the land to subsequent grantees of the Grantor(s) and of the Grantee(s). All solar easements must include, at a minimum, all of the following:

(1) A description of the dimensions of the easement expressed in measurable terms, such as a vertical or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector, device, or structural design feature may not be obstructed, or a combination of these descriptions.

(2) The restrictions placed upon vegetation, structures, and other objects which would impair or obstruct the passage of sunlight through the easement.

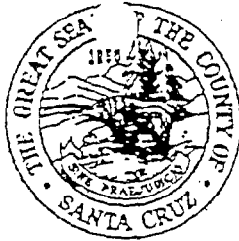
(3) The terms or conditions, if any, under which the easement may be revised or terminated.

14.01.407.5 AGRICULTURAL NOTIFICATION. When a parcel adjacent to agricultural land, as designated on the Agricultural Resources Map established under Section 16.50.040 of the Santa Cruz County Code, is to be subdivided, the following statement shall, as a condition of approval, be included on the Final Map or Parcel Map, and in each parcel deed for the subdivision:

"This subdivision is adjacent to property utilized for agricultural purposes, and residents of the subdivision may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. Santa Cruz County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations..

(Any deed conveying parcels or lots within this subdivision shall contain a statement substantially in the form stated above.)"

OFFICE OF THE
COUNTY COUNSEL



466
COUNTY OF SANTA CRUZ

GOVERNMENT CENTER
(408)454-2040
FAX(408)454-2115

DWIGHT L. HERR
COUNTY COUNSEL

DEBORAH STEEN
SAMUEL TORRES, JR.
CHIEF ASSISTANTS

701 OCEAN STREET, ROOM 505, SANTA CRUZ, CALIFORNIA 95060-4068

HARRY A. OBERHELMAN III
MARIE COSTA
JANE M. SCOTT
RAHN GARCIA
TAMYRA RICE
PAMELA FYFE
ELLEN LEWIS
KIM BASKETT
LEE GULLIVER
DANA McRAE

ASSISTANTS

August 15, 1997

Mr Michael E. Jani, Forester
Big Creek Lumber Co.
3554 Highway 1
Davenport, CA 55017

RE: Zoning Regulations Regarding Timber Harvesting

Dear Mr. Jani:

This is to respond to legal questions submitted in your letter dated July 31, 1997, to the Board of Supervisors. As you probably know, the policy issues regarding the application of County zoning regulations to timber harvesting operations are to be considered by the Board of Supervisors at its meeting on August 19, 1997. Enclosed for your information is a copy of the staff letter and attachments for that agenda item.

Is Timber Harvesting An Agricultural Use For Purposes of County Zoning Regulations?

Answer: The County distinguishes between timber harvesting and agriculture for purposes of planning and zoning. For example, in the County's General Plan, timberland is defined and treated separately from agricultural land. (See General Plan Definitions and Policies attached.) This distinction is also found in the County's zoning regulations. (see Zoning Definitions and also Residential Zone District Regulations attached which treat "timber harvesting" as an "Open Space" use rather than as an "Agricultural" use.) Although the State Legislature has defined agricultural commodities to include "forest products" in certain instances (See e.g., Section 58554 of the Food and Agricultural Code), it has

ZONTIMT.01A

64

chosen to specifically exclude it in others (see e.g., Section 58605 of the Food and Agricultural Code). For zoning and planning purposes, there is no state statute which declares that timber harvesting must be considered agriculture, and counties have the zoning and planning authority to determine where timber operations shall be permitted. (Big Creek Company v. County of San Mateo (1995). 31 Cal.App.4th 418.)

Do Williamson Act Contracts and Open Space Easement Contracts Authorize Timber Harvesting Without Compliance With Any Zoning Restrictions?

Answer: Property owners who have entered into Williamson Act Contracts or Open Space Easement Contracts are subject to any zoning restrictions applicable to their property in addition to any further restrictions imposed by the contracts. The consideration received by property owners to enter into Williamson Act and Open Space Easement Contracts is reduced property taxes based on the restrictions on use imposed by the contracts in addition to the restrictions already applicable to the property from zoning regulations. The consideration accruing to the County is the contractual restrictions of the Williamson Act and Open Space Easement Contracts to preserve agricultural land and open space land, respectively, for the term of the contracts regardless of any incompatible uses that might otherwise be permissible under zoning regulations in effect during the term of the contract. The exemption of any timber harvesting or other activities from the contractual restrictions of a Williamson Act or Open Space Easement contract does not confer any rights to engage in such uses unless they are in compliance with any zoning restrictions (Delucchi v. County of Santa Cruz (1985) 179 Cal. App. 3d 814).

Can A Property Owner Remove Hazardous Trees On Non-TP Zoned Parcels?

Answer: There are no County regulations regarding the removal of hazardous trees outside of the California Coastal Zone unless it is a commercial timber operation. Inside the California Coastal Zone, Chapter 16.34 of the County Code, which is part of the County's Local Coastal Program to implement the California Coastal Act, regulates the removal of significant trees as defined in that Chapter. Section 16.34.030 authorizes the removal of any tree without a "Significant Tree Removal" Permit where there is a hazardous or dangerous condition requiring immediate action for the safety of life or property. Commercial timber operations with an approved THP are exempt from the special permit requirements of Chapter 16.34, but would be subject to any restrictions on where timber harvesting operations can be conducted which are imposed by zoning regulations. The extent to which timber harvesting

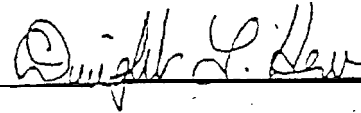
Mr. Michael E. Jani Forester
Page 3
August 13, 1997

ATTACHMENT 2
468

operations will be subject to County zoning regulations IS the item
before the Board on August 19th.

Very truly yours,

DWIGHT L. HERR, COUNTY COUNSEL



Dwight L. Herr

c c : Board of Supervisors
Tom Burns, Acting Planning Director
Susan Mauriello, CAO .

GLOSSARY OF TERMS

Accessory/Ancillary/Appurtenant/Incidental Use

Any use which is secondary or subordinate to the principal or main use of a property and which clearly does not change the character of the main use. For example, a restaurant or gift shop in a resort (which caters primarily to patrons of the resort).

Adjacent Parcel

A parcel near or close to the subject parcel.

Adjoining/contiguous parcel

Abutting, lying next to, or touching a parcel.

Affordable

(LCP) Capable of purchase or rental by a household with moderate or lower income, based on their capacity to make initial monthly payments necessary to obtain housing. Housing is affordable when a household pays 25 to 30 percent or less of their gross income for housing. (See the Housing Element for more explanation of the term "affordable".)

Agricultural Land, Commercial

Commercial agricultural land includes all land which meets the criteria specified below, including all land enforceably restricted with a Land Conservation Act (Williamson Act) contract for Agricultural Preserve.

Type 1 — Commercial Agricultural Land. This type is for viable agricultural lands outside the Coastal Zone which have been in, or have a history of, commercial agricultural use over a long period of time, and are likely to continue to be capable of commercial agricultural use in the foreseeable future.

Type 1A — Viable Agricultural Land. Type 1A agricultural lands comprise areas of known high productivity which are not located in any utility assessment district for which bonded indebtedness has been incurred. These Lands essentially meet the U.S. Department of Agriculture Soil Conservation Service and the California Department of Food and Agriculture criteria for "prime" and "unique" farmland and "prime" rangeland.

Type 1B — Viable Agricultural Land in Utility Assessment Districts. This type includes viable agricultural lands, as defined above, which are within a utility assessment district for which bonded indebtedness has been incurred, except Agricultural Preserves.

Type 2 — Commercial Agricultural Land. This category is for agricultural lands outside the Coastal Zone which would be considered as Type 1 A, except for one or more limiting factors such as parcel size, topographic conditions, soil characteristics or water availability or quality, which adversely affect continued productivity or which restrict productivity to 2 narrow range of crops. Despite such limitations, these lands are considered suitable for commercial agricultural use. Type 2 agricultural lands are currently in agricultural use (on a full-time or part-time basis), or have 2 history of commercial agricultural use in the last ten years and are likely to continue to be capable of agricultural use for a relatively long period. In evaluating amendments to Type 2 designations the preceding factors, along with adjacent parcel sizes, degree of nonagricultural development in the area and proximity to other agricultural uses, shall be considered in addition to the criteria listed under each individual type below.

Type 2.4 — Limited Agricultural Lands in Large Blocks. These lands are in fairly large blocks, are not in any indebtedness, and are not subject to agricultural-residential use conflicts.

Type 2B — Geographically Isolated Agricultural Land with Limiting Factors. This category includes agricultural lands with limiting factors which are geographically isolated from other agricultural areas. These lands are not in a utility assessment district which has incurred bonded indebtedness and are not subject to agricultural-residential use conflicts.

Type 2C — Limited Agricultural Lands in Utility Assessment Districts. This type includes agricultural lands with limiting factors which are in a utility assessment district, as of 1979, which has incurred bonded indebtedness.

Type 2D — Limited Agricultural Lands Experiencing Use Conflicts. These are agricultural lands with limiting factors which are experiencing extreme pressure from agricultural-residential land use conflicts such as pesticide application, noise, odor or dust complaints, trespass or vandalism.

Type 2E — Vineyard Lands.

Type 3 — Viable Agricultural Land within the Coastal Zone. This category includes all of the following lands outside the Urban Services Line and the Urban Rural Boundary, within the Coastal Zone in Santa Cruz County:

1. Land which meets the U.S. Department of Agriculture soil Conservation Service criteria for prime farmland soils and which are physically available (i.e., open lands not forested or built on) for agricultural use.
2. Land which meets the California Department of Food and Agriculture criteria for prime rangeland soils and which are physically available (i.e., open lands not forested or built on) for agricultural use.
3. Land which meets the California Department of Food and Agriculture criteria for unique farmland of statewide importance and which is physically available (i.e., open lands not forested or built on) for agricultural use.

The criteria for "prime farmland soils," "prime rangeland soils," and "unique farmland of statewide importance" are further defined in the glossary.

Agriculture Uses, Commercial

Agricultural operations conducted as a commercial venture for the purpose of achieving a return on investment.

Agriculture Uses, Non-commercial

Agricultural operations conducted for subsistence purposes, as a hobby or as part of a rural lifestyle where sale of the product is not the primary goal.

Agricultural Policy Advisory Commission

(LCP) A County commission, appointed by the County Board of Supervisors, whose role is to advise the Board on agricultural matters and to review development applications affecting agricultural land.

Agricultural Preserve

A contract between a landowner and Santa Cruz County establishing that a certain amount of land will be used for agricultural purposes only for a minimum of ten years. The ten year period is renewed every year. In recognition of this land use restriction, the landowner may receive preferential taxation on that land.

AMBAG — Association of Monterey Bay Area Governments
AMBAG is a voluntary association of 15 cities and Santa Cruz and Monterey counties in California's Central Coast region formed by a Joint Powers Agreement to serve as a forum for discussion of regional issues. The Association has been designated as an Areawide Planning Organization (APO) by the U.S. Department of Housing and Urban Development; as a Metropolitan Planning Organization (MPO) by the U.S. Department of Transportation; and as a Water Quality Planning Agency by the U.S. Environmental Protection Agency.

Anadromous

(LCP) Species of fish which migrate from the ocean to fresh water streams to spawn.

Ancillary

(LCP) See Accessory.

Approach Zone

The air space at each end of a landing strip that defines the glide path or approach path of an aircraft and which should be free from obstruction, the lower boundary being a plane at a specified slope, beginning at the end of the runway overrun strip.

Appurtenant

(LCP) See Accessory.

Aquaculture

(LCP) A form of agriculture that is devoted to the controlled growing and harvesting of fish, shellfish, and plants in marine, brackish, and fresh water. Aquaculture products are agricultural products, and aquaculture facilities and land uses shall be treated as agricultural facilities and land uses.

Aquifer

(LCP) The underground layer of water-bearing rock, sand or gravel through which water can seep or be held in natural storage. Such waterholding rock layers hold sufficient water to be used as water supply.

Arable (land)

Land which is suitable for the cultivation of crops. Such land usually contains soils with a U.S. Soil Conservation Service agricultural capability rating of I-IV and slopes less than 25%.

Timberland

(LCP) Privately owned land, or land acquired for state forest purposes, which is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, and which is capable for growing an average annual volume of wood fiber of at least 15 cubic feet per acre.

Transmission Lines

(LCP) Utility transmission and distribution lines, including service lines (from the edge of a parcel to the structure receiving service), and extensions (from the existing distribution line along a public road or over private property to the edge of the parcel to receive service).

Transportation Commission

See Santa Cruz County Regional Transportation Commission (SCCRTC).

Trip

A one-way journey that proceeds from an origin to a destination by a single type of vehicular transportation.

Uniform Building Code (UBC)

A national standard building code, adopted with amendments pursuant to the Santa Cruz County Code, which sets forth minimum standards for construction.

Uniform Housing Code

State housing regulations governing the condition of habitable structures with regard to health and safety standards; and which provides for the conservation and rehabilitation of housing in accordance with the UBC; administered in Santa Cruz County by the Environmental Health Services.

Unique

A biotic resource whose presence is unusual and/or of special interest due to extremities of range, special soil types, or unusual associations with other species.

Unique Farmland of Statewide Importance

(LCP) Farmland, other than prime farmland soils, which produces those crops of greatest economic significance to the state, as defined in the California Department of Food and Agriculture, January 1978 ACR 11 Report Pertaining to Prime Agricultural Land. For a more detailed discussion of this farmland classification, see the LCP Agriculture Background Report.

Urban Area

(LCP) The area within the Urban Services Line.

Urban Density Development

(LCP) Development at densities greater than one dwelling unit per acre or the equivalent.

Urban Road Standards

Those standards defined in the Public Works Design Criteria for urban roads. Urban roads shall be dedicated to the public for use and maintenance except for internal project circulation roads.

Urban Services Line (USL)

(LCP) A boundary line defining those areas planned to accommodate urban densities of development as based on the pattern of existing urban services and those projected to be established in the planning period. The Urban Service Line is subject to change in the future where consistent when the requirements of the Coastal Act, the needs of the community and the availability of supporting urban infrastructure.

Urban/Rural Boundary

(LCP) A distinct line which separates rural areas and (1) urban areas defined by the Urban Services Line, or (2) areas with recognized urban densities as defined by the Rural Services Line.

Vermiculture

Use of earthworms to further digest sludge from treated sewage to obtain nutrient-rich toxin free castings (worm feces) for high performance fertilizer.

Vertical Access

(LCP) A path or trail which connects the nearest public roadway with a shoreline destination via a reasonably direct route.

Viewshed

(LCP) The area within view from a defined observation point.

Visitor Accommodations

(LCP) Visitor serving facilities for overnight or extended stay use, such as hotels, motels, horizontal hotels, inns, lodges, recreational vehicle parks, hostels, commercial camping, and appurtenant uses.

Visitor Accommodation Unit

(LCP) A visitor-serving unit not exceeding four rooms, one of which is a bathroom, one of which may be either a kitchen or an additional bathroom, and not exceeding 600 sq. ft. overall. A studio with bath and kitchenette counts as 3/4 unit.

TIMBER RESOURCES,

472

Objective 5.12 Timber Production

(LCP) To encourage the orderly economic production of forest products on a sustained yield basis under high environmental standards, to protect the scenic and ecological values of forested areas, and to allow orderly timber production consistent with the least possible environmental impacts.

Policies**5.12.1 Designation of Timberlands**

(LCP) Designate on the General Plan and LCP Resources Maps those timberlands which are devoted to and used for growing and harvesting timber and which are capable of producing an average annual volume of wood fiber of at least 15 cubic feet per acre.

PERMITTED USES**5.12.2 Uses Within Timber Production Zones**

(LCP) Allow the following types of uses compatible with Timber Production zoned land (TP) in accordance with the Timber Production ordinance:

- The growing and harvesting of timber and other forest products, including Christmas trees, in conformance with the provisions of the Timber Production Zoning ordinance and the Forest Practice Act.
- Watershed management.
- Fish and wildlife habitat.
- Grazing and other agricultural uses on that portion of the land not under timber production.
- One single-family dwelling, with accessory structures and utilities, on a separate legal parcel of record, subject to the policies of this section.
- Timber removal as necessary for the safe operation of public utility facilities.

CONDITIONAL USES**5.12.3 Conditional Uses Within Timber Production Zones**

(LCP) Allow the following types of uses if conditionally approved in accordance with the Timber Production ordinance. Conditional uses must be consistent with the growing of a sustained yield tree crop, with the purposes of the Forest Taxation Reform Act of 1976 and the Timber Production zone district, and should be supported by a timber management plan.

- Mineral production and mining operations, in conformance with the provisions of the Mining Regulations ordinance.
- Erection, construction, alteration and maintenance of water and transmission facilities.
- Outdoor recreation, educational or religious activities, in conformance with the provisions of the County's organized camp zoning regulations which do not conflict with the management of the parcel's timber resources.
- Conversion to agricultural uses not exceeding ten percent of the total of the timber area on the parcel.
- One habitable accessory structure on a legal parcel of record with a minimum size of 40 gross acres in the Coastal Zone and 10 gross acres in other areas of the County where the guest house will be located in close proximity to the principle residence.
- Timber processing and other related facilities.

- 5.12.4 Land Division and Density Requirements for Timber Production Zoned Lands 473
 (LCP) For land divisions of TP zoned lands, require new parcel sizes to be at least 160 gross acres in the Coastal Zone and 40 gross acres in other areas of the County. Where development envelopes are clustered, require new parcel sizes to be an average of 40 gross acres in the Coastal Zone and 10 gross acres in other areas of the County.
- For residential development on TP zoned lands where no land division is proposed, allow a maximum residential density of one dwelling unit per 160 gross acres in the Coastal Zone and 40 gross acres in other areas of the County. Where development envelopes are clustered, allow a maximum average residential density of one dwelling unit per 40 gross acres in the Coastal Zone and 10 gross acres in other areas of the County.
- 5.12.5 General Conditions for All Development Proposals on Timber Production Zoned Lands
 (LCP) Require the following conditions be met in connection with any permitted development on Timber Production zoned lands:
- (a) A Timber Management Plan, prepared by a Registered Professional Forester, shall be submitted to and approved by the County for the entire land holding.
 - (b) The individual designated as possessor of timber rights on the property shall enter into a binding contract with the Board of Supervisors to manage and harvest timber on the timberland and to abide by the provisions of the Timber Management Plan.
- 5.12.6 Conditions for Clustered Development Proposals on Timber Production Zoned Lands
 (LCP) In addition to the conditions listed in 5.12.5, require the following conditions be met in connection with any permitted clustered development on TP zoned lands:
- (a) The timberland shall be managed as one unit under an approved Timber Management Plan for all timber harvest operations and clustered development proposals shall be consistent with all policies of this section and require approval of four-fifths vote of the Board of Supervisors.
 - (b) The remainder of the property not included within the area of clustered development envelopes shall be held in common ownership, and timber rights shall be held by a designated property owner or individual.
- 5.12.7 Location of Development on Timber Production Lands
 (LCP) Restrict development on TP lands to be located on a non-timbered portion of the property.
- 5.12.8 Timber Resource Land Not Zoned Timber Production
 (LCP) Evaluate proposed land divisions and residential development permit applications on parcels larger than 20 gross acres designated Timber Resource on the General Plan and LCP Resources and Constraints Maps, but not zoned TP, for timber resource potential. Apply the TP land division and residential density requirement policies for any parcel found to have timber resources equivalent to TP parcels. Require, as a condition of any land division, rezoning to TP for parcels which have equivalent timber resources.
- 5.12.9 Rezoning Lands to Timber Production
 (LCP) Encourage timberland owners to apply for Timber Production zoning where appropriate. Such rezonings must be in accordance with the procedures set forth in the TP ordinance.
- 5.12.10 Rezoning Lands From Timber Production
 (LCP) Deny rezoning of timberland from TP to alternate zone districts unless it can be shown that the rezoning is consistent with the Forest Taxation Reform Act of 1976 and the County TP ordinance.

5.12.11 Timber Harvests Not Subject to State Regulations

(LCP) Ensure that all small timber harvests over which the County has regulatory authority, are adequately regulated, either through adoption of State Forest Practice Rules or through the enactment of local ordinance.

5.12.12 Review of Timber Harvests

(LCP) Require strict review of all timber harvests subject to County regulation to assure minimal environmental and neighborhood impacts. Deny all applications which cannot meet those standards.

5.12.13 Timber Statement of Acknowledgement

(LCP) As a condition of approval for any new land division or other development permit, require a Statement of Acknowledgement be recorded, or evidence that the statement has been made part of the parcel deed, for parcels adjacent to lands designated as Timber Resources on General Plan and LCP Resources Maps. The purpose of the statement is to inform property owners about adjacent timber practices, and advise them to be prepared to accept such inconvenience or discomfort from normal timber operations.

Program

- (LCP) a. Encourage the adoption of state legislation allowing for reevaluation of Santa Cruz County TP designations.
(Responsibility: Board of Supervisors, Flood Control Zone 4, Planning Department)
- (LCP) b. Encourage the adoption of state legislative changes to the Forest Practice Act to accomplish the following:
- (1) Create a consistent appeals process to the Board of Forestry of the California Department of Forestry (CDF) Director's determinations;
 - (2) Extend the purpose and intent of the Act to include the protection of public health, safety and welfare;
 - (3) Expand the role of the Interdisciplinary Review Team to allow changes to timber harvest plans;
 - (4) Require that feasible alternative practices needed to mitigate significant adverse impacts, which are submitted in writing to the timber harvest plan review team of the Board of Forestry, be incorporated into any approved timber harvest plan, or require denial of the timber harvest plan.
(Responsibility: Board of Supervisors, Planning Department, Flood Control Zone 4)
- (LCP) c. Recommend Special Santa Cruz County Timber Harvest Rules for adoption by the State Board of Forestry which make the following changes to the process for reviewing timber harvest plans:
- (1) Establish better defined procedures for the request, conduct, and follow-through related to public hearings;
 - (2) Require transmission of the Notice of Conformance to members of the Board of Supervisors;
 - (3) Allow County staff to attend all field reviews conducted by CDF;
 - (4) Require the submission of relevant materials prior to review team meetings;
 - (5) Require that feasible alternative practices needed to mitigate significant adverse impacts, which are submitted in writing to the timber harvest plan review team of the Board of Forestry, be incorporated into any approved timber harvest plan, or require denial of the timber harvest plan.
(Responsibility: Board of Supervisors, Planning Department)

AGRICULTURE

Objective 5.13 Commercial Agricultural Land

(LCP) To maintain for exclusive agricultural use those lands identified on the County Agricultural Resources Map as best suited to the commercial production of food, fiber and ornamental crops and livestock and to prevent conversion of commercial agricultural land to non-agricultural uses. To recognize that agriculture is a priority land use and to resolve policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands.

Policies

5.13.1 Designation of Commercial Agriculture Land

(LCP) Designate on the General Plan and LCP Resources and Constraints Maps as Agricultural Resource all land which meets the criteria (as defined in the General Plan Glossary) for commercial agricultural land.

5.13.2 Types of Agriculture Lands

(LCP) Maintain by County ordinance specific agricultural land type designations for parcels identified as commercial agricultural land based on the criteria set forth in the General Plan and LCP Land Use Plan* and maintain Agricultural Resources Maps, by County ordinance to identify the distribution of the following types of Commercial Agricultural Land in the County:

Type 1A — Viable Agricultural Land

Type 1B — Viable Agricultural Land in Utility Assessment Districts

Type 2A — Limited Agricultural Land

Type 2B — Limited Agricultural Land — Geographically Isolated

Type 2C — Limited Agricultural Land in Utility Assessment Districts

Type 2D — Limited Agricultural Land Experiencing Use Conflicts

Type 3 — Viable Agricultural Land Within the Coastal Zone

*See Glossary for detailed definition of Agricultural Land, Commercial.

5.13.3 Land Use Designations for Agricultural Resource Lands

(LCP) All lands designated as Agricultural Resource shall be maintained in an Agricultural Land Use designation, unless the property is included in a public park or biotic reserve and assigned as Parks, Recreation and Open Space (O-R), Resource Conservation (O-C), or Public Facility (P) land use designations.

5.13.4 Zoning of Agricultural Resource Land

(LCP) Maintain all lands designated as Agricultural Resource in the "CA", Commercial Agricultural Zone District, except for land in agricultural preserves zoned to the "AP", Agricultural Preserve Zone District or the "A-P", Agriculture Zone District and Agriculture Preserve Combining Zone District; timber resource land zoned to the "TP", Timber Production Zone District; or public parks and biotic conservation areas zoned to the "PR", Parks, Recreation and Open Space Zone District.

5.13.5 Principal Permitted Uses on Commercial Agricultural (CA) Zoned Land

(LCP) Maintain a Commercial Agricultural (CA) Zone District for application to commercial agricultural lands that are intended to be maintained exclusively for long-term commercial agricultural use. Allow principal permitted uses in the CA Zone District to include only agricultural pursuits for the commercial cultivation of plant crops, including food, flower, and fiber crops and raising of animals including grazing and livestock production.

- (LCP) d. Evaluate the adequacy of the Forest Practice Rules in the following areas and, if necessary, recommend special rules for adoption by the Board of Forestry:
- (1) Allow for bonding on private roads used for log hauling;
 - (2) Provide CDF with the authority to restrict or prohibit winter operations in certain situations;
 - (3) Restrict road and landing construction in steep areas and, where allowed, establish special design and construction standards.
 - (4) Protection of rare, endangered, or unique plants or animals;
 - (5) Protection of viewsheds from scenic roads;
 - (6) Consider feasible alternative forest practices to mitigate significant adverse environmental impacts.
(Responsibility: Board of Supervisors, Planning Department)
- (LCP) e. Continue to apply the following policies when reviewing timber harvest plans:
- (1) Where applicable, recommend denial of a timber harvest plan based upon its potential for cumulative adverse impacts to water quality, traffic, wildlife or other affected resources;
 - (2) Encourage shared road access between adjacent timber owners;
 - (3) Allow for selecting the haul route which minimizes neighborhood impacts;
(Responsibility: Board of Supervisors, Flood Control Zone 4, Planning Department)
- (LCP) f. Ensure that the County's concerns regarding individual timber harvests are addressed through active participation in review team meetings and California Department of Forestry public hearings. (Responsibility: Planning Department, Flood Control Zone 4, Board of Supervisors)

Zoning Regulations - Definitions 477

Accessory Dwelling Unit. A structure for human habitation, subject to the requirements of Section 13.10.681 and limited in size to 640 gross square feet within the Urban Services Line (USL) and 800 gross square feet outside the USL, providing complete independent living facilities for one or two persons, including permanent provision for living, sleeping, eating, cooking, 2nd sanitation, with the restriction that only one kitchen is allowed. (@rd. 4324A, 8/g/C:)

Affected Property. Any property whose buildings, fences, other structures or vegetation interfere with, or is likely in the future to interfere with, the solar access of the existing or proposed solar energy system.

Affordable Housing. Housing capable of purchase or rental by a person with average or below average income, as determined periodically by the U.S. Department of Housing and Urban Development based on the median household income for Santa Cruz County.

* **Agriculture.** The art or science of cultivating the ground, including the harvesting of crops and the rearing and management of livestock; tillage; husbandry; farming; horticulture.

Agricultural Caretakers' Mobile Home. A travel trailer or mobile home maintained as temporary living quarters for person employed principally for security needs and/or farming and related activities on the parcel on which the unit is located. This use is an accessory use to the main dwelling on the property or in place of the main dwelling.

Agricultural Custom Work Occupations. An agricultural support service for hire which is conducted as a secondary or incidental use on a parcel where agriculture is the primary use such as fumigation services, land leveling, irrigation contracting and farm equipment repair.

Agricultural Lands, Types 1, 2, and 3. Agricultural land type designations applied pursuant to a County classified system as established in Chapter 16.50 (Section 16.50.030 and 16.50.040) of the County Code.

Agricultural Policy Advisory Commission. An advisory commission created pursuant to Chapter 16.50 of the County Code to advise the Board of Supervisors and Planning Commission on policy matters related to agricultural uses.

Agricultural Preserve. A contract between a landowner and Santa Cruz County establishing that certain land will be used only for agricultural purposes for a minimum of 10 years. The 10-year period is renewed every year. In recognition of this land use restriction, the landowner may receive preferential taxation on that land.

Agricultural Service Establishment. A business engaged in activities designed to support agricultural production and marketing such as application of agricultural chemicals, grading and irrigation contracting, harvesting, hauling of produce or other agricultural products, and large scale off-site cold storage facilities. This service does not include manufacturing or processing.

478

Temporary Occupancy, Limited (in an organized camp or conference center). **Sleeping facilities for participants (temporary occupants) which have time restrictions as to use.**

Temporary Occupancy, Unlimited (in an organized camp or conference center), means **sleeping facilities for participants (temporary occupants) which have no time restrictions as to use (i.e., they may be scheduled full time).**

Temporary Relocation. **A temporary relocation of a use for a period not to exceed 18 months by reason of a natural disaster for which a local emergency has been declared by the Board of Supervisors. (Ord. 4030, 11/21/89; 12/11/90, 12/10/91)**

Temporary Use. **An intermittent (not more than 4 times per year) commercial activity, the period of operation of which does not exceed 45 days at any one time.**

Timber. **Trees of any species suitable for eventual harvest for forest products purposes, whether planted or of natural growth, standing or down, on privately or publicly owned land, but not including nursery stock.**

Timberland. **Privately owned land, or land acquired for state forest purposes, which is devoted to and used for growing an average annual volume of wood fiber of at least 15 cubic feet per acre.**

Timber Management Plan. **A written plan for the development and utilization of timber resources and compatible Uses which assures the continued viability of the timberland, and which includes reasonable rotation and cutting cycle date.**

Time Share Visitor Accommodations. **Visitor accommodations facilities in which the ownership interest in individual units is divided in time. Time share visitor accommodations units commonly are sold by the week for up to a maximum of 51 weeks per year'.**

Town Plan. **A Plan adopted in conformance with the County General Plan which is applicable to a specific area that requires a detailed planning effort. (Ord. 4217, 10/20/92)**

Town Plan Area. **An area within the unincorporated area that has been subject to a more detailed, area-specific planning than is normally part of an overall General Plan Update, and where a design framework, area plan, village plan, or specific plan has been adopted by the Board of Supervisors and incorporated into the County General Plan. (Ord. 4217, 10/20/92)**

"TP" - **Timberland Preserve Zone District (Section 13.10.370).**

Trailer Park. **A site authorized for the temporary parking of privately-owned occupied travel trailers, campers, and recreational vehicles, but not mobilehomes.**

64

Planning Department Analysis of the Model Right-to-Farm Ordinance

Staff has reviewed the proposed ordinance, the State Right-to-Farm Law and County Counsel's report, and has prepared an analysis for your Board's consideration. The report is keyed to the individual sections of the model ordinance considered by the Board on August 11, 1998 (see Attachment 5).

Section 1 - Definitions:

"Agricultural Land" is defined in the model ordinance as land "currently used for agricultural operations or upon which agricultural operations may in the future be established." This appears to be a somewhat open-ended definition for the location of agricultural land, especially when considering the implementation of this ordinance. Determining whether an adjacent or nearby property is subject to the disclosure requirement will be very difficult unless there is some parcel specific indicator of agricultural use.

The use of the existing definition of "commercial agricultural land" from the General Plan/Local Coastal Program Land Use Plan (GP/LCP) Glossary would provide for parcel specificity. This definition specifically lists those lands that meet the criteria of and are designated as Types 1, 2 or 3 Agricultural Land on the General Plan Resource and Constraints Maps and which are zoned Commercial Agriculture (CA) and Agriculture (A). This existing County definition of agricultural land would be preferable, primarily because the designations are parcel based, making identification of adjacent and nearby parcels fairly simple to determine. This alternative would also insure consistency with the County General Plan.

Recommendation - Staff recommends that the existing GP/LCP definition for "commercial agricultural land" be used in any Right-to-Farm Ordinance.

"Agricultural Operation", as defined in the model ordinance, "shall mean and include, but not be limited to, the cultivation and tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, and harvesting of any agricultural commodity including viticulture, horticulture, timber, or apiculture; the raising of livestock, fur bearing animals, fish or poultry; and any commercial agricultural practices performed as incidental to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or to carriers for transport to market."

With the exception of the two items underlined, this definition is identical to the definition from Civil Code Section 3482.5(e), the language from the State's Right-to-Farm Law. The APAC recommended the addition of new and different types of agricultural uses under this definition, including insectories, composting, biomedical livestock operations and mushroom farming to insure that all types of agriculture are covered by the ordinance.

Attachment 3

The definition in the model ordinance is more detailed than the definition of agricultural operation in the General Plan or Zoning Ordinance. The General Plan definition is fairly short and broad:

Agricultural Use, Commercial Agricultural operations conducted as a commercial venture for the purpose of achieving a return on investment.

The Zoning Ordinance definition is as follows:

Agriculture The art or science of cultivating the ground, including the harvesting of crops and the rearing and management of livestock; **tillage**; husbandry; farming; horticulture.

Recommendation - Although the definition of Agricultural Operations in the model ordinance fits under the broadly worded County definitions, it is not consistent with the General Plan and County Code because of the inclusion of timber. As discussed in the material from County Counsel (Attachment 2, letter to Mike Jani, dated August 15, 1997), the General Plan and Zoning Ordinance separate timber harvesting from agriculture for the purposes of zoning and planning. While the County definitions have been adequate in the past, if the County adopts a Right-to-Farm Ordinance, the definition from the Right-to-Farm legislation would have to include 'timber', at least for use in the Right-to-Farm Ordinance, for consistency with State law.

Section 2 - Finding and Policy

Two alternative sets of Finding and Policy language is presented in the model ordinance. Both sets frame the concerns addressed by the Right-to-Farm ordinance, that residential growth in areas near agricultural are increasing the incidents of conflicts between 'normal' agricultural activities and residential uses, often resulting in increased restrictions on agricultural uses. Both sets of findings and policies continue by stating that this is detrimental to the vitality of the County's agricultural industry and that the purpose of the Right-to-Farm Ordinance is to "clarify the circumstances under which agricultural operations may be considered a nuisance", to create a system to inform property owners in the rural areas of the County about the realities of living near agricultural operations and to promote continued agricultural operations while protecting the public health, safety and welfare.

County Code Chapter 16.50 (Agricultural Land Preservation and Protection) was enacted in 1979 to accomplish many of the same objectives as the proposed Right-to-Farm Ordinance (Attachment 7). The 'Purposes' section of the County Ordinance mirrors the language in the second alternative Finding and Policy section and, in fact, is stronger than the proposed wording because it ties in the policies of the General Plan/Local Coastal Program Land Use Plan, the Growth Management Referendum (Measure J), and states that, in general, issues of incompatibility should be resolved in favor of agricultural preservation.

Recommendation - It appears that the existing "purpose" language in the County's Agricultural Land

Attachment 3

Preservation and Protection Ordinance is adequate to define the County's position regarding the importance of agriculture and to establish the context for the resolution of conflicts between agricultural and non-agricultural uses. The Board may wish to consider adding language which references the nuisance provisions of the State legislation and/or any nuisance language added to this Chapter.

Section 3 - Nuisance

The model Right-to-Farm Ordinance states that no agricultural operation, activity, etc. can be considered a nuisance if it is operated "in a manner consistent with proper and accepted customs and standards and with all Chapters of the County Code, as established and followed by similar agricultural operations." The intent of this section is to protect farmers from complaints (legal and others) regarding agricultural operations which are common and necessary to the functioning of the agri-business. It is clear that the primary point of the proposed ordinance is to provide a shield for the aspects of agriculture that may be bothersome to nearby residential **uses**, like dust, noise, odors, etc., but which are also necessary for this type of **use** to exist. The State's Right-to-Farm Law only applies to those agricultural operations that have been in operation for three years and were not nuisances **when** they began operation and have not substantially changed their operations. This language was omitted from the model ordinance.

There is no comparable regulation in the current County Code or General Plan regarding nuisances and agricultural operations. The County General Plan does include a number of policies that are directed towards reducing conflicts between agricultural operations and other uses. These include the requirement for a 200-foot buffer (on non-agricultural land) between agriculturally designated land and proposed non-agricultural uses, the requirement for windbreaks, and the requirement for the recordation of Agricultural Statements of Acknowledgment for all building permits issued and new parcels created within 200-feet of designated commercial agricultural land. These provisions are implemented through specific sections within Chapters 14.01 (Subdivision Regulations) and 16.50 (Agricultural Land Preservation and Protection) of the County Code.

Recommendation - While it is clear that the General Plan and all of the precedent policy documents support the intent of the 'nuisance section', it is not clear that language such as that proposed in the model ordinance is necessary to protect agricultural activities. As discussed above, the purposes of the Agricultural Land Preservation and Protection Ordinance clearly state the County's position regarding the importance of agriculture, and recognizes the need to inform residents about the "necessary sounds, odors, dust and hazardous chemicals that accompany agricultural operations." The County **already** has well established mechanisms for protecting agricultural uses from non-agricultural uses and the proposed nuisance language appears to be redundant.

Furthermore, whether the County adopts a Right-to-Farm Ordinance or not, the enabling legislation states that the nuisance language of the State statute "shall prevail over any contrary provision of any ordinance or regulation of any city, county, or city and county, or other political subdivision of the

state”(Civil Code Section 3482.5(d) - Exhibit A). So, regardless of the County’s action on a proposed Right-to-Farm Ordinance, agricultural operations, as defined by the State statute, have certain protections from nuisance claims.

Section 4 - Disclosure

The model ordinance contains a disclosure process that requires the following:

- ▶ the annual mailing to every property owner in the County, in their tax bills, of the disclosure statement in subsection (b)l of the model ordinance (The statement under Sellers Information which begins “The County of Santa Cruz permits operation of properly conducted agricultural operations within the County. If the property.. . .)
- ▶ the recordation of a disclosure statement regarding agricultural operations upon the sale, exchange, etc. of any real estate in the County
- ▶ the recordation of the same disclosure statement upon the approval of a discretionary permit, including subdivisions and use permits, for use on or adjacent to agriculturally zoned land.

The disclosure statement itself reiterates the language of the model ordinance’s purpose section and basically states that if you live near agricultural land, you are forewarned that there may be aspects of agricultural operations that may annoy you, but that they are necessary and to be expected in a rural area with an active agricultural industry. The model ordinance also has a provision for the buyer to acknowledge the disclosure statement.

The County Code requires the recordation of Agricultural Statements of Acknowledgment upon the tiling of a Parcel or Final Map (for subdivisions) and upon the issuance of a building permit for properties adjacent to commercial agricultural land. The existing County statement is similar to the disclosure statement from the model ordinance but there are differences. Both statements list dust, smoke, noise, odors, chemical fertilizers and pesticides and the like as a part of normal agricultural, but the model ordinance’s version also specifically references the use of machinery and aircraft. The County’s ordinance does not require any acknowledgment of the recordation or existence of the Agricultural Statements of Acknowledgment. The County does not currently send out any agricultural disclosure statements in the annual tax bills.

The mailing of the agricultural disclosure to all of the property owners in the incorporated and unincorporated areas of the County would add approximately \$250 to the cost of preparing the annual tax bills, plus the reproduction cost for the disclosure (per a conversation with Mr. Richard Bedal). The reproduction cost would be the cost of duplicating the notices for inclusion in the tax bill mailings. As discussed above, the APAC believed it was imperative that the County take this action to support agriculture.

Recommendation - The current County ordinances governing the recordation of the Agricultural Statements of Acknowledgment **are** similar to the versions proposed in the model ordinance. Minor amendments could be made to improve the language, including the provision for the buyer's acknowledgment of the document. This provision would certainly eliminate the common excuse of, "I didn't know **that was** recorded on my deed." The process for disclosure that is incorporated into the current ordinances, reliance upon the real estate broker or agent, is as specified in the California Civil Code. Staff recommends that minor changes be made to the language of the existing disclosure statements, including an acknowledgment by the buyer, but that no new process be implemented.

The annual mailing of the agricultural disclosure notice to all property owners in the County, including those properties in urbanized areas of the County which are miles away from any agricultural land, year after year, seems excessive..

Section 5 - Refusal to Sign Disclosure Statement

This section creates a new process where, if the buyer refuses to sign the disclosure acknowledgment, the seller of the real property can certify that he has met the requirements of the law. As discussed above, the County has no current requirement for the buyer's acknowledgment, so we also do not have a buyer refusal provision.

Recommendation - Staff recommends that this section be added to the current County Code to protect the seller from an uncooperative buyer.

Sections 6, 7, & 8

The remaining sections deal with penalties, separability and precedence. Whatever action the County takes on this proposed ordinance, these sections will be modified, if necessary, by County Counsel for conformance with State and County laws.

Summary

In staff's judgment, a separate Right-to-Farm Ordinance, based on the State Right-to-Farm Law, is unnecessary. The County's General Plan/Local Coastal Program and County Code already set forth policies and programs to protect the commercial agricultural lands of the County. The County already requires disclosure statements (Agricultural Statements of Acknowledgment) and buffer areas between agricultural and non-agricultural uses. In addition, the nuisance provision is in effect per the State law, regardless of the County's action or inaction on a new Right-to-Farm ordinance. Some minor reworking of the language of the Agricultural Statements of Acknowledgment to incorporate a buyer's acknowledgment of the disclosure would be appropriate.

nighttime shooting. The subdivision does not abrogate any existing local standards for nighttime shooting. The operator of a sport shooting range shall not unreasonably refuse to use trees, shrubs, or barriers, when appropriate, to mitigate the noise generated by nighttime shooting. For the purpose of this section, a reasonable effort to mitigate is an action that can be accomplished in a manner and at a cost that does not impose an unreasonable financial burden upon the operator of the range.

(g) This section does not apply to indoor shooting ranges.

(h) This section does not apply to a range in existence prior to January 1, 1998, that is operated for law enforcement training purposes by a county of the sixth class if the range is located without the boundaries of that county and within the boundaries of another county. This subdivision shall become operative on July 1, 1999.

3482.5. (a) (1) No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began.

(2) No activity of a district agricultural association that is operated in compliance with Division 3 (commencing with Section 3001) of the Food and Agricultural Code, shall be or become a private or public nuisance due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began. This paragraph shall not apply to any activities of the 52nd District Agricultural Association that are conducted on the grounds of the California Exposition and State Fair, nor to any public nuisance action brought by a city, county, or city and county alleging that the activities, operations, or conditions of a district agricultural association have substantially changed after more than three years from the time that the activities, operations, or conditions began.

(b) Paragraph (1) of subdivision (a) shall not apply if the agricultural activity, operation, or facility, or appurtenances thereof obstruct the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.

(c) Paragraph (1) of subdivision (a) shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code, if the agricultural activity, operation, or facility, or appurtenances thereof constitute a nuisance, public or private, as specifically defined or described in any of those provisions.

(d) This section shall prevail over any contrary provision of any

ordinance or regulation of any city, county, city and county, or other political subdivision of the state. However, nothing in this section shall preclude a city, county, city and county, or other political subdivision of this state, acting within its constitutional or statutory authority and not in conflict with other provisions of state law, from adopting an ordinance that allows notification to a prospective homeowner that the dwelling is in close proximity to an agricultural activity, operation, facility, or appurtenances thereof and is subject to the provisions of this section consistent with Section 1102.6a.

(e) For purposes of this section, the term "agricultural activity, operation, or facility, or appurtenances thereof" shall include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.

3482.6. (a) No agricultural processing activity, operation, facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in continuous operation for more than three years if it was not a nuisance at the time it begins.

(b) If an agricultural processing activity, operation, facility, or appurtenances thereof substantially increases its activities or operations after January 1, 1993, then a public or private nuisance action may be brought with respect to those increases in activities or operations that have a significant effect on the environment. For increases in activities or operations that have been in effect more than three years, there shall be a rebuttable presumption affecting the burden of producing evidence that the increase was not substantial.

(c) This section shall not supersede any other provision of law, except other provisions of this part, if the agricultural processing activity, operation, facility, or appurtenances thereof, constitute a nuisance, public or private, as specifically defined or described in the provision.

(d) This section shall prevail over any contrary provision of any ordinance or regulation of any city, county, city and county, or other political subdivision of the state, except regulations adopted pursuant to Section 41700 of the Health and Safety Code as applied to agricultural processing activities, operations, facilities, or appurtenances thereof that are surrounded by housing or commercial development on the effective date of this section. However, nothing



County of Santa Cruz

ATTACHMENT 864

AGRICULTURAL POLICY ADVISORY COMMISSION

BRUCE DAU, Chairperson
DILL RINGE, Vice Chairperson
DAVE MOELLER, Secretary

SANTA CRUZ COUNTY AGRICULTURAL POLICY ADVISORY COMMISSION REGULAR MEETING

MINUTES -SEPTEMBER 24, 1998

Members Present

Bruce **Dau**, Chairperson
Don Hagerty
Frank "**Lud**" McCrary
Sam Earnshaw

Staff Present

Bob Stakem
Mark Deming
Dave **Moeller**

Others Present

Robert Stephens
Karen **Streeter**
Ida Hill
Karen Mills
Darlene Din
Justin Brown
Michelle Coats

Members Absent

Bill Ringe

1. The meeting was called to order by **Chairperson Dau** at **1:38** p.m.
- 2, (a) Motion by **Commissioner Hagerty** seconded by **Commissioner McCrary** to approve **June 25, 1998** meeting minutes as published. Motion passed unanimously.
- (b) **Additions/corrections** to Agenda: None
3. **Correspondence: Letter from the Citizens for Responsible Forest Management, Sierra Club, Summit Watershed Protection League, Valley Women's Club to APAC, dated September 23, 1998, regarding the proposed Right to Farm Ordinance was distributed by Darlene Din.**
4. **Commissioners Presentations:** None
5. **APN 104-031-26 (Robert & Barbara Diller, applicants); proposal to recognize the construction of a single family dwelling requiring an agricultural buffer setback determination. Property located at the end of Lagunita Drive about 3/4 mile north of Glen Haven Road, Soquel (900 Lagunita Drive).**

Bob Stakem gave staff report describing the proposal to reduce the 200 foot agricultural buffer setback from adjacent "CA" land to about 158 feet. Staff noted that the project property consists of about 39.6 acres and is zoned Timber Preserve (TP). Staff recommended approval of the application based on the fact that existing physical barriers separating the proposed residence and existing adjacent commercial agricultural parcel are adequate and that the "TP" zoned parcel topography severely restricts residential development to the ridge-top area of the project parcel.

641

Robert Stephens, owner of the CA land adjacent to the applicants property, **explained** to the commissioners **and** Planning staff his concerns about the County's agricultural **buffer setback** requirements and how in this particular case **the** applicant's building project had started before the agricultural buffer reduction request had been reviewed by APAC. Mr. Stephens distributed materials outlining his concerns about the County process for handling agricultural buffer issues.

Karen Streeter, architect for the applicant, presented a chronology of **the applicant's** permit **and** agricultural buffer reduction proposal up to the current hearing before **APAC**.

Motion **by Commissioner McCrary** seconded by **Commissioner Hagerty** to approve staffs recommendation to reduce the agricultural buffer setback with an additional direction that if the existing physical barrier of trees should **be removed, the burden of** replacing them will **fall** on the applicants.

A discussion ensued regarding why the applicant's permit application did not trigger an agricultural buffer setback review by APAC before work began on the applicant's project. The Commissioners requested that staff report back at **APAC's** next meeting on the Planning Department's process of reviewing building permit applications for determination **of setbacks from commercial agricultural zoned parcels**.

6. **Review of the draft Right-to-Farm Ordinance**

Mark Deming gave the staff report on the **draft** Right-to-Farm Ordinance which Supervisor **Belgard** had presented to the **Board of Supervisors** on August 11, 1998. **Mr. Deming** referred the Commissioners to materials in their agenda packet which **included** Mr. Deming's written report to **APAC regarding the Right-to-Farm Ordinance, a model Right-to-Farm Ordinance**, a transcript of the Board of Supervisors' discussion of the proposed Right-to-Farm ordinance, a memo to the Planning Department from Dwight Herr, County Counsel, comparing the provisions of the proposed Right-to-Farm Ordinance with existing county ordinances, and excerpts from the County Code and the County General Plan.

Staff recommended that APAC review the attached **material** and **make** recommendations **to the Board of Supervisors regarding the proposed Right-to-Farm Ordinance**.

Commissioners made several general observations about the need for a Right-to-Farm Ordinance and what it should include: the current disclosure system was not working; an ordinance was needed **to** insure that disclosure of proximity to production agricultural land **would be made; that typical production agricultural activities were more frequently being** viewed as nuisances; that timber farming should be included in the ordinance because it is an agricultural **activity**.

Ida Hill spoke against **the** Right-to-Farm Ordinance, reasoning that to include timber as an agricultural activity would result in conflict with the State Board of Forestry; rather, keep timber production and agriculture separate **and instead work on a better set of timber regulations**.

Karen Mills, an attorney with the California Farm Bureau Federation, gave a general overview of local Right-to-Farm ordinances and how those she **was** familiar with generally followed, and expanded upon, the State's Right-to-Farm Ordinance. Ms. Mills noted that the California Food and **Agricultural Code, the State Civil Code and the Slate's Right-to-Farm**

Ordinance all included timber harvesting as an agricultural activity. Ms. Mills offered the opinion that the State's inclusion of timber harvesting with other agricultural activities could not be "overturned" or separated at the local level.

The Commissioners reviewed the Model Right-to-Farm Ordinance as drafted by Planning and made the following recommendations:

Section 1. Definitions

- (a) no recommendation
- (b) APAC recommends the language should be more inclusive so that it is clear agricultural activities and agriculture-related operations such as composting, mushroom production, insectaries and agricultural biotechnological operations, for example, are included in the definition and thus protected activities under the ordinance. APAC believes the Right-to-Farm Ordinance is directed to production agriculture; 4-H and hobbyist activities are already covered by existing ordinances and are not the object of the Right-to-Farm Ordinance.

Section 2. Finding and Policy

- Alternative 1 APAC does not recommend using this version of the Findings and Policy Section.
- Alternative 2 APAC supports this version of the Findings and Policy Section. APAC also recommends that timber be included in this Section.

Section 3. Nuisance

Although the language was taken from the State Right-to-Farm Ordinance, APAC recommends (1) that a redundant phrase appearing in the model ordinance be removed and (2) staff review and revise this section, if necessary, for clarity,

Section 4. Disclosure

- (a)(1) APAC emphasizes the importance of notifying all real property owners about production agriculture activities which occur in the county.
- (a)(2) APAC recommends that disclosure extend beyond just transfers of title to properly: extent of disclosure must be broadened so that all property owners receive notification about production agriculture activities.

APAC recognizes that the disclosure requirement must be enforced to make the Right-to-Farm Ordinance effective and of benefit to production agriculture; however, APAC has no specific recommendation at this point how this will be accomplished.

- (a)(3) Staff recommends that "building permits" be added to this section.

APAC Meeting
September 24, 1998
Page 4

ATTACHMENT 4

483

The Commissioners concluded that a tight-to-farm ordinance, in order to benefit agriculture, had to accomplish two things: (1) provide specific disclosure whenever title to property near production agriculture land transferred and (2) provide notification generally about production agriculture activities that could occur on nearby land even when no transfer of title has occurred or where there were no current agricultural activities. (Two examples were given: (1) land that had lain fallow for many years is put into organic agriculture production, resulting in nuisance complaints from nearby long-term residents; (2) a timber harvest is conducted on a parcel of land where the previous harvest occurred 20 years before -- it is an ongoing agricultural operation but with production activities occurring infrequently).

Staff stated they would incorporate the Commissioners' recommendations in the draft Right-to-Farm Ordinance proposal when the matter is returned to the Board of Supervisors.

7. Discussion of APAC jurisdiction on review of agricultural land use.

Bob Stakem summarized APAC's jurisdiction on review of agricultural land use, noting that Planning did not have authority to expand APAC's breadth of review; that prerogative was reserved by the Board of Supervisors.

8. Projects in progress

Bob Stakem advised he had received a new application which would require an agricultural buffer setback determination that the Commission would likely be reviewing at its next meeting.

9. Oral Communication3

Justin Brown, Golden State Bulbs, described his difficulties in getting a permit to drill a new well to replace one that was not adequate for the crop he intended to grow on the parcel served by the existing well. Mr. Brown expressed his concerns about the County's requirement for CEQA review for his replacement well application which would place the burden on him to pay for an EIR that could not possibly answer issues about impacts on the aquifer, issues that were a basin-wide problem, not a site-specific problem.

The Commissioners requested that this matter be added to its next month's agenda,

Michelle Coats, planning consultant, described a project she was working on at the Monterey Bay Academy which would involve rezoning portions of the Academy property to provide for future replacement of non-agricultural buildings.

There being no further business, the meeting was adjourned at 4:30 p.m.

Respectfully submitted,

David W. Moeller
Executive Secretary

DWM:dm

PLANNING DEPARTMENT

INTER-OFFICE CORRESPONDENCE

ATTACHMENT 5

DATE: September 16, 1998

400

TO: Agricultural Policy Advisory Commission

FROM: Mark M. Deming,  AICP, Planning

SUBJECT: RIGHT-TO-FARM ORDINANCE

On August 11, 1998, the Board of Supervisors considered a recommendation from Supervisor Belgard regarding a proposed Right-to-Farm Ordinance (Attachment A). Supervisor Belgard recommended that the model Right-to-Farm Ordinance be forwarded to your Commission for review and a recommendation to be considered by the Board (Attachment B). Following a brief discussion, this recommendation was adopted by the Board, with several additional directions. These directions include:

- the preparation of a transcript of the Board's discussion of the Right-to-Farm Ordinance proposal by Supervisor Belgard
- the preparation of a report by County Counsel on what 'transfers of real property' would be subject to the proposed ordinance and the preparation of a report by the Planning Department for the Board outlining the strengths and weaknesses of the proposed Right-to-Farm Ordinance in relation to the existing General Plan policies and County Codes provisions

Staff has prepared the transcript of the Board's discussion for review by the Commission (Attachment C). Staff is also including in this packet of material a memo from County Counsel to staff which includes the existing County policies and ordinances affecting agricultural land protection and how they compare to the proposed ordinance (Attachment D) and a copy of an article from the Zoning News, published by the American Planning Association, regarding land use conflicts between agriculture and other non-agricultural uses (Attachment E).

The proposed Right-to-Farm Ordinance is patterned after the State Farm Bureau's model. The proposed ordinance includes definitions of "agricultural land" and "agricultural activities", and has two options regarding the wording for the Finding and Policy statement of the ordinance. The ordinance's two primary features are 1) the declaration that agricultural operations which meet certain standards shall not be a nuisance; and 2) the requirement for a disclosure of agricultural operations as a condition of any real estate transfer on land adjacent to agricultural land.

Recommendation: Staff recommends that your Commission review the attached material and prepare a recommendation for the Board of Supervisors regarding the proposed Right-to-Farm Ordinance.

MODEL

491

RIGHT TO FARM ORDINANCE

Section 1. Definitions.

As used in this Ordinance No. _____.

- (a) "Agricultural Land" shall mean all that real property within the boundaries of Santa Cruz County currently used for agricultural operations or upon which agricultural operations may in the future be established.
- (b) "Agricultural Operation" shall mean and include, but not be limited to, the cultivation and tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, timber or apiculture; the raising of livestock, fur bearing animals, fish or poultry; and any commercial agricultural practices performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or to trailers for transportation to market.

Section 2. Findings and Policy.

Alternative 1

- (a) It is the declared policy of this County to enhance and encourage agricultural operations within the County. It is the further intent of this County to provide to the residents of this County proper notification of the County's recognition and support through this ordinance of those persons' and/or entities' right to farm.
- (b) Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations frequently become the subjects of nuisance complaints due to lack of information about such operations. As a result, agricultural operators are forced to cease or curtail their operations. Such actions discourage investments in farm improvements to the detriment of adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole. It is the purpose and intent of this section to reduce the loss to the County of its agricultural resources by clarifying the circumstances under which agricultural operations may be considered a

nuisance. This ordinance is not to be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, Division 7 of the Water Code, or any other applicable provision of State law relative to nuisances, rather it is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.

- (c) An additional purpose of this ordinance is to promote a good neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residence. Such concerns may include, but are not limited to, the noises, odors, dust, chemicals, smoke and hours of operation that may accompany agricultural operations. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.

OR

Alternative 2

- (a) The Board of Supervisors of Santa Cruz County finds that commercially viable agricultural land exists within the County, and that it is in the public interest to enhance and encourage agricultural operations within the County. The Board of Supervisors of Santa Cruz County also finds that residential and commercial development adjacent to certain agricultural lands often leads to restrictions on agricultural operations to the detriment of the adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole.
- (b) The purposes of the chapter are to promote public health, safety and welfare and to support and encourage continued agricultural operations in the County. This ordinance is not to be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, or any other applicable provision of State law relative to nuisances, rather it is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.

Section 3. Nuisance.

493

No agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards ~~and with all proper and accepted customs and standards~~ and with all chapters of the Santa Cruz County Code, as established and followed by similar agricultural operations, shall be or become a nuisance, public or private, pursuant to the Santa Cruz County Code, if it was not a nuisance when it began.

Section 4. Disclosure.

- (a) The disclosure statement required by this chapter shall be used under the following circumstances and in the following manners:
- (1) The county of Santa Cruz shall mail a copy of the disclosure set out at subpart (b) 1 to all owners or real property in Santa Cruz County with the annual tax bill.
 - (2) Upon any transfer of real property by sale, exchange, installment land sale contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or residential stock cooperative improved with dwelling units, the transferor shall require that a statement containing the language set forth in subpart (b) shall be signed by the purchaser or lessee and recorded with the County Recorder in conjunction with the deed or lease conveying the interest in real property.
 - (3) Upon the issuance of a discretionary development permit, including but not limited to subdivision permits and use permits, for use on or adjacent to lands zoned for agricultural operations. The discretionary development permit shall include a condition that the owners of the property shall be required to sign a statement of acknowledgment containing the Disclosure set out in subpart (b) 1, on forms provided by the Planning Department, which form shall then be recorded with the County Recorder.
- (b) The disclosure required by Section 4(a) (2) is set forth herein, and shall be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

494

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, DESCRIBED AS _____ . THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH ORDINANCE NO. _____ OF THE COUNTY CODE AS OF _____, 1990. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

1.

SELLERS INFORMATION

The seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property. THE FOLLOWING ARE REPRESENTATION MADE BY THE SELLER(S) AS REQUIRED BY THE COUNTY OF SANTA CRUZ AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

1. The County of Santa Cruz permits operation of properly conducted agricultural operations within the County. If the property you are purchasing is located near agricultural lands or operations or included within an area zoned for agricultural purposes, you may be subject to inconveniences or discomfort arising from such operations. Such discomfort or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, and pesticides. One or more of the inconveniences described may

occur as a result of any agricultural operation which is in conformance with existing laws and regulations and accepted customs and standards. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector.

Seller certifies that the information herein is true and correct to the best of Seller's knowledge as of the date signed by the seller.

Seller _____ Date _____

Seller _____ Date _____

II.

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE /INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller _____ Date _____ Buyer _____ Date _____

Seller _____ Date _____ Buyer _____ Date _____

Agent (Broker Representing Seller) _____ By _____ Date _____

(Associate Licensee or Broker - Signature)

Agent (Broker Obtaining the Offer) _____ By _____ Date _____

(Associate Licensee or Broker - Signature)

496

State of) _____ On this the _____ day of _____,
County of) _____ 55. before me, the undersigned Notary
Public, personally appeared

_____ Personally known to me. _____
Provided to me on the basis of satisfactory evidence to be the person (s)
whose name (s) _____ subscribed to the within
instrument and acknowledged that _____
executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

Present A. P. No. _____

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL
ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR
ATTORNEY.

Section 5. Refusal to Sign Disclosure Statement.

If a Buyer refuses to sign the disclosure statement set forth in Section 4
(b) the transferor may comply with the requirements of this chapter by
delivering the statement to the Buyer as provided declaration to the
statement:

I, _____ (name) _____, have delivered a copy of the foregoing
disclosure statement as required by law to (Buyer's name) who has
refused to sign.

'4 97

I declare the foregoing to be true.

Date: _____

(Sign) _____

Print Name:

Section 6. Penalty for Violation.

Noncompliance with any provision of this chapter shall not affect title to real property, nor prevent the recording of any document. Any person who violates any provision of this chapter is guilty of an infraction punishable by a fine not exceeding one hundred dollars (\$100.00).

Section 7. Separability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance.

Section 8. Precedence.

This ordinance shall take precedence over all ordinances or parts of ordinances or resolutions or parts of resolutions in conflict herewith and to the extent they do conflict with this ordinance they are hereby repealed with respect to the conflict and no more.

BOARD OF SUPERVISORS



COUNTY OF SANTA CRUZ

GOVERNMENTAL CENTER

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060-4069
(408) 454.2200 ATSS 564.2200 FAX (408) 4 5 4 - 3 2 6 2 T D D (408) 454-2123

JANET K. BEAUTZ
FIRST DISTRICT

WALTER J. SYMONS
SECOND DISTRICT

MARDI WORMHOUDT
THIRD DISTRICT

RAY BELGARD
FOURTH DISTRICT

JEFF ALMQUIST
FIFTH DISTRICT

AGENDA: 8/11/98

August 6, 1998

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: RIGHT TO FARM ORDINANCE

Dear Members of the Board:

Over the past six months I have been working closely with the Santa Cruz County Farm Bureau regarding an ordinance to protect farming in Santa Cruz County.

The attached draft model Right to Farm Ordinance (Exhibit 1) builds upon the State of California's Right to Farm Law (Civil code Section 3482.5, Exhibit 2). Both the State law and the model ordinance seek to provide some shield from nuisance complaints about agricultural operations. Most of the complaints arise due to the fact that the area around the farming operations has changed and the new inhabitants do not want to accept the harsh realities of operating an agricultural business. In addition, the model includes preventive measures such as disclosure requirements and other mechanisms. Although much of what is proposed in the model ordinance is already included throughout various County Codes and laws, there are some distinctions and reasons to have them all in one place. My office has been in contact with County Counsel and we are working with them to assure consistency with the General Plan and to determine all appropriate procedural steps to be followed.

Throughout my almost eight years in office, I have observed that the ability to farm has often been severely impacted by our antiquated regulations that impede the viability of farming. It is also important to plan for the changes that farming will go through in the future. Modern farming produces a highly perishable product and it is necessary to deliver it quickly to market, while protecting the safety of the consumer. For example, specialty products such as organic baby vegetables and designer lettuce need to have ease of transport. With emerging organic farming operations, there will be changes that may not fit our regulations, along with the additional land that will be put into production.

BOARD OF SUPERVISORS
August 6, 1998
Page 2

4 9 9

Farmers are subject to market forces as well as the forces of nature. They must be able to make quick decisions regarding crop choice, crop rotation, utilization of new technologies that conserve water, control erosion, respond to new research and development in plant management, and for improved pest management as alternatives to conventional agricultural practices. Some of these choices involve greenhouses, hydroponics, sheds, electricity, refrigeration, use of recycled water, packing in the fields, modular offices on site, frost protection and equipment storage, etc.

New expanding markets in Santa Cruz County include, but are not limited to, viticulture, horticulture, livestock and livestock byproducts, apiculture, dairying, and aquaculture.


Farming today is faced with urban conflict. My office receives calls on a regular basis from neighbors who do not want the farmer to plow, spray, prune or harvest his crops. The neighbors really want the "open space" of farming, not the business of farming.

Beyond the scenic value of agriculture, it represents an expandable, clean industry that offers employment at all levels of the economic strata. Given encouragement, ancillary agricultural industries will prosper, such as research facilities, transport, farm machinery manufacturing, computer-based data management technology, global agricultural information resources, etc.

Santa Cruz County, I believe, must pay more than lip service to the preservation of agriculture. We must support the science of cultivating the ground.

It is therefore recommended that the Board of Supervisors refer the attached draft Right to Farm Ordinance to the Agricultural Policy Advisory Commission to be reviewed and returned with their recommendations.

Sincerely,


RAY BELGARD, Supervisor
Fourth District

RB:ted
Attachment

cc: Santa Cruz County Farm Bureau
Planning Department
Agricultural Policy Advisory Commission
County Counsel

1063A4

64

MODEL

500

RIGHT TO FARM ORDINANCE

Section 1. Definitions.

As used in this Ordinance No. _____:

- (a) **"Agricultural Land"** shall mean all that real property within the boundaries of Santa Cruz County currently used for agricultural operations or upon which agricultural operations may in the future be established.
- (b) **"Agricultural Operation"** shall mean and include, but not be limited to, the cultivation and tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, timber or apiculture; the raising of livestock, fur bearing animals, fish or poultry; and any commercial agricultural practices performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

Section 2. Finding and Policy.

Alternative I

- (a) It is the declared policy of this County to enhance and encourage agricultural operations within the County. It is the further intent of this County to provide to the residents of this County proper notification of the County's recognition and support through this ordinance of those persons' and/or entities' right to farm.
- (b) Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations frequently become the subjects of nuisance complaints due to lack of information about such operations. As a result, agricultural operators are forced to cease or curtail their operations. Such actions discourage investments in farm improvements to the detriment of adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole. It is the purpose and intent of this section to reduce the loss to the County of its agricultural resources by clarifying the circumstances under which agricultural operations may be considered a

nuisance. This ordinance is not to be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, Division 7 of the Water Code, or any other applicable provision of State law relative to nuisances, rather it is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.

- (c) An additional purpose of this ordinance is to promote a good neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residence. Such concerns may include, but are not limited to, the noises, odors, dust, chemicals, smoke and hours of operation that may accompany agricultural operations. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.

OR

Alternative 2

- (a) The Board of Supervisors of Santa Cruz County finds that commercially viable agricultural land exists within the County, and that it is in the public interest to enhance and encourage agricultural operations within the County. The Board of Supervisors of Santa Cruz County also finds that residential and commercial development adjacent to certain agricultural lands often leads to restrictions on agricultural operations to the detriment of the adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole.
- (b) The purposes of the chapter are to promote public health, safety and welfare and to support and encourage continued agricultural operations in the County. This ordinance is not to be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, or any other applicable provision of State law relative to nuisances, rather it is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.

Section 3 . Nuisance.

No agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards and with all proper and accepted customs and standards and with all chapters of the Santa Cruz County Code, as established and followed by similar agricultural operations, shall be or become a nuisance, public or private, pursuant to the Santa Cruz County Code, if it was not a nuisance when it began.

Section 4 . Disclosure.

- (a) The disclosure statement required by this chapter shall be used under the following circumstances and in the following manners:
- (1) The county of Santa Cruz shall mail a copy of the disclosure set out at subpart (b) 1 to all owners or real property in Santa Cruz County with the annual tax bill.
 - (2) Upon any transfer of real property by sale, exchange, installment land sale contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or residential stock cooperative improved with dwelling units, the transferor shall require that a statement containing the language set forth in subpart (b) shall be signed by the purchaser or lessee and recorded with the County Recorder in conjunction with the deed or least conveying the interest in real property.
 - (3) Upon the issuance of a discretionary development permit, including but not limited to subdivision permits and use permits, for use on or adjacent to lands zoned for agricultural operations. The discretionary development permit shall include a condition that the owners of the property shall be required to sign a statement of acknowledgment containing the Disclosure set out in subpart (b) 1, on forms provided by the Planning Department, which form shall then be recorded with the County Recorder.
- (b) The disclosure required by Section 4(a) (2) is set forth herein, and shall be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

503

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, DESCRIBED AS _____ . THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH ORDINANCE NO. _____ OF THE COUNTY CODE AS OF _____, 1990. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I.

SELLERS INFORMATION

The seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property. THE FOLLOWING ARE REPRESENTATION MADE BY THE SELLER(S) AS REQUIRED BY THE COUNTY OF SANTA CRUZ AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

1. The County of Santa Cruz permits operation of properly conducted agricultural operation⁵ within the County. If the property you are purchasing is located near agricultural lands or operations or included within an area zoned for agricultural purposes, you may be subject to inconveniences or discomfort arising from such operations. Such discomfort or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, and pesticides. One or more of the inconveniences described may

occur as a result of any agricultural operation which is in conformance with existing laws and regulations and accepted customs and standards. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector.

Seller certifies that the information herein is true and correct to the best of Seller's knowledge as of the date signed by the seller.

Seller _____ Date _____

Seller _____ Date _____

II.

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE /INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller _____ Date _____ Buyer _____ Date _____

Seller _____ Date _____ Buyer _____ Date _____

Agent (Broker
Representing Seller) _____ By _____ Date _____
(Associate Licensee or
Broker-Signature)

Agent (Broker
Obtaining the Offer) _____ By _____ Date _____
(Associate Licensee or
Broker-Signature)

State of _____)
County of _____)

On this the _____ day of _____
55. before me, the undersigned Notary
Public, personally appeared

505

_____ Personally Known to me. _____
Provided to me on the basis of satisfactory evidence to be the person (s)
whose name (s) _____ subscribed to the within
instrument and acknowledged that _____
executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

Present A. P. No. _____

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL
ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR
ATTORNEY.

Section 5. Refusal to Sign Disclosure Statement.

If a Buyer refuses to sign the disclosure statement set forth in Section 4
(b) the transferor may comply with the requirements of this chapter by
delivering the statement to the Buyer as provided declaration to the
statement:

I, _____ (name) _____, have delivered a copy of the foregoing
disclosure statement as required by law to (Buyer's name) who has
refused to sign.

I declare the foregoing to be true.

506

Date: _____

(Sign) _____

Print Name:

Section 6. Penalty for Violation.

Noncompliance with any provision of this chapter shall not **affect** title to real property, nor prevent the recording of any document. **Any** person who violates any provision of this chapter is **guilty** of an infraction **punishable by** a fine not **exceeding** one hundred dollars (\$100.00).

Section 7. Separability.

If any section, **subsection**, sentence, **clause** or phrase of this **ordinance** is for any reason held to be invalid or **unconstitutional by** the decision of a court of competent **jurisdiction**, it **shall** not affect the remaining portions of **the** ordinance.

Section 8. Precedence.

This **ordinance** shall **take precedence** over **all ordinances** or parts of ordinances or **resolutions** or parts of resolutions in conflict herewith and to the **extent** they do conflict with this **ordinance** they are hereby **repealed** with **respect** to the **conflict** and no more.

§ 3382.5. Agricultural activity not a nuisance; tseptions; construction with other laws

(a) (1) No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began.

(2) No activity of a district agricultural association that is operated in compliance with Division 3 (commencing with Section 3001) of the Food and Agricultural Code, shall be or become a private or public nuisance due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began. This paragraph shall not apply to any activities of the 52nd District Agricultural Association that are conducted on the grounds of the California Exposition and State Fair, nor to any public nuisance action brought by a city, county, or city and county alleging that the activities, operations, or conditions of a district agricultural association have substantially changed after more than three years from the time that the activities, operations, or conditions began.

§ 3382.5

NUISANCE
Div. 4

(b) Paragraph (1) of subdivision (a) shall not apply if the agricultural activity, operation, or facility, or appurtenances thereof obstruct the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.

(c) Paragraph (1) of subdivision (a) shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code, if the agricultural activity, operation, or facility, or appurtenances thereof constitute a nuisance, public or private, as specifically defined or described in any of those provisions.

(d) This section shall prevail over any contrary provision of any ordinance or regulation of any city, county, city and county, or other political subdivision of the state. However, nothing in this section shall preclude a city, county, city and county, or other political subdivision of this state, acting within its constitutional or statutory authority and not in conflict with other provisions of state law, from adopting an ordinance that allows notification to a prospective homeowner that the dwelling is in close proximity to an agricultural activity, operation, facility, or appurtenances thereof and is subject to the provisions of this section consistent with Section 1102.6a.

(e) For purposes of this section, the term "agricultural activity, operation, or facility, or appurtenances thereof" shall include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and hanesting of any agricultural commodity including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.



SANTA CRUZ COUNTY
Farm Bureau

July 28, 1998

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

Dear Members of the Board:

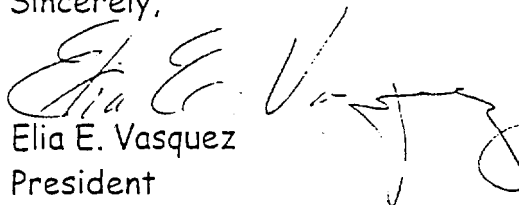
The Santa Cruz County Farm Bureau Board of Directors unanimously supports the Right to Farm Ordinance being submitted to you by Supervisor Ray Belgard. The board of supervisors has always been supportive of agriculture and this ordinance clearly shows that commitment. There are many County ordinances and regulations which govern agriculture but none totally encompassing many of the issues that agriculture has recently faced, especially in urbanized areas close to agriculture.

We encourage you to send this proposed ordinance to the County Agricultural Policy Advisory Commission for its review.

Our attorney, Karen Mills at (916) 561-5655, is available for assistance on this matter. She has expertise on right to farm ordinances that have been adopted throughout California.

Thank you for considering this very important ordinance.

Sincerely,


Elia E. Vasquez
President

EEV/rk

CC: Karen Mills
Dave Moeller

64 1

Transcript of the Board of Supervisors' discussion of the proposed Right-to-Farm Ordinance

Chairperson Beautz - Item no. 22, Supervisor Wormhoudt, I believe you asked to discuss this item.

Supervisor Wormhoudt (MW) : Yes, thank you. Right-to-Farm proposal that Supervisor Belgard has brought to us and I am very supportive of this and when I got it I thought that we already had a right-to-farm ordinance in the County and I asked my staff to get copies the General Plan and ordinances on public notification requirements related to this issue and that looked pretty thorough and comprehensive so all I want to ask is that when this issue comes back from APAC that we get a report from County Counsel and Planning on how this particular proposal would change what we currently have in the General Plan and Zoning Ordinance; the only change I could see in the proposed ordinance, on page 3, section 4, "disclosure", item 2, looks to me that anytime any piece of property would get transferred any where in the County there would have to be a notification and that if you live near agriculture you may be inconvenienced in a certain way and you should recognize that. That seems impractical. I can understand you might want to broaden the requirements that exist now but to create the kind of bureaucratic obligation, you know, if I sold my house in Santa Cruz, that I assure you doesn't have a vacant lot around it, you wouldn't want that...

Supervisor Belgard (RB) - It only applies to a house next to agricultural land.

MW - But that's what we have now and this new provision says that upon any transfer of real property by sale, exchange, installment land sale contract, lease with an option to purchase, and so on.. anywhere in the County.

RB - What you have now is if you buy in a development of, that is not individual residential places, it is in a development where the notification is required.

MW - At any rate, I would like this to come back, if there would be an analysis by Planning and County Counsel, the County Counsel on the issue of what this actually means on the transfer of property under section 4, item 2 and some kind of analysis from Planning as to how the language in the proposed ordinance differs from the language in the General Plan and ordinance that we already have on our books, in what way is it different, is it stronger or weaker, I would really appreciate it when it comes back..

RB - Not a problem as far as I am concerned.

MW - OK

Supervisor Almquist (JA) - I have some of the same concerns. I have two next door neighbors, I live up a hill, in the redwood forest and one of my neighbors has a number of horses on their property, which is within the County limits, it is actually a nuisance because of the dust and the

flies. The other neighbor immediately below me I like but she's got goats, chickens and ducks and all kinds of things and would fit within this definition of what an agricultural operation is. I think this has to be limited to application that we do it only in an area that is zoned for agricultural operations and not residential zoning because I don't think you should be telling people they can't complain about their neighbors wanting to do a major 4-H operation that gets out of hand. The San Lorenzo Valley is full of that kind of stuff.

Additionally, though, I am concerned with the language that it is our strong policy or our policy to enhance and encourage agricultural operations. One of the major arguments that is being used against us with the Buena Vista dump is that the staff person from the Coastal Commission has read our policies to mean that what we really want to have happen is to have every inch of land that could be operated as agricultural land operated at the highest possible intense use for agricultural purposes despite the fact that out there by the Buena Vista dump that part of the aquifer that has salt water underneath it now. I am a little concerned about making statements about people's rights as to do things without talking about the obligation of this particular industry to bear some of its own costs. I got a compelling sort of a letter from a woman down in Pajaro valley about why don't farmers have to bear the cost of, the social cost of, related to the way they've decided to operate their farms? She was talking both about the water issues and Measure D but also about, for instance, the decision to go from apple crops and less water intensive and labor intensive uses to more intense strawberry and raspberry crops which bring a lot more migrant workers and a lot more social problems, none of the cost of which they certainly would agree to bear directly. I don't mind sending this to APAC for review, but I would sort of like to have a discussion about the flip-side of this, before we just go willy-nilly adding statements about what rights people have to do things. Also some discussion of what the responsibility are for the things that they do.

RB - Sure.

JA - I'll support sending this to APAC for the time being.

RB - I move approval

MW - Second, and would you incorporate into it getting a report back from Planning on the issue of the differences and from County Counsel on the real property transfer?

RB - Sure.

MW - Thank you

Supervisor Symons (WS) - I have a question on page 3, section 3, up on nuisance, it read sort of like a Shakespearian something or other and I wondered if it came back, is it going to be a little clearer, because I'm not really sure what it says.

511

JA - I'd also like to point out that this language taken from the state statute, what they did was take out a lot of the protections of the state statute that define operations by having it a temporal life of at least three years and they also include that you don't lose the right to complain about violations of state and federal law and this takes that out and just talks about things that are violations of local custom and County ordinances.

RB - The purpose is in referring this to APAC is to bring forth, this is just the state model that the Farm Bureau has come up with from, there are 33 other counties and cities that have right-to-farm ordinances and they are basically similar to this, they are not exactly the same; this was the model that the State Farm Bureau came up with and then it goes to people like APAC. I suggest that it will come back substantially different after addressing all these questions and that's instead of us sitting up here, trying to figure all this out. I'd like this to come back with their recommendation and then we can discuss what we need to.

WS - Wherefore, therefore, when it cometh back, I hope I can understand it better.

RB - I hope I am still here

Chairperson Beautz (JB) - For instance, Supervisor Almquist's comments, do you want those to go to APAC, too?

RB - Yes

Susan Mauriello - Perhaps the most efficient way is for the Planning Department to include a transcript of your Board's comments, because there were several that were made..

MW - I'd also like to know from the Farm Bureau when it comes back, because I understand why they are trying to do this and trying to do it in as many counties that have agriculture as possible. I would have assumed that what we have in our General Plan and ordinances, although not this language specifically, did pretty much the same thing, so, again, I would like to know why, in what areas, does the Farm Bureau consider our [policies inadequate?

RB - The one thing is, for my purpose, I think, is putting all into one document and as to one item, because I don't think any real estate people now require people to put that deed notice when they buy next to some place. It's true that we've said we protect agriculture and its coming back to slap us a little bit in our arguments with the Coastal Commission, but as with everything else there has to be some little bit of give and take and if we can minimize what we are doing, that's a great help. So, I think we should go forward.

JA - One additional thing that APAC should look into is that this Board, some time ago, maybe in the early '80's, adopted a similar ordinance for timber harvesting in the TP zones that requires the same disclosure be made and I know from my experience in real estate law that there is not a single real estate agent in the County that complies with it. So, you need a better tool than is in

that ordinance to get this message across, when we get to that point.

RB - If we sue one of them, one of the realtors along the line, for not disclosing and putting that on, that real quick gets their attention. If we do this in an ordinance and we send it to the realtors' associations, and our public notice process, they wouldn't have an excuse then.

JA - That's exactly what the timber ordinance says, it puts the burden on the real estate agent to disclose it.

RB - We've never enforced, we've never pushed and we'll come back with some provision to enforce the issue

JA - The only way is to put the burden on the title company to disclose it as a part of the escrow and they....

JB - Then we should probably re-look at that for the timber part then, when we figure out how to do it. I agree with you, no body does it so is there a way to make that happen, because it seems like a really good idea. So there is a way to make the title company liable?

JA - If you put the same burden on the title company, they do it, they'll do anything that anyone tells them to do, but real estate agents won't necessarily.

JB - Interesting.

JA - That's my experience.

JB - We have a motion and a second all in favor say Aye. Opposed?

(Motion passed 5-0)

COUNTY OF SANTA CRUZ
INTER-OFFICE CORRESPONDENCE

DATE: September 16, 1998
TO: Planning Department, Attn: Mark Deming
FROM: Dwight L. Herr, County Counsel *DLH*
SUBJECT: Right To Farm Ordinance

This is to provide you with a copy of my comments on the proposed Right To Farm Ordinance.

Major Provisions Of Proposed Right To Farm Ordinance

1. Defines "agricultural land" to include all land currently used for agricultural operations or "upon which agricultural operations may in the future be established". (Section 1. [A]).
2. Defines "agricultural operation" to include various specific aspects of farming and also includes the harvesting of timber. (Section 1. [B])
3. Declares finding and policy for the ordinance (Section 2)
4. Declares that an agricultural operation "consistent with proper and accepted customs and standards" and with the County Code shall not be or become a public or private nuisance if it was not a nuisance when it began. (Section 3)
5. Requires a specified disclosure statement regarding agricultural operations to be (a) mailed by the County to all owners of real property in Santa Cruz County; - with the tax bills; (b) signed by purchaser or lessee of any real property and recorded by the transferor; and (c) required by the condition of any development permit or land division "for use on or adjacent to lands zoned for agricultural operations" to be signed by the owners of real property. (Section 4)
5. Provides for delivery of disclosure statement to the buyer by the seller if the buyer refuses to sign the statement. (Section 5)
6. Provides that any violation of the foregoing provisions would be an infraction punishable by a fine not exceeding \$100.00. (Section 6)

Mark Deming
September 16, 1998
Page 2

7. Contains a severability paragraph. (Section 7)

8. Declares that the ordinance would take precedence over any inconsistent ordinances and resolutions. (Section 8)

Existing Provisions of County Code

1. Section 16.50.090 of the County Code requires that a specified disclosure statement be:

(a) Provided by a seller to a buyer of land "which is located adjacent to agricultural land, as designated on the Agricultural Resources Map of the County";

(b) Included in any deposit receipt and in any deed conveying such property; and

(c) Required as a condition of any building permit on such property to be recorded or included as part of the deed.

2. Section 14.01.407.5 of the County Code requires as a condition of approval of the land division of property adjacent to "agricultural land, as designated on the Agricultural Resources Map" that the disclosure statement be included on the Final Map or Parcel Map and in each parcel deed.

Analysis of Differences Between The Proposed Right To Farm Ordinance And Existing County Ordinances

1. The Countys definition of agricultural land subject to the disclosure requirement is precise by referring to the Countys Agricultural Resources Map whereas the proposed Right To Farm Ordinance is somewhat vague by referring to any land "upon which agricultural operations may in the future be established". The existing County definition is preferable for that reason.

2. The definition of "Agricultural Operation" in the Right To Farm Ordinance is somewhat more detailed than the existing County definition and expressly includes transportation activities. In addition, the Right To Farm Ordinance includes timber harvesting which is not treated as an agricultural activity by the Countys General Plan or County Zoning Ordinance (Please see attached memo dated August 15, 1997). The more detailed definition of Agricultural Operation in the Right To Farm Ordinance could be adopted if deemed desirable. However, the inclusion of timber harvesting as an agricultural operation is not consistent with the County General Plan or Zoning Ordinance. (See attached provisions of the General Plan and Zoning Ordinance.)

3. The Finding and Policy Statement of the Right To Farm Ordinance would not appear necessary since the County has already adopted disclosure statement requirements.

2. Evidence that the above statement has been made part of the parcel deed. (Ord. 2621, 1/23/79; . 3336, 11/23/82; 3447, 8/23/83; 3750, 4/22/86)

16.50.095 AGRICULTURAL BUFFER SETBACKS.

- (a) The purpose of the agricultural buffer setback requirements is to prevent or minimize potential conflicts between either existing or future commercial agricultural and habitable land uses (i.e., residential, recreational, institutional, commercial or industrial). This buffer is designed to provide a physical barrier to noise, dust, odor, and other effects which may be a result of normal commercial agricultural operations- such as: plowing, discing, harvesting, -spraying or the application of agricultural chemicals and animal rearing.
- (b) All development for habitable uses within 200 feet of the property line of any parcel containing Type 1, Type 2, or Type 3 Commercial Agricultural land shall:
1. Provide and maintain a 200 foot buffer setback between Type 1, Type 2 or Type 3 commercial agricultural land and non-agricultural uses involving habitable spaces, including dwellings, habitable accessory structures and additions thereto; and commercial, industrial, recreational, or institutional structures, and their outdoor areas designed for public parking and intensive human use. For the purposes of this Section, outdoor areas designed for intensive human use shall be defined as surfaced ground areas or uncovered structures designed for a level of human use similar to that of a habitable structure. Examples are dining patios adjacent to restaurant buildings and private swimming pools. The 200 foot agricultural buffer setback shall incorporate vegetative or other physical barriers as determined necessary to minimize potential land use conflicts.
 2. Provide and maintain a buffer setback distance of at least 200 feet where the subdivision of land results in residential development at net densities of one or more dwelling units per acre adjacent to Type 1, Type 2, Type 3 Commercial Agricultural land, with vegetative screening or other physical barriers as appropriate.
 3. Comply with Sections 16.50.090(c) and/or 14.01.407.5 of the Santa Cruz County Code pertaining to recording deed notices of adjacent agricultural use. Such deed notice shall contain a statement acknowledging the required permanent provision and maintenance of the agricultural buffer setbacks and any required barriers (e.g., fencing or vegetative screening).

'Mark Deming
September 16, 1998
Page 3

4. The proposed Right To Farm Ordinance contains an express provision insulating preexisting agricultural-operations from nuisance claims, whereas the County's existing disclosure statement provisions while making it difficult for adjacent residents to make nuisance claims do not completely preclude them, It is a policy decision whether to adopt the nuisance, provision in the Right To Farm Ordinance..

5. The contents of the disclosure statements in the Right To Farm Ordinance and in the County's existing ordinances are substantially the same. The Right To Farm provisions are somewhat more detailed by expressly including such activities as "operation of machinery (including aircraft)" and "storage and disposal of manure" but such activities would be covered under the County's more general language regarding noise, dust, smoke, and odor. The County's provisions are more focused by only applying the disclosure statement requirement to identified agricultural land whereas the Right To Farm Ordinance requirement would apply to all property of whatever nature, and would require the County to include the statement in all tax bills. The County's more precise existing provisions as to the application of the disclosure statement requirements would appear to be preferable.

6. The penalty provisions of the Right To Farm Ordinance are not as stringent as the County's existing provisions, and do not completely conform to State law.

7. The severability clause in the Right To Farm Ordinance is standard language, but would not appear necessary if only minor amendments are to be made to the County's existing disclosure statement provisions.

8. The "precedence" provision of the Right To Farm Ordinance is not needed unless it were to be adopted with provisions inconsistent with the County Zoning Ordinance such as the inclusion of timber harvesting as agriculture. However, that action would not appear appropriate since such a definition of agriculture to include timber would also be inconsistent with the County General Plan.

established a 200 foot agricultural buffer setback on the herein described property to separate agricultural parcels and non-agricultural uses involving habitable spaces to help mitigate these conflicts. Any development on this property must provide a buffer and setbacks specified in County Code. Santa Cruz County has established agriculture as a priority use on productive agriculture lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations."

(c) The County Building Official shall require, prior to issuance of building permits for parcels adjacent to commercial agricultural lands, as designated on the Agricultural Resources Map, either:

1. Recordation of the following statement of acknowledgment by the owners of the property on a form approved by the Building Official:

"The undersigned . . . do hereby certify to be the owner(s) of the hereinafter legally described real property located in the County of Santa Cruz, State of California: . . . and do hereby acknowledge that the property described herein is adjacent to land utilized for agricultural purposes, and that residents or users of this property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides, and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. It is understood that the County has established a 200 foot agricultural setback on the herein described property to separate agricultural parcels and non-agricultural uses involving habitable spaces to help mitigate these conflicts; Any development on this property must provide a buffer and setback as specified in County Code."

"And further acknowledge that Santa Cruz County has established agriculture as a priority use on productive agricultural lands, and that residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations."

"This statement of acknowledgement shall be recorded and shall be binding upon the undersigned, any future owners, encumbrances, their successors, heirs or assignees. The statements contained in this statement of acknowledgement are required to be disclosed to prospective purchasers of the property described herein, and required to be included in any deposit receipt for the purchase of the property, and in any deed conveying the property."; or



(e) The requirements of this section do not apply to condominium projects which consist of the subdivision of air space *in* an existing building when no new structures are added.

(f) For the purposes of this section; "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(g) Where neither lot size, lot configuration, or applicable zoning is sufficient to reasonably protect solar access to parcels in a new subdivision, the Planning Commission or Board of Supervisors may require the preparation and dedication of solar access easements or restrictive covenants. (Ord. 4243, 3/23/93)

(h) The burdens and benefits of the solar easement shall be transferable and run with the land to subsequent grantees of the Grantor(s) and of the Grantee(s). All solar easements must include, at a minimum, all of the following:

(1) A description of the dimensions of the easement expressed in measurable terms, such as a vertical or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector, device, or structural design feature may not be obstructed, or a combination of these descriptions.

(2) The restrictions placed upon vegetation, structures, and other objects which would impair or obstruct the passage of sunlight through the easement.

(3) The terms or conditions, if any, under which the easement may be revised or terminated.

14.01.407.5 AGRICULTURAL NOTIFICATION. When a parcel adjacent to agricultural land, as designated on the Agricultural Resources Map established under Section 16.50.040 of the Santa Cruz County Code, is to be subdivided, the following statement shall, as a condition of approval, be included on the Final Map or Parcel Map, and in each parcel deed for the subdivision:

"This subdivision is adjacent to property utilized for agricultural purposes, and residents of the subdivision may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. Santa Cruz County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations.

4 Any deed conveying parcels or lots within this subdivision shall contain a statement substantially in the form stated above?
(v002)



OFFICE OF THE
COUNTY COUNSEL

COUNTY OF SANTA CRUZ

701 OCEAN STREET, ROOM 505, SANTA CRUZ, CALIFORNIA 95060-4068

GOVERNMENT CENTER
(408)454-2040
FAX(408)454-2115

HARRY A. OBERHELMAN III
MARIE COSTA
JANE M. SCOTT
RAHN GARCIA
TAMYRA RICE
PAMELA FYFE
ELLEN LEWIS
MMBASKETT
LEE GULLIVER
DANA McRAE
ASSISTANTS

DWIGHT L. HERR
COUNTY COUNSEL

DEBORAH STEEN
SAMUEL TORRES, JR
CHIEF ASSISTANTS

August 15, 1997

Mr. Michael E. Jani, Forester
Big Creek Lumber Co.
3564 Highway 1
Davenport, CA 95017

RE: Zoning Regulations Regarding Timber Harvesting

Dear Mr. Jani:

This is to respond to legal questions submitted in your letter dated July 31, 1997; to the Board of Supervisors. As you probably know, the policy issues regarding the application of County zoning regulations to timber harvesting operations are to be considered by the Board of Supervisors at its meeting On August 19, 1997. Enclosed for your information is a copy of the staff letter and attachments for that agenda item.

Is Timber Harvesting An Agricultural Use For Purposes of County Zoning Regulations?

Answer: The County distinguishes 'between timber harvesting and agriculture for purposes of planning and zoning. For example, in the County's General Plan, timberland is defined and treated separately from agricultural land. (see General Plan Definitions and Policies attached.) This distinction is also found in the County's zoning regulations. (See Zoning Definitions and also Residential Zone District Regulations' attached which treat "timber harvesting" as an "Open Space" use rather than as an "Agricultural" use.) Although the State Legislature has defined agricultural commodities to include "forest products" in certain instances (see e.g., Section 58554 of the Food and Agricultural Code), it has

ZONTIMLT.01A

Mr. Michael E. Jani Forester
Page 2

520

August 13, 1997

chosen to specifically exclude it in others (see e.g., Section 58605 of the Food and Agricultural Code),... For zoning and planning purposes, there is no state statute which declares that timber harvesting must be considered agriculture in those counties where timber operations zoning and planning authority to determine where timber operations shall be permitted. (Bic-Creek Company v. County of San Mateo (1995) 31 Cal.App.4th 418.)

Do Williamson Act Contracts and Open Space Easement Contracts Authorize Timber Harvesting Without Compliance With Any Zoning Restrictions?

Answer: Property owners who have entered into Williamson Act Contracts or Open Space Easement Contracts are subject to any zoning restrictions applicable to their property in addition to any further restrictions imposed by the contracts. The consideration received by property owners to enter into Williamson Act and Open Space Easement Contracts is reduced property taxes based on the restrictions on use imposed by the contracts in addition to the restrictions already applicable to the property from zoning regulations. The consideration accruing to the County is the contractual restrictions of the Williamson Act and Open Space Easement Contracts to preserve agricultural land and open space land, respectively, for the term of the contracts regardless of any incompatible uses that might otherwise be permissible under zoning regulations in effect during the term of the contract. The exemption of any timber harvesting or other activities from the contractual restrictions of a Williamson Act or Open Space Easement contract does not confer any rights to engage in such uses unless they are in compliance with any zoning restrictions (Delucchi v. County of Santa Cruz (1985) 179 Cal. App. 3d 814).

Can A Property Owner Remove Hazardous Trees On Non-TP Zoned Parcels?

Answer: There are no County regulations regarding the removal of hazardous trees outside of the California Coastal Zone unless it is a commercial timber operation. Inside the California Coastal Zone, Chapter 16.34 of the county Code, which is part of the County's Local Coastal Program to implement the California Coastal Act, regulates the removal of significant trees as defined in that Chapter. Section 16.34.C80 authorizes the removal of any tree without a "Significant Tree Removal" Permit where there is a hazardous or dangerous condition requiring immediate action for the safety of life or property. Commercial timber operations with an approved THP are exempt from the special permit requirements of Chapter 16.34, but would be subject to any restrictions on where timber harvesting operations can be conducted which are imposed by zoning regulations. The extent to which timber harvesting

GLOSSARY OF TERMS

Accessory/Ancillary/Appurtenant/Incidental Use
Any use which is secondary or subordinate to the principal or main use of a property and which clearly does not change the character of the main use. For example, a restaurant or gift shop in a resort (which caters primarily to patrons of the resort).

Adjacent Parcel
A parcel near or close to the subject parcel.

Adjoining/contiguous parcel
Abutting, lying next to, or touching a parcel.

Affordable (LCP)
Capable of purchase or rental by a household with moderate or lower income, based on their capacity to make initial monthly payments necessary to obtain housing. Housing is affordable when a household pays 25 to 30 percent or less of their gross income for housing. (See the Housing Element for more explanation of the term "affordable".)

Agricultural Land, Commercial
Commercial agricultural land includes all land which meets the criteria specified below, including all land enforceably restricted with a Land Conservation Act (Williamson Act) contract for Agricultural Preserve.

Type 1 - Commercial Agricultural Land. This type is for viable agricultural lands outside the Coastal Zone which have been in, or have a history of, commercial agricultural use over a long period of time, and are likely to continue to be capable of commercial agricultural use in the foreseeable future.

Type 1A — Viable Agricultural Land. Type 1A agricultural lands comprise areas of known high productivity which are not located in any utility assessment district for which bonded indebtedness has been incurred. These lands essentially meet the U.S. Department of Agriculture Soil Conservation Service and the California Department of Food and Agriculture criteria for "prime" and "unique" farmland and "prime" rangeland.

Type 1B — Viable Agricultural Land in Utility Assessment Districts. This type includes viable agricultural lands, as defined above, which are within a utility assessment district for which bonded indebtedness has been incurred, except Agricultural Preserves.

Type 2 — Commercial Agricultural Land. This category is for agricultural lands outside the Coastal Zone which would be considered as Type 1.4, except for one or more limiting factors such as parcel size, topographic conditions, soil characteristics or water availability or quality, which adversely affect continued productivity or which restrict productivity to a narrow range of crops. Despite such limitations, these lands are considered suitable for commercial agricultural use. Type 2 agricultural lands are currently in agricultural use (on a full-time or part-time basis), or have a history of commercial agricultural use in the last ten years and are likely to continue to be capable of agricultural use for a relatively long period. In evaluating amendments to Type 2 designations the preceding factors, along with adjacent parcel sizes, degree of nonagricultural development in the area and proximity to other agricultural uses, shall be considered in addition to the criteria listed under each individual type below.

Type 2X — Limited Agricultural Lands in Large Blocks. These lands are in fairly large blocks, are not in any indebtedness, and are not subject to agricultural-residential use conflicts.

Type 2B — Geographically Isolated Agricultural Land with Limiting Factors. This category includes agricultural lands with limiting factors which are geographically isolated from other agricultural areas. These lands are not in a utility assessment district which has incurred bonded indebtedness and are not subject to agricultural-residential use conflicts.

Type 2C — Limited Agricultural Lands in Utility Assessment Districts. This type includes agricultural lands with limiting factors which are in a utility assessment district, as of 1979, which has incurred bonded indebtedness.

Type 2D — Limited Agricultural Lands Experiencing Use Conflicts. These are agricultural lands with limiting factors which are experiencing extreme pressure from agricultural-residential land use conflicts such as pesticide application, noise, odor or dust complaints, trespass or vandalism.

Type 2E — Vineyard Lands.

Type 3 — Viable Agricultural Land within the Coastal Zone. This category includes all of the following lands outside the Urban Services Line and the Urban Rural Boundary, within the Coastal Z-one in Santa Cruz County:

1. Land which meets the U.S. Department of Agriculture Soil Conservation Service criteria of **prime** farmland soils and which are physically available (i.e., open lands not forested or built on) for agricultural use.
2. Land which meets the California Department of Food and Agriculture criteria for prime rangeland soils and which are physically available (i.e., open lands not forested or built on) for agricultural use.
3. Land which meets the California Department of Food and Agriculture criteria for unique farmland of statewide importance and which is physically available (i.e., open lands not forested or built on) for agricultural use.

The criteria for "prime farmland soils," "prime rangeland soils," and "unique farmland of statewide importance" are further defined in the glossary.

Agriculture Uses, Commercial

Agricultural operations conducted as a commercial venture for the purpose of achieving a return on investment.

Agriculture Uses, Non-commercial

Agricultural operations conducted for subsistence purposes, as a hobby or as part of a rural life-style where sale of the product is not the primary goal.

Agricultural Policy Advisory Commission

(LCP) A County commission, appointed by the County Board of Supervisors, whose role is to advise the Board on agricultural matters and to review development applications affecting agricultural land.

Agricultural Preserve

A contract between a landowner and Santa Cruz County establishing that a certain amount of land will be used for agricultural purposes only for a minimum of ten years. The ten year period is renewed every year. In recognition of this land use restriction, the landowner may receive preferential taxation on that land.

AMBAG — Association of Monterey Bay Area Governments
AMBAG is a voluntary association of 15 cities and Santa Cruz and Monterey counties in California's Central Coast region formed by a Joint Powers Agreement to serve as a forum for discussion of regional issues. The Association has been designated as an Area-wide Planning Organization (APO) by the U.S. Department of Housing and Urban Development; as a Metropolitan Planning Organization (MPO) by the U.S. Department of Transportation; and as a Water Quality Planning Agency by the U.S. Environmental Protection Agency.

Anadromous

(LCP) Species of fish which migrate from the ocean to fresh water streams to spawn.

Ancillary

(LCP) See Accessory.

Approach Zone

The air space at each end of a landing strip that defines the glide path or approach path of an aircraft and which should be free from obstruction, the lower boundary being a plane at a specified slope, beginning at the end of the runway overrun strip.

Appurtenant

(LCP) See Accessory.

Aquaculture

(LCP) A form of agriculture that is devoted to the controlled growing and harvesting of fish, shellfish, and plants in marine, brackish, and fresh water. Aquaculture products are agricultural products, and aquaculture facilities and land uses shall be treated as agricultural facilities and land uses.

Aquifer

(LCP) The underground layer of water-bearing rock, sand or gravel through which water can seep or be held in natural storage. Such waterholding rock layers hold sufficient water to be used as water supply.

Arable (land)

Land which is suitable for the cultivation of crops. Such land usually contains soils with a U.S. Soil Conservation Service agricultural capability rating of I-IV and slopes less than 25%.

Timberland

(LCP) Privately owned land, or land acquired for state forest purposes, which is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, and which is capable for growing an average annual volume of wood fiber of at least 15 cubic feet per acre.

Transmission Lines

(LCP) Utility transmission and distribution lines, including service lines (from the edge of a parcel to the structure receiving service), and extensions (from the existing distribution line along a public road or over private property to the edge of the parcel to receive service).

Transportation Commission

See Santa Cruz County Regional Transportation Commission (SCCRTC).

Trip

A one-way journey that proceeds from an origin to a destination by a single type of vehicular transportation.

Uniform Building Code (UBC)

A national standard building code, adopted with amendments pursuant to the Santa Cruz County Code, which sets forth minimum standards for construction.

Uniform Housing Code

State housing regulations governing the condition of habitable structures with regard to health and safety standards; and which provides for the conservation and rehabilitation of housing in accordance with the UBC; administered in Santa Cruz County by the Environmental Health Services.

Unique

A biotic resource whose presence is unusual and/or of special interest due to extremities of range, special soil types, or unusual associations with other species.

Unique Farmland of Statewide Importance

(LCP) Farmland, other than prime farmland soils, which produces those crops of greatest economic significance to the state, as defined in the California Department of Food and Agriculture, January 1978 ACR 11 Report Pertaining to Prime Agricultural Land. For a more detailed discussion of this farmland classification, see the LCP Agriculture Back-ground Report.

Urban Area

(LCP) The area within the Urban Services Line.

Urban Density Development

(LCP) Development at densities greater than one dwelling unit per acre or the equivalent.

Urban Road Standards

Those standards defined in the Public Works Design Criteria for urban roads. Urban roads shall be dedicated to the public for use and maintenance except for internal project circulation roads.

Urban Services Line (USL)

(LCP) A boundary line defining those areas planned to accommodate urban densities of development as based on the pattern of existing urban services and those projected to be established in the planning period. The Urban Service Line is subject to change in the future where consistent when the requirements of the Coastal Act, the needs of the community and the availability of supporting urban infrastructure.

Urban/Rural Boundary

(LCP) A distinct line which separates rural areas and (1) urban areas defined by the Urban Services Line, or (2) areas with recognized urban densities as defined by the Rural Services Line.

Vermiculture

Use of earth worms to further digest sludge from treated sewage to obtain nutrient-rich toxin free castings (worm feces) for high performance fertilizer.

Vertical Access

(LCP) A path or trail which connects the nearest public roadway with a shoreline destination via a reasonably direct route.

Viewshed

(LCP) The area within view from a defined observation point.

Visitor Accommodations

(LCP) Visitor serving facilities for overnight or extended stay use, such as hotels, motels, horizontal hotels, inns, lodges, recreational vehicle parks, hostels, commercial camping, and appurtenant uses.

Visitor Accommodation Unit

(LCP) A visitor-serving unit not exceeding four rooms, one of which is a bathroom, one of which may be either a kitchen or an additional bathroom, and not exceeding 600 sq. ft. overall. A studio with bath and kitchenette counts as 3/4 unit.

TIMBER RESOURCES,

Objective 5.12 Timber Production

(LCP) To encourage the orderly economic production of forest products on a sustained yield basis, under high environmental standards, to protect the scenic and ecological values of forested areas, and to allow orderly timber production consistent with the least possible environmental impacts.

Policies

5.12.1 Designation of Timberlands

(LCP) Designate on the General Plan and LCP Resources Maps those timberlands which are devoted to and used for growing and harvesting timber and which are capable of producing an average annual volume of wood fiber of at least 15 cubic feet per acre.

PERMITTED USES

5.12.2 Uses Within Timber Production Zones

(LCP) Allow the following types of uses compatible with Timber Production zoned land (TP) in accordance with the Timber Production ordinance:

- (a) The growing and harvesting of timber and other forest products, including Christmas trees, in conformance with the provisions of the Timber Production Zoning ordinance and the Forest Practice Act
- (b) Watershed management
- (c) Fish and wildlife habitat
- (d) Grazing and other agricultural uses on that portion of the land not under timber production.
- (e) One single-family dwelling, with accessory structures and utilities, on a separate legal parcel of record, subject to the policies of this section.
- (f) Timber removal as necessary for the safe operation of public utility facilities.

CONDITIONAL USES

5.12.3 Conditional Uses Within Timber Production Zones

(LCP) Allow the following types of uses if conditionally approved in accordance with the Timber Production ordinance. Conditional uses must be consistent with the growing of a sustained yield tree crop, with the purposes of the Forest Taxation Reform Act of 1976 and the Timber Production zoning ordinance, and should be supported by a timber management plan.

- (a) Mineral production and mining operations, in conformance with the provisions of the Mining Regulations ordinance.
- (b) Erection, construction, alteration and maintenance of water and transmission facilities.
- (c) Outdoor recreation, educational or religious activities, in conformance with the provisions of the County's organized camp zoning regulations which do not conflict with the management of the parcel's timber resources.
- (d) Conversion to agricultural uses not exceeding ten percent of the total of the timber area on the parcel.
- (e) One habitable accessory structure on a legal parcel of record with a minimum size of 40 gross acres in the Coastal Zone and 10 gross acres in other areas of the County where the guest house will be located in close proximity to the principle residence.
- (f) Timber processing and other related facilities.

- 5.12.4 Land Division and Density Requirements for Timber Production Zoned Lands**
 (LCP) For land divisions of TP zoned lands, require new parcel sizes to be at least 160 gross acres in the Coastal Zone and 40 gross acres in other areas of the County. Where development envelopes are clustered, require new parcel sizes to be an average of 40 gross acres in the Coastal Zone and 10 gross acres in other areas of the County.
- For residential development on TP zoned lands where no land division is proposed, allow a maximum residential density of one dwelling unit per 160 gross acres in the Coastal Zone and 40 gross acres in other areas of the County. Where development envelopes are clustered, allow a maximum average residential density of one dwelling unit per 40 gross acres in the Coastal Zone and 10 gross acres in other areas of the County.
- 5.12.5 General Conditions for All Development Proposals on Timber Production Zoned Lands**
 (LCP) Require the following conditions be met in connection with any permitted development on Timber Production zoned lands:
- (a) A Timber Management Plan, prepared by a Registered Professional Forester, shall be submitted to and approved by the County for the entire land holding.
 - (b) The individual designated as possessor of timber rights on the property shall enter into a binding contract with the Board of Supervisors to manage and harvest timber on the timberland and to abide by the provisions of the Timber Management Plan.
- 5.12.6 Conditions for Clustered Development Proposals on Timber Production Zoned Lands**
 (LCP) In addition to the conditions listed in 5.12.5, require the following conditions be met in connection with any permitted clustered development on TP zoned lands:
- (a) The timberland shall be managed as one unit under an approved Timber Management Plan for all timber harvest operations and clustered development proposals shall be consistent with all policies of this section and require approval of four-fifths vote of the Board of Supervisors.
 - (b) The remainder of the property not included within the area of clustered development envelopes shall be held in common ownership, and timber rights shall be held by a designated property owner or individual.
- 5.12.i Location of Development on Timber Production Lands**
 (LCP) Restrict development on TP lands to be located on a non-timbered portion of the property.
- 5.12.8 Timber Resource Land Not Zoned Timber Production**
 (LCP) Evaluate proposed land divisions and residential development permit applications on parcels larger than 20 gross acres designated Timber Resource on the General Plan and LCP Resources and Constraints Maps, but not zoned TP, for timber resource potential. Apply the TP land division and residential density requirement policies for any parcel found to have timber resources equivalent to TP parcels. Require, as a condition of any land division, rezoning to TP for parcels which have equivalent timber resources.
- 5.12.9 Rezoning Lands to Timber Production**
 (LCP) Encourage timberland owners to apply for Timber Production zoning where appropriate. Such rezonings must be in accordance with the procedures set forth in the TP ordinance.
- 5.12.10 Rezoning Lands From Timber Production**
 (LCP) Deny rezoning of timberland from TP to alternate zone districts unless it can be shown that the rezoning is consistent with the Forest Taxation Reform Act of 1976 and the County TP ordinance.

5.12.11 Timber Harvests Not Subject to State Regulations

(LCP) Ensure that all small timber harvests over which the County has regulatory authority, are adequately regulated, either through adoption of State Forest Practice Rules or through the enactment of local ordinance. 527

5.12.12 Review of Timber Harvests

(LCP) Require strict review of all timber harvests subject to County regulation to assure minimal environmental and neighborhood impacts. Deny all applications which cannot meet those standards.

5.12.13 Timber Statement of Acknowledgement

(LCP) As a condition of approval for any new land division or other development permit, require a Statement of Acknowledgement be recorded, or evidence that the statement has been made part of the parcel deed, for parcels adjacent to lands designated as Timber Resources on General Plan and LCP Resources Maps. The purpose of the statement is to inform property owners about adjacent timber practices, and advise them to be prepared to accept such inconvenience or discomfort from normal timber operations.

Programs

(LCP) a. Encourage the adoption of state legislation allowing for reevaluation of Santa Cruz County TP designations. (Responsibility: Board of Supervisors, Flood Control Zone 4, Planning Department)

(LCP) b. Encourage the adoption of state legislative changes to the Forest Practice Act to accomplish the following:

- (1) Create a consistent appeals process to the Board of Forestry of the California Department of Forestry (CDF) Director's determinations;
- (2) Extend the purpose and intent of the Act to include the protection of public health, safety and welfare;
- (3) Expand the role of the Interdisciplinary Review Team to allow changes to timber harvest plans;
- (4) Require that feasible alternative practices needed to mitigate significant adverse impacts, which are submitted in writing to the timber harvest plan review team of the Board of Forestry, be incorporated into any approved timber harvest plan, or require denial of the timber harvest plan.

(Responsibility: Board of Supervisors, Planning Department, Flood Control Zone 4)

(LCP) c. Recommend Special Santa Cruz County Timber Harvest Rules for adoption by the State Board of Forestry which make the following changes to the process for reviewing timber harvest plans:

- (1) Establish better defined procedures for the request, conduct, and follow-through related to public hearings;
- (2) Require transmission of the Notice of Conformance to members of the Board of Supervisors;
- (3) Allow County staff to attend all field reviews conducted by CDF;
- (4) Require the submission of relevant materials prior to review team meetings;
- (5) Require that feasible alternative practices needed to mitigate significant adverse impacts, which are submitted in writing to the timber harvest plan review team of the Board of Forestry, be incorporated into any approved timber harvest plan, or require denial of the timber harvest plan.

(Responsibility: Board of Supervisors, Planning Department)

AGRICULTURE

5 2 8

Objective 5.13 Commercial Agricultural Land

(LCP) To maintain for exclusive agricultural use those lands identified on the County Agricultural Resources Map as best suited to the commercial production of food, fiber and ornamental crops and livestock and to prevent conversion of commercial agricultural land to non-agricultural uses. To recognize that agriculture is a priority land use and to resolve policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands.

Policies

5.13.1 Designation of Commercial Agriculture Land

(LCP) Designate on the General Plan and LCP Resources and Constraints Maps as Agricultural Resource all land which meets the criteria (as defined in the General Plan Glossary) for commercial agricultural land.

5.13.2 Types of Agriculture Lands

(LCP) Maintain by County ordinance specific agricultural land type designations for parcels identified as commercial agricultural land based on the criteria set forth in the General Plan and LCP Land Use Plan* and maintain Agricultural Resources Maps, by County ordinance to identify the distribution of the following types of Commercial Agricultural Land in the County:

Type 1A — Viable Agricultural Land

Type 1B — Viable Agricultural Land in Utility Assessment Districts

Type 2A — Limited Agricultural Land

Type 2B — Limited Agricultural Land — Geographically Isolated

Type 2C — Limited Agricultural Land in Utility Assessment Districts

Type 2D — Limited Agricultural Land Experiencing Use Conflicts

Type 3 — Viable Agricultural Land Within the Coastal Zone

*See Glossary for detailed definition of Agricultural Land, Commercial.

5.13.3 Land Use Designations for Agricultural Resource Lands

(LCP) All lands designated as Agricultural Resource shall be maintained in an Agricultural Land Use designation, unless the property is included in a public park or biotic reserve and assigned as Parks, Recreation and Open Space (O-R), Resource Conservation (O-C), or Public Facility (P) land use designations.

5.13.4 Zoning of Agricultural Resource Land

(LCP) Maintain all lands designated as Agricultural Resource in the "CA", Commercial Agricultural Zone District, except for land in agricultural preserves zoned to the "AP", Agricultural Preserve Zone District or the "A-P", Agriculture Zone District and Agriculture Preserve Combining Zone District; timber resource land zoned to the "TP", Timber Production Zone District; or public parks and biotic conservation areas zoned to the "PR", Parks, Recreation and Open Space Zone District.

5.13.5 Principal Permitted Uses on Commercial Agricultural (CA) Zoned Land

(LCP) Maintain a Commercial Agricultural (CA) Zone District for application to commercial agricultural lands that are intended to be maintained exclusively for long-term commercial agricultural use. Allow principal permitted uses in the CA Zone District to include only agricultural pursuits for the commercial cultivation of plant crops, including food, flower, and fiber crops and raising of animals including grazing and livestock production.

529

- (LCP) d. Evaluate the adequacy of the Forest Practice Rules in the following areas and, if necessary, recommend special rules for adoption by the Board of Forestry:
- (1) Allow for bonding on private roads used for log hauling;
 - (2) Provide CDF with the authority to restrict or prohibit winter operations in certain situations;
 - (3) Restrict road and landing construction in steep areas and, where allowed, establish special design and construction standards.
 - (4) Protection of rare, endangered, or unique plants or animals;
 - (5) Protection of viewsheds from scenic roads;
 - (6) Consider feasible alternative forest practices to mitigate significant adverse environmental impacts.
- (Responsibility: Board of Supervisors, Planning Department)
- (LCP) e. Continue to apply the following policies when reviewing timber harvest plans:
- (1) Where applicable, recommend denial of a timber harvest plan based upon its potential for cumulative adverse impacts to water quality, traffic, wildlife or other affected resources;
 - (2) Encourage shared road access between adjacent timber owners;
 - (3) Allow for selecting the haul route which minimizes neighborhood impacts;
- (Responsibility: Board of Supervisors, Flood Control Zone 4, Planning Department)
- (LCP) f. Ensure that the County's concerns regarding individual timber harvests are addressed through active participation in review team meetings and California Department of Forestry public hearings. (Responsibility: Planning Department, Flood Control Zone 4, Board of Supervisors)

Zoning Regulations - Definitions 530

Accessory Dwelling Unit. A structure for human habitation, subject to the requirements of Section 13.10.681 and limited in size to 640 gross square feet within the Urban Services Line (USL) and 800 gross square feet outside the USL, providing complete independent living facilities for one or two persons, including permanent provision for living, sleeping, eating, cooking and sanitation, with the restriction that only one kitchen is allowed. (Ord. 4324A, 8/9/94)

Affected Property. Any property whose buildings, fences, other structures or vegetation interfere with, or is likely in the future to interfere with, the solar access of the existing or proposed solar energy system

Affordable Housing. Housing capable of purchase or rental by a person with average or below average income, as determined periodically by the U.S. Department of Housing and Urban Development based on the median household income for Santa Cruz County.

* **Agriculture.** The art or science of cultivating the ground, including the harvesting of crops and the rearing and management of livestock; tillage; husbandry; farming; horticulture.

Agricultural Caretakers' Mobile Home. A travel trailer or mobile home maintained as temporary living quarters for person employed principally for security needs and/or farming and related activities on the parcel on which the unit is located. This use is an accessory use to the main dwelling on the property or in place of the main dwelling.

Agricultural Custom Work Occupations. An agricultural support service for hire which is conducted as a secondary or incidental use on a parcel where agriculture is the primary use such as fumigation services, and leveling, irrigation contracting and farm equipment repair.

Agricultural Lands, Types 1, 2, and 3. Agricultural land type designations applied pursuant to a County classified system as established in Chapter 16.50 (Section 16.50.030 end 16.50.040) of the County Code.

Agricultural Policy Advisory Commission. An advisory commission created pursuant to Chapter 16.60 of the County Code to advise the Board of Supervisors and Planning Commission on policy matters related to agricultural uses.

Agricultural Preserve. A contract between a landowner and Santa Cruz County establishing that certain land will be used only for agricultural purposes for a minimum of 10 years. The 10-year period is renewed every year. In recognition of this land use restriction, the landowner may receive preferential taxation on that land.

Agricultural Service Establishment. A business engaged in activities designed to support agricultural production and marketing such as application of agricultural chemicals, grading and irrigation contracting, harvesting, hauling of produce or other agricultural products, and large scale off-site cold storage facilities. This service does not include manufacturing or processing.

531.

Temporary Occupancy, Limited (in an organized camp or conference center). Sleeping facilities for participants (temporary occupants) which have time restrictions as to use.

Temporary Occupancy, Unlimited (in an organized camp or conference center), means sleeping facilities for participants (temporary occupants) which have no time restrictions as to use (i.e., they may be scheduled full time).

Temporary Relocation. A temporary relocation of a use for a period not to exceed 18 months by reason of a natural disaster for which a local emergency has been declared by the Board of Supervisors. (Ord. 4030, 11/21/89; 12/11/90, 12/10/91)

Temporary Use. An intermittent (not more than 4 times per year) commercial activity, the period of operation of which does not exceed 45 days at any one time.

Timber. Trees of any species suitable for eventual harvest for forest products purposes, whether planted or of natural growth, standing or down, on privately or publicly owned land, but not including nursery stock.



Timberland. Privately owned land, or land acquired for state forest purposes, which is devoted to and used for growing an average annual volume of wood fiber of at least 15 cubic feet per act-s,.

Timber Management Plan. A written plan for the development and utilization of timber resources and compatible uses which assures the continued viability of the timberland, and which includes reasonable rotation and cutting cycle date.

Time Share Visitor Accommodations. Visitor accommodations facilities in which the ownership interest in individual units, is divided in time. Time share visitor accommodations units commonly are sold by the week for up to a maximum of 51 weeks per year.

Town Plan. A Plan adopted in conformance with the County General Plan which is applicable to a specific area that requires a detailed planning effort. (Ord. 4217, 10/20/92)

Town Plan Area. An area within the unincorporated area that has been subject to a more detailed, area-specific planning than is normally part of an overall General Plan Update, and where a design framework, area plan, village plan, or specific plan has been adopted by the Board of Supervisors and incorporated into the County General Plan. (Ord. 4217, 10/20/92)

TPZ - Timberland Preserve Zone District (Section 13.10.370).

Trailer Park. A site authorized for the temporary parking of privately-owned occupied travel trailers, campers, and recreational vehicles, but not mobilehomes.

The Conflict at the Edge

By Laura Thompson

To a homeowner in a new subdivision on the edge of town, it's a shock. To a farmer, it's a way of life. Spreading manure on a field can generate two *very* different responses. Conflict between farmers and their urban neighbors is a serious problem that is increasing as cities expand into agricultural areas.

Urban residents living near agricultural areas have many complaints about farmers. They object to the noise of tractors and irrigation pumps, odors from livestock and other farming practices, dust created by plowing the fields, chemical drift from pesticide use, and slow farm machinery on the roads.

Perhaps less recognized are the complaints from farmers. They include vandalism to farm machinery, restraints on routine farming operations such as pesticide use, liability for trespassers, garbage disposal on property, and damage from urban neighbors' dogs.

The conflict on the agricultural-urban edge creates a losing situation for both farmers and nonfarmers. New urban residents on the edge, expecting peace and tranquility in the country, fight to prevent farmers from engaging in their livelihood. It becomes difficult for farmers to continue profitable agricultural operations when a great deal of time and money is spent responding to their neighbors' complaints.

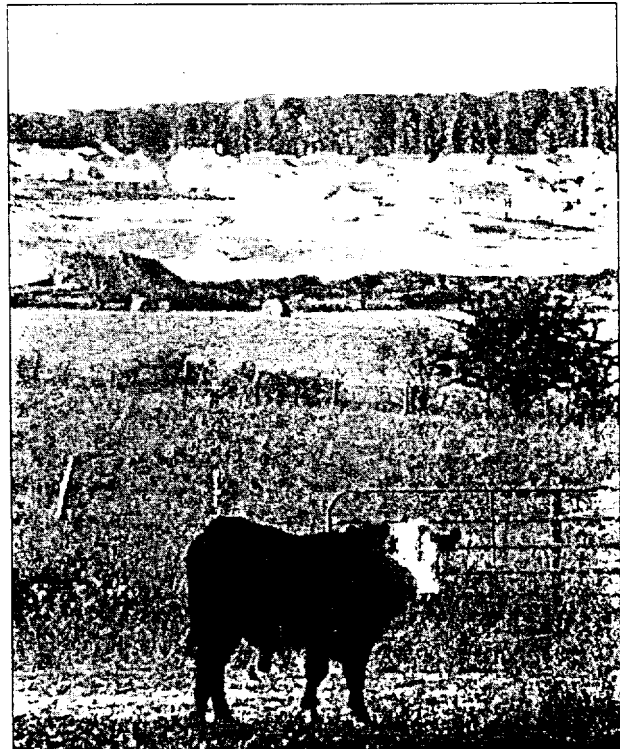
The challenge for local and county officials is to find ways to reduce these conflicts while attempting to protect farmland and accommodate growth. The incompatibility between agricultural and urban land uses can be decreased by comprehensive planning and land-use tools that lead to improved development patterns at the urban edge. This issue of *Zoning News* examines the tools used by planners to resolve the conflicts between commercial agriculture and urban development.

A Closer Look

In October 1995, the Agricultural Issues Center at the University of California in Davis held a conference to address the conflicts in areas of California where commercial agriculture and urban development rub elbows. The conference, "Farmers and Neighbors: Land Use, Pesticides and Other Issues," provided an interactive forum where California state and local government officials, farmers, and community activists described their views of the problem and proposed solutions. A video, *Farmers and Neighbors at the Edge*, was prepared for the conference as an overview of the problem. The video identifies three areas where conflicts between farmers and urban neighbors are most likely to occur:

- at the edge of a city, where the boundary is not permanent and continues to expand;
- in expanding unincorporated rural neighborhoods where people move to escape the city;
- in agricultural areas where different 'land uses, such as residential developments, have been introduced.

The American Farmland Trust has identified specific areas in the United States with the greatest potential for conflict in its 1994 study, *Farming on the Edge: A New Look at the Importance and Vulnerability of Agriculture Near American Cities*. The report looks at the geographic relationship between population growth and agricultural production in the U.S., identifying those areas most vulnerable to farmland conversion and conflict between urban and agricultural land uses. The study determines that more than half of the value of U.S. farm production is grown in "urban-influenced" counties. These counties are located within and adjacent to Metropolitan Statistical Areas (MSAs) and have a population of at least 25 persons per square mile. The map on page 2 identifies the urban-influenced counties with farm production levels and increasing population rates above the national mean and above statewide means.



Odors from livestock are among the many complaints of urban residents living near agricultural areas.

Land-use Tools

Buffers. Agricultural buffers are well-defined strips of land located between farmland and nonfarm development. By establishing distance between agriculture and urban development, these buffers are used to reduce the conflict between these sometimes incompatible uses. "Recently, there is a greater interest in buffers since we are losing more agricultural land, and more people are moving to the agricultural-urban fringe," says Mary Handel, a land-use consultant in Napa,

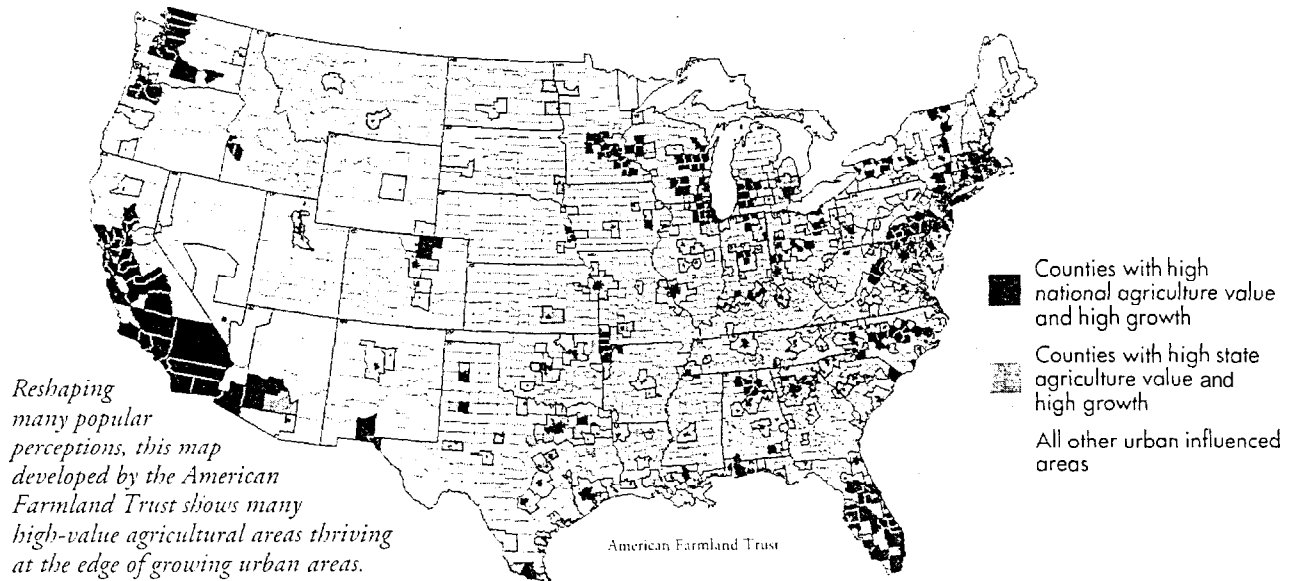
California. She compares agricultural buffers to buffers used between industrial and residential areas.

The city of Napa, California, has an agricultural buffer plan requirement for all residentially zoned lots along the agricultural-urban fringe that are adjacent to properties designated in the Napa County general plan as a preserved agricultural resource. The agricultural buffer plan may also be applied to farmland that is not designated an agricultural resource. The buffer plan requires a setback of not less than 80 feet from the property line for dwellings. Within the setback, a landscape buffer is required with a minimum width of 15 feet consisting of trees, shrubs, berms, fences, or other visual screening. Noise-reducing design and building construction techniques are also required under the plan. This includes such design techniques as window-door orientation and the use of double-pane windows.

agricultural use. The ordinance specifies that the buffer area may not be used for structures for human occupancy.

Nuisance disclaimers. A nuisance disclaimer notifies potential owners of nonfarm property in agricultural areas of possible adverse impacts associated with normal agricultural practices. While written disclosure does not eliminate the complaints from nonfarm residents, it does notify a homeowner that charges against standard farming operations may not stand in court.

Several townships in Lancaster County, Pennsylvania, have adopted such disclaimers as part of their zoning ordinances. Nuisance disclaimers have proven to be a very successful technique for controlling right-to-farm suits, according to Tom Daniels, director of the county's Agricultural Preserve Board. "It is important to educate the new rural resident that the scenery is not cost-free," says Daniels.



Reshaping many popular perceptions, this map developed by the American Farmland Trust shows many high-value agricultural areas thriving at the edge of growing urban areas.

American Farmland Trust

Handel has studied the use of buffers in Napa and has determined that there are fewer complaints to the county agricultural commissioner from the city's northern edge than from other areas. The northern edge consists primarily of agricultural lands designated as a protected resource, an area where buffers are required, while other agricultural-urban edge areas of the city do not have the buffer requirement.

In San Luis Obispo County, California, the agricultural buffer policy designates buffer width requirements according to the type of crop production. Buffer requirements are made on a case-by-case basis, considering the extent and type of agricultural use, zoning, the nature of the specific site such as topography and the prevailing wind direction, and other significant factors. For example, buffer distance requirements range from 400 to 800 feet for vineyards, 300 to 800 feet for irrigated orchards, and 100 to 400 feet for field crops.

The zoning ordinance in Citrus County, Florida, requires the owner of property adjacent to or abutting an existing agricultural use to provide a buffer of not less than 100 feet between the proposed nonagricultural use and the existing

The Napa, California, agricultural buffer plan requires 30-day recorded notice for all properties designated in the buffer plan. The notice indicates that "the property may be subjected to noise, odors, pests, spraying, and other potential nuisance problems associated with normal agricultural practices." It also informs potential property owners that, under state and local law, the farmer has the right to farm and the owner of adjoining property may not sue to prevent normal agricultural activities.

A technique similar to the nuisance disclaimer has been adopted in Fremont County, Idaho. Known as a resource easement, it runs with the land and requires that landowners of nonfarm properties located in agricultural zones record an easement restriction that identifies possible adverse impacts on the property associated with nearby farming activities. A building permit will not be issued for a home in a farming area until the easement has been recorded. Rodney Eastvold, the Fremont County planning and zoning administrator, says that since the adoption of the resource easement requirement in 1992, the county has not had problems with conflicts between agricultural and residential uses.

Urban growth boundaries. Urban growth boundaries, or urban limit lines, are long-term boundaries that define growth in an area. This technique has been used as a tool to reduce conflict between agricultural and urban land uses by establishing a comprehensive, long-term plan for development to discourage sprawl into agricultural areas.

Laura Thompson is an APA research intern and a graduate student in planning at the University of Illinois at Chicago.

In 1379, the city of Woodland, California, adopted a comprehensive urban development policy with Yolo County. Under the plan, the city is to provide urban services, and the county is to protect agricultural land. The plan established an urban limit line that defined the boundary for growth for the next 20 years. Today, the city is updating the plan with a proposal to establish a permanent urban limit line in some areas to protect prime farmland from development. According to community development director Janet Ruggiero, the urban limit line has been an effective tool for separating urban development from agriculture by establishing a clear boundary between the city and the unincorporated areas. Townships in Lancaster County, Pennsylvania, also use urban limit lines to encourage compact development and reduce conflicts between farmers and their nonfarm neighbors.

Agricultural zoning. Agricultural zoning is used to separate farms from conflicting land uses such as commercial and residential development. In areas with intense development pressures, agricultural zoning can be effective in protecting farmland and reducing conflicts between agricultural and urban land uses. Ideally, such zoning should be in place before nonfarm development has moved into the area. The idea behind agricultural zoning is to limit the number of nonfarm-related buildings and uses in areas zoned for agriculture.

More than 450,000 people live in Lancaster County, where agricultural production is the leading industry. In most townships within the county, the current agricultural zoning requirement is one building lot per 25 acres, with the building lot area not to exceed two acres. Tom Daniels says this zoning requirement has been successful in protecting farmland while allowing some residential development in areas where conflict is kept to a minimum. (For more information on Lancaster County's zoning requirements, see "Agricultural Zoning: Managing Growth, Protecting Farms," August 1393.)

Right-to-farm ordinances. In an effort to protect farmers from restrictions to standard agricultural operations and legal responsibility in nuisance suits, right-to-farm laws have been adopted by all 50 states as well as many county and local governments. Such legislation attempts to tip the scale in favor of farming by defining standard farming practices as acceptable land uses, despite the negative impacts such practices may have on neighboring property. These laws make it difficult for nearby residents to terminate certain farming activities by filing nuisance suits. Without such laws, neighbors can claim that impacts such as noise, odor, and pesticide drift are nuisances.

Right-to-farm legislation does not eliminate complaints about agricultural operations, but governments hope it will limit charges from urban residents in agricultural areas. The Michigan Department of Agriculture's Right-to-Farm Office received 418 complaints against agricultural operations from 1331 to 1393. Over 93 percent were resolved. Right-to-farm legislation can help nonfarm residents gain an understanding of the activities necessary in commercial farming practices.

Communication

Dave Mhitmer, the Napa County agricultural commissioner, says that while many of these tools are helpful in reducing conflicts at the agricultural-urban edge, the most important way of reducing the tension is communication between farmer and neighbor. "It is important to get both sides to recognize that each has a right to be there, then they can work towards a cooperative solution," says Whitmer.

For example, sulfur is commonly used in its dust form to combat a disease of grapevines in California's Central Valley. "If nearby residents know ahead of time when a farmer will be dusting, they can plan ahead and, for example, reschedule the backyard cookout," he says. "The urban community is inattentive in having knowledge about what is going on."

The county agricultural commissioner's office receives many of the complaints from residents and farmers, and he is able to put them in touch with each other in hopes of resolving the conflict. These issues also come up at local watershed stewardship group meetings attended by people representing both the agricultural and urban communities.

Communication between farmers and nearby urban residents in San Diego County is handled through a voluntary consumer disclosure program. Farmers enroll in the program to receive information about land uses within a mile of their property that may affect their farming operations. New county residents can also get information about the types of farming activities that exist within a mile of their home.

In order to reduce and control conflicts between farmers and urban residents, a combination of techniques is necessary. If buffers or right-to-farm laws are the only regulations in place, it is unlikely that the conflict between agricultural and urban uses will be reduced.

At the 1995 conference held in Davis, California, Janet Ruggiero pointed out, "None of this is going to work unless you have a comprehensive approach, a reference for what you want your community to be. This defines who you are as a community, and if you can't do that, I think you've got some real difficulties ahead in trying to deal with the agricultural-urban edge."

Nudist Camps Spread Their Wings

APA's Planning Advisory Service (PAS) receives an average of 20 to 30 inquiries per day from subscribers. At that pace, one might assume that every possible land-use and zoning issue has received some research attention. Recently, however, PAS received several inquiries on regulating nudist camps. What information existed? Not much. However, it appears that nudist camps not only occupied a land-use niche in the past but remain popular in certain communities today.

Nudist camps were introduced to this country around the turn of the century, originating along the coast of California. The nudist lifestyle became popular during the industrial era for men and women seeking to remove themselves from the confines of the industrial city to a natural environment free from the constraints of clothing. Similar to other resorts, nudist camps offer a wide variety of recreational activities that include volleyball, tennis, swimming, and dining. Their uniqueness derives from practice of the naturalist lifestyle. Because most of the country does not practice public nudism, the camps are perceived as eccentric, which forces them to locate in remote areas with natural surroundings. It is not necessarily true, however, that local regulations have contributed to such siting decisions.

Despite the longevity of the tradition, few regulations exist to control such uses. In 1938, Los Angeles County passed an ordinance banning nudism, which stood until 1968, when a judge ruled it unconstitutional. In the meantime, nudists won a

**Citizens for Responsible Forest Management
Sierra Club
Summit Watershed Protection League
Valley Women's Club**

September 23, 1998

Santa Cruz County Agricultural Policy Advisory Commission
701 Ocean Street
Santa Cruz, CA 95060

RIGHT TO FARM ORDINANCE

Dear Members of the Commission,

We address your Commission on behalf of a County-wide coalition of concerned citizens whose everyday lives are affected by commercial timber harvesting. We were appointed last year by the Santa Cruz County Board of Supervisors to serve on the County's Timber Technical Advisory Committee. As members of that advisory committee, we made many recommendations to the Board regarding the regulation of ongoing timber harvesting activities in the County. Since the work of the Timber Technical Advisory Committee was concluded earlier this year, we have remained very active in the consideration of timber harvesting regulations for our County as they have been developed and considered by the Planning Department staff, the Board of Supervisors and the State Board of Forestry.

As you are no doubt aware, a great deal of effort has been expended by the County staff, the Board of Supervisors, and a great many members of the community in addressing the issue of timber harvesting in our County. As a result of this effort, the County has requested that the State Board of Forestry amend the State's Forest Practice Rules and is in the process of considering changes to the County zoning regulations governing timber harvesting. This effort has been directed at achieving a better balance between the continuance of timber harvesting activities and the environmental resources and residential values of our community.

RIGHT TO FARM ORDINANCE

The Right to Farm Ordinance that has been referred to you by the Board of Supervisors for review and recommendation inappropriately includes timber harvesting as an agricultural activity. We will reserve comment on the proposed ordinance as it affects what this County has historically considered to be agricultural uses. We do, however, adamantly object to any inclusion of timber harvesting activities under the purview of this proposed ordinance for a variety of reasons.

It is inappropriate to include timber harvesting activities within the scope of this Right To Farm Ordinance because timber harvesting has historically been recognized by the County as an activity separate and distinct from agricultural pursuits. Contrary to the priority this ordinance proposes be given to timber harvesting activities, harvesting needs to be conducted in a manner that balances timber production with protection of the environmental and residential values in the community. Furthermore, rather than considering current timber practices to be acceptable and to not constitute a public or private nuisance, it is critical that the State Forest Practice Rules and the County zoning regulations be amended and upgraded to provide the increased level of environmental and residential protection needed by the community.

DEFINITION OF AGRICULTURE

Section 1 of the proposed Right To Farm Ordinance defines "Agricultural Operation" to include timber harvesting and related activities including transport of timber products. As County Counsel has pointed out, this definition is inconsistent with the adopted County General Plan and implementing ordinances, many portions of which are also a part of the Local Coastal Program certified by the state. These existing policies and regulations were developed over the last **30-plus** years to respond to the local conditions in the County and the importance that the County has placed on protecting the environment and providing for a high quality of life for County residents.

To now blindly include timber harvesting under the definition of agricultural operations would be contrary to the goals and intent of the existing County policies and regulations and is not in response to any broadly expressed or considered public need or desire. To the contrary, any inclusion of timber harvesting under this ordinance would appear to be a response to narrow private interests and an attempt to subvert the expressed interests and will of the broader community that has, both currently and historically, wanted timber harvesting to be given close scrutiny and regulation.

UNBALANCED OBJECTIVES

Section 2 of the proposed ordinance contains the unbalanced objective of encouraging agricultural operations generally without restriction. This is a marked departure from the stated General Plan goal "To provide for the . . . environmentally sound and orderly economic use of renewable . . . resources . . . while minimizing impacts to adjoining land uses and the environment." This also is contrary to the General Plan objective for timber production which is as follows:

"To encourage the orderly economic production of forest products on a sustained yield basis under high environmental standards, to protect the scenic

**AGRICULTURAL POLICY ADVISORY COMMISSION
RIGHT TO FARM ORDINANCE
SEPTEMBER 23, 1998**

5 3 7

and ecological values of forested areas, and to allow orderly timber production consistent with the least possible environmental impacts.”

All land owners and residents of our community should have an obligation to be good neighbors and to husband their properties in a responsible manner that respects and protects the environment and their fellow citizens. This is particularly true in terms of timber harvesting because of the enormous potential this activity has for adversely impacting the natural and social values of our community. The proposed Right To Farm Ordinance ignores, or worse denies, this responsibility.

CONTINUANCE OF CURRENT PRACTICES

Section 3 of the proposed Right to Farm Ordinance would provide that a continuation of the current timber harvest practices in the County would not constitute either public or private nuisances. This is an indefensible and unacceptable statement of public policy based on experiences with timber harvests conducted in this County and the extensive effort undertaken by the County to change the State Forest Practice Rules and the local zoning regulations.

This County has experienced significant impacts on fishery resources, riparian habitat, slope stability, residential values, traffic congestion and safety, road damage, etc. from the ongoing harvesting of timber. As an especially egregious example, would anyone suggest the unbridled continuance of helicopter logging in the County based on the impacts that these recent aerial harvesting operations have had? Clearly the current operating practices do in many cases constitute nuisances and worse, and these practices need to be revised.

CONCLUSION

Adoption of this proposed ordinance with the inclusion of timber harvesting would serve to undermine the extensive effort that is currently being undertaken by the County to reexamine and revise the manner in which timber harvesting is being conducted in our community. Such adoption would work to the detriment of all parties concerned, because failure of this current process to achieve improved timber harvest regulations will result in a continuance of strenuous community opposition to any future timber harvesting operations. Timber harvesting must be conducted with adequate accommodation and protection for the residential and environmental values that are cherished in our County or there will be no peace in the community, and the resulting continuation of conflicts over timber harvests will result in unnecessary hardship for residents as well as for the owners of timber land and members of the timber industry.

**AGRICULTURAL POLICY ADVISORY COMMISSION
RIGHT TO FARM ORDINANCE
SEPTEMBER 23, 1998**

ATTACHMENT 6

538

We would further suggest that the Agricultural Policy Advisory Commission clearly point out to the Board of Supervisors that timber harvesting issues have not previously been a responsibility of your Commission and that your Commission has neither the experience nor expertise to deal with such issues.

Sincerely,

***Betsy Herbert and Mark Morgenthaler for Citizens for Responsible Forest
Management
Jodi Frediani for the Sierra Club
Steven Stewart for the Summit Watershed Protection League
Julie Hendriks for the Valley Women's Club***

cc: Board of Supervisors
Alvin James, Planning Director
Dwight Herr, County Counsel

CHAPTER 16.50
-----AGRICULTURAL LAND PRESERVATION AND PROTECTION
-----Sections:

- 16.50.010 Purpose
- 16.50.015 Scope
- 16.50.020 Amendment
- 16.50.030 Designation of Agricultural Land Types
- 16.50.040 Criteria for Designation
- 16.50.050 Amendment of Designations
- 16.50.060 Fees
- 16.50.070 Preservation of Type 1 Agricultural Lands
- 16.50.075 Preservation of Type 2 Agricultural Lands
- 16.50.080 Preservation of Type 3 Agricultural Lands
- 16.50.085 Protection of Noncommercial Agricultural Lands
- 16.50.090 Public Notification Requirements
- 16.50.095 Agricultural Buffer Setbacks
- 16.50.100 Appeals
- 16.50.110 Agricultural Policy Advisory Commission Hearing Notices

16.50.010 PURPOSES.

(a) The Board of Supervisors of Santa Cruz County finds that commercially viable agricultural land exists within the county, that it is in the public interest to preserve and protect this land for exclusive agricultural use, and that certain agricultural land in the county, not presently of commercial value, also merits protection. The Board of Supervisors of Santa Cruz County also finds that residential development adjacent to certain of these lands often leads to restrictions on farm operations, to the detriment of the adjacent agricultural uses and the economic viability of the county's agricultural industry as a whole.

(b) The purposes of this chapter, therefore, are to promote, the public health, safety and welfare; to implement the policies of the Santa Cruz County General Plan, the [ocal Coastal Program, Land Use Plan, and the 1978 Growth Management Referendum (Measure J) by designating those commercial agricultural lands the County intends to preserve and protect for exclusive agricultural use, and by protecting noncommercial agricultural land; to support and encourage continued agricultural operations in the county; to maintain in exclusive agricultural use commercial agricultural land which is located within utility assessment

districts, while recognizing that equitable compensation may be due because of the assessment district-caused encumbrances; and to forewarn prospective purchasers and residents of property adjacent to agricultural operations of the necessary sounds, odors, dust and hazardous chemicals that accompany agricultural operations. It is an additional purpose of this chapter to ensure the maximum protection of commercially viable agricultural land by weighting decisions, in cases where there is not clear evidence of the unsuitability of the agricultural land, in favor of the preservation of the land for agricultural use. (Ord. 2621, 1/23/79; 3336, 11/23/82; 3447, 8/23/83)

16. 50. 015 SCOPE. This chapter establishes a system for classifying

various types of commercial agricultural land in Santa Cruz County, including specific criteria for applying each different agricultural land type designation and a procedure and findings for amending such designations. This chapter also contains the development regulations which apply to commercial agricultural land, including reference to the specific criteria in the Zoning Ordinance (Chapter 13.10) which govern the division of commercial agricultural parcels. Policy regulating divisions of noncommercial agricultural land, requirements pertaining to "buyer beware" notification, and regulations for agricultural buffer setbacks are also established in this chapter. (Ord. 3336, 11/23/82; 3447, 8/23/83)

16. 50. 020 AMENDMENT. Any revision to this chapter which applies to

the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.10 of the County Code, and shall be subject to approval by the California Coastal Commission. (Ord. 3336, 11/23/82; 3447, 8/23/83)

16. 50. 030 DESIGNATION OF AGRICULTURAL LAND TYPES. The Agricultural

Resource lands designated by the County General Plan shall be further classified into the following agricultural land types as shown on the map on file in the Planning Department entitled "Agricultural Resources", and as amended from time to time. These types of agricultural land shall be defined individually and in the aggregate as "Agricultural Resource Land" or "Commercial Agricultural Land". Commercial Agricultural Land also includes all land which is enforceably restricted with a Land Conversation Act Contract for

Agricultural Preserve.

- (a) Type 1A - Viable Agricultural Land
 - (b) Type 1B - Viable Agricultural Land in Utility Assessment Districts
 - (c) Type 2A - Limited Agricultural Lands in Large Blocks
 - (d) Type 2B - Geographically Isolated/Limited Agricultural Lands
 - (e) Type 2C - Limited Agricultural Lands in Utility Assessment Districts
 - (f) Type 2D - Limited Agricultural Lands Experiencing Use Conflicts
 - (g) Type 2E - Vineyard Lands
 - (h) Type 3 - Coastal Zone Prime Agricultural Land
- (Ord. 2621, 1/23/79, 3336, 11/23/82; 3447, 8/23/83; 3602, 11/6/84)

16.50.040 CRITERIA FOR DESIGNATION. The following criteria shall be used to determine into which agricultural land type the commercial agricultural lands of the county will be classified:

- (a) Type 1 Commercial Agricultural Land. This type is for viable agricultural lands outside the Coastal Zone which have been in, or have a history of, commercial agriculture over a long period of time, and are likely to continue to be capable of commercial agricultural use in the foreseeable future.
 - 1. Type 1A - Viable Agricultural Land. Type 1A agricultural lands comprise areas of known high productivity which are not located in any utility assessment district for which bonded indebtedness has been incurred. These lands essentially meet the U. S. Department of Agriculture Soil Conservation Service and the California Department of Food and Agriculture criteria for "prime" and "unique" farmland and "prime" rangeland.
 - 2. Type 1B - Viable Agricultural Land in Utility Assessment Districts. This type includes viable agricultural lands, as defined above, which are within a utility assessment district for which bonded indebtedness has been incurred, except Agricultural Preserves.
- (b) Type 2 Commercial Agricultural Land. This category is for agricultural lands outside the Coastal Zone which would be considered as Type 1A, except for one or more limiting factors,

such as parcel size, topographic conditions, soil characteristics or water availability or quality, which may adversely affect continued productivity or which restrict productivity to a narrow range of crops. Despite such limitations, these lands are considered suitable for commercial agricultural use. Type 2 agricultural lands are currently in agricultural use (on a full-time or part-time basis), or have a history of commercial agricultural use in the last ten years and are likely to continue to be capable of agricultural use for a relatively long period. In evaluating amendments to Type 2 designations the preceding factors, along with adjacent parcel sizes, degree of nonagricultural development in the area and proximity to other agricultural uses, shall be considered in addition to the criteria listed under each individual type below.

1. Type 2A - Limited Agricultural Lands in Large Blocks. These lands are in fairly large blocks, are not in any utility assessment district which has incurred bonded indebtedness, and are not subject to agricultural-residential use conflicts.
 2. Type 2B - Geographically Isolated Agricultural Land with Limiting Factors. This category includes agricultural lands with limiting factors which are geographically isolated from other agricultural areas. These lands are not in a utility assessment district which has incurred bonded indebtedness and are not subject to agricultural-residential use conflicts.
 3. Type 2C - Limited Agricultural Lands in Utility Assessment Districts. This type includes agricultural lands with limiting factors which are in a utility assessment district which has incurred bonded indebtedness.
 4. Type 2D - Limited Agricultural Lands Experiencing Use Conflicts. These are agricultural lands with limiting factors which are experiencing extreme pressure from agricultural-residential land use conflicts such as pesticide application, noise, odor or dust complaints, trespass or vandalism
 5. TYPE 2E' - Vineyard Lands.
- (c) Type 3 - Coastal Zone Prime Agricultural

This category includes all of the following lands outside the Urban Services Line and the Rural Services Line within the Coastal Zone in Santa Cruz County:

1. Land which meets the U. S. Department of Agriculture Soil Conservation Service criteria of prime farmland soils and which are physically available (i.e., open lands not forested or built on) for agricultural use.

2. Land which meets the California Department of Food and Agriculture criteria for prime rangeland soils and which are physically available (i.e., open lands not forested or built on) for agricultural use.
3. Land planted with fruit or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years, and which normally return during the commercial bearing period on an annual basis from the production of unprocessed plant production not less than \$200 per acre; the \$200 per acre value shall be utilized to establish a base value per acre as of 1965. This base value per acre figure shall be adjusted annually in accordance with any change in the San Francisco Bay Area Consumer Price Index to reflect current values.
4. Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than \$200 per acre for three of the five previous years, as provided in subsection 3. above.
5. Land which meets the California Department of Food and Agriculture criteria for unique farmland of statewide importance and which is physically available (i.e., open lands not-forested or built on) for agricultural use.

The criteria for "prime farmland soils", "prime rangeland soils.", and "unique farmland of statewide importance" are further defined in the General Plan and Local Coastal Program Land Use Plan Glossary. (Ord. 2621, 1/23/79; 3336, 11/23/82; 3447, 8/23/83; 4406, 2/27/96; 4416, 6/11/96)

16.50.050 AMENDMENT OF DESIGNATIONS.

- (a) Amendments to the designations of agricultural land types may be initiated by an applicant, the Board of Supervisors, the Planning Commission or the Planning Department. Consideration of such proposals for the addition, removal or change of agricultural land type designations shall be limited to instances where new information has become available regarding the appropriateness of specific designations based on the criteria set forth under Section 16.50.040.
- (b) Applications for approvals granted pursuant to this Chapter shall be made in accordance with the requirements of Chapter 18.10, Level VII.
- (c) Applications to amend the designations of agricultural land types shall be reviewed on an annual basis timed to coincide with the Land Conservation Act/Agricultural Preserve application review process. All proposed amendments shall be subject to a report and environmental review by the Environmental coordinator, a hearing and recommendation by the Agricultural Policy Advi-

sory Commission, and pursuant to Chapter 18.10, Level VII, a public hearing and recommendation by the Planning Commission and a public hearing and final decision by the Board of Supervisors.

(d) The Board of Supervisors, after a public hearing, may approve a proposed amendment, consisting of either the removal or change of a Type 1 or Type 2 designation if it makes the following findings:

1. That there has been new information presented, which was not available or otherwise considered in the original decision to apply a particular designation, to justify the amendment. Such new information may include, but not be limited to, detailed soils analysis, well output records, water quality analysis, or documented history of conflicts from surrounding urban land uses.
2. That the evidence presented has demonstrated that conditions on the parcel(s) in question do not meet the criteria, as set forth in Section 16.50.040 of the Santa Cruz County Code, for the existing agricultural land type designation for said parcel(s).
3. That the proposed amendment will meet the intent and purposes of the Agricultural Land Preservation and Protection Ordinance and the Commercial Agriculture Zone District Ordinance.

(e) The Board of Supervisors may, after a public hearing, approve amendments to remove a Type 3 designation and the subsequent conversion (changing the land use designation from agriculture to nonagriculture uses) of agricultural lands, only if it makes the following findings:

1. That there has been new information presented, which was not available or otherwise considered in the original decisions to apply a particular designation, to justify the amendment. Such new information may include, but not be limited to, detailed soils analysis, well output records, water quality analysis, or documented history of conflicts from surrounding urban land uses; and
2. That the evidence presented has demonstrated that conditions on the parcel(s) in question do not meet the criteria, as set forth in Section 16.50.040 of the Santa Cruz County Code, for the existing agricultural land type designation for said parcel(s); and
3. That the proposed amendment will meet the intent and purposes of the Agricultural Land Preservation and Protection Ordinance and the Commercial Agriculture Zone District Ordinance; and

4. That the viability of existing or potential agricultural use is already severely limited by conflicts with the urban uses; the evaluation of agricultural viability shall include, but not be limited to an economic feasibility evaluation which contains at least:

a) an analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of filing the application.

b) analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of filing application.

5. That the conversion of such land around the periphery of the urban areas (as defined by the Urban Services Line or Rural Service Line) would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development; and

6. That the conversion of such land would not impair the viability of other agricultural lands in the area.

(f) Any amendment to eliminate or add a Type 1, Type 2 or Type 3 agricultural land designation constitutes a change in the County General Plan and must be processed concurrent with a General Plan amendment. Any amendment of a Type 3 designation also constitutes a change in the Local Coastal Program Land Use Plan which must be processed concurrently with a Land Use Plan amendment subject to approval by the State Coastal Commission. (Ord. 2621, 1/23/79; 2677, 5/15/79; 2800, 10/30/79; 3336, 11/23/82; 3447, 8/23/83; 3685, 10/1/85; 4416, 6/11/96)

16. 50. 060 FEES. Fees' for applications to amend designations of

 agricultural land types shall be set by resolution of the Board of Supervisors. (Ord. 2621, 1/23/79; 2677, 5/15/79; 2800, 10/30/79; 3336, 11/23/82; 3447, 8/23/83)

16. 50. 070 PRESERVATION OF TYPE 1 AGRICULTURAL LANDS.

(a) Lands designated as Type 1 agricultural land shall be maintained in the Commercial Agriculture ('CA') Zone District, or if within a Timber Preserve, be maintained in the Timber Preserve ("TP") Zone District, or if within a public park, be

maintained in the Parks and Recreation ("PR") Zone District. The following parcels, designated as Type 1 agricultural land, shall be maintained in the Agricultural Preserve ("AP") Zone District: Assessors Parcel Numbers 86-281-07, 86-281-24. Type 1 land shall not be rezoned to any other zone district unless the Type 1 designation is first removed pursuant to Section 16.50.050.

(b) Santa Cruz County shall not approve land division applications for parcels within the Type 1 designation except where it is shown, pursuant to Section 13.10.315 of the Santa Cruz County Code, that such divisions will not hamper or discourage long-term commercial agricultural operations.

(c) Santa Cruz County shall not approve or support expansion of sewer or water district boundaries, or expansion of municipal boundaries, onto Type 1 agricultural lands. (Ord. 2621, 1/23/79; 2677, 5/15/79; 2983, 9/2/80; 3336, 11/23/82; 3447, 8/23/83)

16.50.075 PRESERVATION OF TYPE 2 AGRICULTURAL LANDS.

(a) Lands designated as Type 2 agricultural land shall be maintained in the Commercial Agriculture ("CA") Zone District, or if within a Timber Preserve, be maintained in the Timber Preserve ("TP") Zone District, or if within a public park, be maintained in the Parks and Recreation ("PR") Zone District. Type 2 land shall not be rezoned to any other zone district unless the Type 2 designation is first removed pursuant to Section 16.50.050.

(b) Santa Cruz County shall not approve land division applications for parcels with a Type 2 designation except where it is shown, pursuant to Section 13.10.315 of the Santa Cruz County Code, that the viability of the land for commercial agricultural use will not be reduced by such land division. (Ord. 2621, 1/23/79; 2677, 5/15/79; 2813, 11/20/79; 2983, 9/2/80; 3336, 11/23/82; 3447, 8/23/83)

16.50.080 PRESERVATION OF TYPE 3 AGRICULTURAL LANDS.

(a) Lands designated as Type 3 agricultural land shall be maintained in the Commercial Agriculture ("CA") Zone District, or if within a Timber Preserve, be maintained in the Timber Preserve ("TP") Zone District., or if within a public park, be maintained in the Parks and Recreation ("PR") Zone District. The following parcels, designated as Type 3 agricultural land, shall be maintained in the Agricultural Preserve ("AP") Zone District: Assessor's Parcels Number 46-021-05, 54-261-05, 57-121-25, 57-201-13. Type 3 land shall not be rezoned to any other zone district unless the Type 3 designation is first removed pursuant to Section 16.50.050.

1. Potential use of the "removed" parcel will not adversely impact the agricultural activities of the larger area; and
2. There is little likelihood for subsequent intrusion of nonagricultural development into larger, exclusively agricultural areas; and
3. The "removed" property is at the edge of an agricultural area and is physically separated from the adjacent agriculture by topographic features, extensive vegetation, or physical structures; or the nonagricultural land is part of an agricultural parcel which exists separately from other agricultural areas; and
4. A cancellation petition is filed, prior to filing of the final map, for the "removed" parcel when the property is subject to a Land Conservation Act contract.

(c) The division of land designated for agricultural land use on the Local Coastal Program Land Use Plan but not designated as Type 3 agricultural land shall be permitted only to minimum parcel sizes in the range of 10 to 40 acres per parcel based on Chapter 13.14 of the Santa Cruz County Code pertaining to rural residential density requirements and only where:

1. It is documented that renewed or continued agricultural use of such land is not feasible; and
2. It is documented that such land does not meet the criteria for Type 3 agricultural land as defined in Section 16.50.040 (c); and
3. It is shown that such division will not hamper or discourage long-term agricultural use of adjacent lands; and
4. Adequate building setbacks can be maintained to buffer adjacent agricultural activities; and
5. The owner and residents of the subject property have executed a hold harmless agreement with the adjacent agricultural operators and owners. (Ord. 3336, 11/23/82; 3447, 8/23/83; 3602, 11/6/84; 3845, 6/23/87)

(d) Notwithstanding any other provision of this code, property inside the Coastal Zone with a minimum parcel size of 40 acres may have that portion of the land without a Type 3 designation divided from that portion with such a designation only when:

1. The division is for a public purpose on land in public ownership; and
2. Potential use of the "removed" parcel will not adversely impact the agricultural activities of the larger areas;

3. There is little likelihood for subsequent intrusion of nonagricultural development into larger, exclusively agricultural areas; and
4. The "removed" property is at the edge of an agricultural area and is physically separated from the adjacent agriculture by topographic features, extensive vegetation, or physical structures; or the nonagricultural land is part of an agricultural parcel which exists separately from other agricultural areas. (Ord. 3845, 6/23/87; 4406, 2/27/96; 4416, 6/11/96)

16.50.090 PUBLIC NOTIFICATION REQUIREMENTS.

(a) A person who is acting as an agent for a seller of real property which is located adjacent to agricultural land, as designated on the Agricultural Resources Map of the County, or the seller if he or she is acting without an agent, shall disclose to the prospective purchaser that:

"The property is located adjacent to agricultural land as designated on the Agricultural Resources Map of the County, and residents of the property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides and fertilizers; and from the pursuit of agricultural operations including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. The County has established a 200 foot agricultural buffer setback on the herein described property to separate agricultural parcels and non-agricultural uses involving habitable spaces to help mitigate these conflicts. Any development on this property must provide a buffer and setback as specified in County Code. Santa Cruz County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations."

(b) The following statement shall be included in any deposit receipt for the purchase of real property adjacent to agricultural land, as designated on the Agricultural Resources Map of the County, and shall be included in any deed conveying the property:

"The property described herein is adjacent to land utilized for agricultural purposes and residents of said property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides and fertilizers; and from the pursuit of agricultural operations including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. The County has

established a 200 foot agricultural buffer setback on the herein described property to separate agricultural parcels and non-aaricultural uses involving habitable spaces to help

ATTACHMENT 5
ATTACHMENT D.

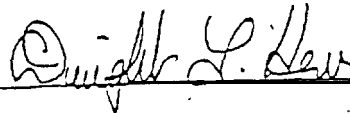
Mr. Michael E. Jani Forester
Page 3
August 13, 1997

521

operations will be subject to County zoning regulations is the item before the Board on August 19th.

Very truly yours,

DWIGHT L. HERR, COUNTY COUNSEL



c c : Board of Supervisors
Tom Burns, Acting Planning Director
Susan Mauriello, CAO

2. Evidence that the above statement has been made part of the parcel deed. (Ord. 2621, 1/23/79; 3336, 11/23/82; 3447, 8/23/83; 3750, 4/22/86)

16.50.095 AGRICULTURAL BUFFER SETBACKS.

- (a) The purpose of the agricultural buffer setback requirements is to prevent or minimize potential conflicts between either existing or future commercial agricultural and habitable land uses (i.e., residential, recreational, institutional, commercial or industrial). This buffer is designed to provide a physical barrier to noise, dust, odor, and other effects which may be a result of normal commercial agricultural operations such as: plowing, discing, harvesting, spraying or the application of agricultural chemicals and animal rearing.
- (b) All development for habitable uses within 200 feet of the property line of any parcel containing Type 1, Type 2, or Type 3 Commercial Agricultural land shall:
1. Provide and maintain a 200 foot buffer setback between Type 1, Type 2 or Type 3 commercial agricultural land and non-agricultural uses involving habitable spaces, including dwellings, habitable accessory structures and additions thereto; and commercial, industrial, recreational, or institutional structures, and their outdoor areas designed for public parking and intensive human use. For the purposes of this Section, outdoor areas designed for intensive human use shall be defined as surfaced ground areas or uncovered structures designed for a level of human use similar to that of a habitable structure. Examples are dining patios adjacent to restaurant buildings and private swimming pools. The 200 foot agricultural buffer setback shall incorporate vegetative or other physical barriers as determined necessary to minimize potential land use conflicts.
 2. Provide and maintain a buffer setback distance of at least 200 feet where the subdivision of land results in residential development at net densities of one or more dwelling units per acre adjacent to Type 1, Type 2, Type 3 Commercial Agricultural land, with vegetative screening or other physical barriers as appropriate.
 3. Comply with Sections 16.50.090(c) and/or 14.01.407.5 of the Santa Cruz County Code pertaining to recording deed notices of adjacent agricultural use. Such deed notice shall contain a statement acknowledging the required permanent provision and maintenance of the agricultural buffer setbacks and any required barriers (e.g., fencing or vegetative screening).

2. Permanent substantial vegetation ('such as, a Riparian Corridor or Woodland protected by the County's Riparian Corridor or Sensitive Habitat Ordinances) or other physical barriers exist between the agricultural and non-agricultural uses which eliminate or minimize the need for a 200 foot agricultural buffer setback; or
 3. A lesser setback distance is found to be adequate to prevent conflicts between the non-agricultural development and the adjacent agricultural development and the adjacent agricultural land, based on the establishment of a physical barrier (unless it is determined that the installation of a barrier will hinder the affected agricultural use more than it would help it, or would create a serious traffic hazard on a public or private right-of-way) or the existence of some other factor which effectively supplants the need for a 200 foot agricultural buffer setback.
 4. The imposition of a 200 foot agricultural-buffer setback would preclude building on a parcel of record as of the effective date of this chapter, in which case a lesser buffer setback distance may be permitted, provided that the maximum possible setback distance is required, coupled with a requirement for a physical barrier (e.g., solid fencing and/ or vegetative screening) to provide the maximum buffering possible, consistent with the objective of permitting building on a parcel of record.
- (e) In the event that an agricultural buffer setback reduction is proposed and the proposed non-agricultural development is located on Type 1, Type 2 or Type 3 commercial agricultural land, the non-agricultural development shall be sited so as to minimize possible conflicts between the agricultural land use located on the subject parcel; and the non-agricultural development shall be located so as to remove as little land as possible' from production or potential production.
- (f) Notwithstanding the provisions of Section 16.50.095(b), farm labor housing developments located on Type 1, Type 2, or Type 3 commercial agricultural land shall provide a buffer between habitable structures and outdoor areas designed for human use and areas engaged in agricultural production located on the same parcel. Said buffer shall be 200 feet if feasible; and if a 200 foot buffer is not feasible, then the maximum buffering possible shall be provided, utilizing physical barriers, vegetative screening and other techniques as appropriate.
- (g) Proposals to reduce the required 200 foot agricultural buffer' setback for additions to existing residential construction (dwellings, habitable accessory structures and private recreational facilities) and for the placement of agricultural caretakers' mobile homes on agricultural parcels shall be processed as a Level 4 application by Planning Department staff as specified in Chapter 18.10 of the County Code with the exception that:
1. A notice that an application to reduce the buffer setback has been made shall be given to all members of the Agricultural Policy Advisory Commission at least 10 calendar days prior to the

- (c) Outside of the Coastal Zone, notwithstanding the provisions of Section 16.50.095(b) an agricultural buffer setback distance of less than 200 feet may be established for subdivision developments involving habitable uses on proposed parcels adjacent to lands designated as an Agricultural Resource by the County's General Plan maps, provided that,
1. The proposed land division site is:
 - (a) Located within the Urban Services Line,
 - (b) Suitable for development at buildout level within the carrying capacity of the area; and
 2. The Agricultural Policy Advisory Commission (APAC) finds that one or more of the following special circumstances exist:
 - (a) Significant topographic differences exist between the agricultural and non-agricultural uses which minimize or eliminate the need for a 200 foot setback; or
 - (b) Permanent substantial vegetation (such as, a Riparian Corridor or Woodland permanently protected by the County's Riparian Corridor or Sensitive Habitat Ordinances) or other physical barriers exist between the agricultural and non-agricultural uses which minimize or eliminate the need for a 200 foot setback; or
 - (c) The imposition of the 200 foot agricultural buffer setback would, in a definable manner, hinder: infill development or the development of a cohesive neighborhood, or otherwise, create a project incompatible with the character and setting of the existing surrounding residential development; and
 3. APAC determines the need for agricultural buffering barriers based upon an analysis of the adequacy of the existing buffering barriers, the density of the proposed land division and the proposed setback reduction, in the event that APAC finds that one or more of the above special circumstances exist; and
 4. The approving body finds that the proposed reduction of the agricultural buffer setback(s) will not hinder or adversely affect the agricultural use of the commercial agricultural lands located within 200 feet of the proposed development,
- (d) Notwithstanding the provisions of Section 16.50.095(b) an agricultural setback distance of less than 200 feet may be established for developments involving habitable uses on existing parcels of record when one of the following findings are made in addition to the required finding in Section 16.50.095(e):
1. Significant topographic differences exist between the agricultural and non-agricultural uses which eliminates or minimizes the need for a 200 foot agricultural buffer setback; or

issuance of a pending action on an Agricultural Buffer Determination; and

2. Where a reduction in the buffer setback is proposed, the required notice of pending action shall be provided to the applicant, to all members of the Agricultural Policy Advisory Commission, to owners of commercial agricultural land within 300 feet of the project location, and to members of the Board of Supervisors, not less than 10 days prior to the issuance of the permit. There shall not be a minimum number of property owners required to be noticed; and
 3. Buffer Determinations made by Planning Department staff are appealable by any party directly to the Agricultural Policy Advisory Commission. Such appeals shall include a letter from the appellant explaining the reason for the appeal and the current administrative appeal processing fee.
- (h) All other proposals to reduce the agricultural buffer setback shall be processed as a Level 5 application as specified in Chapter 18.10 of the County Code with the exception that:
1. The required notice that an application has been made to reduce the agricultural buffer setback shall be provided only to owners of commercial agricultural land within 300 feet of the proposed project, not less than 10 days prior to the public hearing scheduled to consider the project. There shall not be a minimum number of property owners required to be noticed; and
 2. All determinations shall be made by the Agricultural Policy Advisory Commission at a scheduled public hearing.
- (i) An agricultural buffer setback shall not be required for repair or reconstruction of a structure damaged or destroyed as the result of a natural disaster for which a local emergency has been declared by the Board of Supervisors, when:
1. the structure, after repair or reconstruction; will not exceed the floor area, height or bulk of the damaged or destroyed structure by 10%, and
 2. the new structure will be located in substantially the same location, but no closer to the agricultural land than was the original structure.

(Ord. 2677, 5/15/79; 2813, 11/20/79; 3336, 11/23/82; 3447, 8/23/83; 4037, 12/5/89; 4284, 12/14/93; 4311, 5/24/94)

16.50.100 APPEALS.

(a) Any property owner or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Agricultural Policy Advisory Commission under the provisions of this chapter, may appeal the act or determination to the Board of Supervisors in accordance with Chapter 18.10 of the Santa Cruz County Code. For this purpose the procedure therein set forth is incorporated herein and made a part of this chapter.

(b) If any act or determination of the Agricultural Policy Advisory Commission in question is incorporated as part of the terms or conditions of a discretionary permit or other discretionary approval for which another appeal is provided, then such act or determination of the Agricultural Policy Advisory Commission shall be considered as part of the appeal on the discretionary permit or other discretionary approval. Within the Coastal Zone, such appeals shall also be subject to the provisions of Chapter 13.20 of the Santa Cruz County Code pertaining to Coastal Zone Permit procedures. (Ord. 2621, 1/23/79; 3336, 11/23/82; 3447, 8/23/83)

16. 50. 110 AGRICULTURAL POLICY ADVISORY COMMISSION HEARING NOTICES.

 Notice of hearings held by the Agricultural Policy Advisory Commission pursuant to Section 16.50.050 shall be given in accordance with Chapter 18.10, Level IV. (Ord. 3336, 11/23/82; 3447, 8/23/83)

16. 50. 115 VIOLATIONS.

It shall be unlawful for any person whether as owner, principal, agent or employee or otherwise to perform an action or allow a situation to continue that violates the provisions of this chapter or violates any conditions of agricultural buffer setback determinations required pursuant to this Chapter. (Ord. 3750, 4/22/86; 4392A, 4/2/96)