



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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

March 26, 2002

AGENDA: April 9, 2002

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

PUBLIC HEARING TO CONSIDER ORDINANCE ESTABLISHING PROCEDURES FOR CONSIDERING REQUESTS FOR REASONABLE ZONING AND BUILDING CODE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

Members of the Board:

Your Board is being asked to consider a proposed ordinance to create a process for reviewing requests for “reasonable accommodation”. The term “reasonable accommodation” refers to the requirements of the Fair Housing Act and the California Fair Employment and Housing Act that local governments make reasonable accommodations (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for persons with disabilities. The proposed ordinance (Attachment 2), to be incorporated in Chapter 18.10 of the County Code, includes a list of required information for submittal of a request for “reasonable accommodation”, noticing of adjacent property owners, findings/grounds for reviewing the request and an appeal process.

Background:

On June 5, 2001, your Board, on the recommendation of Supervisor Campos, directed County Counsel and the Planning Director to report back to your Board with a report regarding the development of ordinance language to create a process for reviewing requests for “reasonable accommodation.” The recommendation by Supervisor Campos was the result of a letter from Attorney General Bill Lockyer requesting that the County implement a procedure to consider requests for reasonable accommodation (Attachment 4). Planning staff and County Counsel researched the issue, and presented a report to your Board on August 21, 2002 (Attachment 4), which included a preliminary “reasonable accommodations” ordinance. On August 21, 2001, your Board considered the preliminary ordinance and directed staff to process the ordinance through the Disabilities Commission and Planning Commission.

Proposed Ordinance:

The proposed ordinance, which would be incorporated in Chapter 18.10 of the County Code, includes a list of the required information for a submittal of a request for “reasonable accommodation”, requirements for noticing of adjacent property owners, findings/grounds for reviewing the request, and an appeal process. The proposed ordinance provides that a person with disabilities, or their representative, may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County, at any time that the accommodation may be necessary to ensure equal access to housing. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the proposed ordinance states that the Planning Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. **If** the project for which the request is being made also requires some other planning permit or approval, the proposed ordinance provides that the applicant can file the request together with the application for such permit or approval.

The proposed ordinance requires that all improvements constructed under the auspices of the ordinance be removed upon the vacation of the unit by the person to whom the reasonable accommodation was granted, unless it is determined that the unit has been re-occupied by a qualified person, or if it is determined by the County of Santa Cruz that the removal of the improvement is not readily achievable. For example, removal of something like a front door access ramp might be considered “readily achievable”, whereas something like a structural addition to a bathroom would not be so considered and thus would not have to be removed.

Discussion:

As noted above, the term “reasonable accommodation” refers to the requirements of the Fair Housing Act and the California Fair Employment and Housing Act that local governments make reasonable accommodations (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for persons with disabilities. The Federal and State laws have numerous exceptions and much legal terminology, but the underlying goal of this legislation is to promote the bending of oftentimes rigid zoning regulations to allow persons with disabilities to occupy housing that they could not occupy without the accommodation. Usually, these accommodations involve such things as reducing the required yard setbacks to permit the construction of a ramp for wheelchair access or to permit the expansion of bathroom facilities to meet the specifications for disabled access. Other types of accommodations could include increasing the number of residents in a care facility and allowing more than 50% of a front yard to be paved to allow for accessible parking.

Two California communities have adopted ordinances that create procedures to consider requests for reasonable accommodation. Staff has obtained the ordinances from these two California cities (San Jose and Long Beach) and they are included as attachments to the attached to the August 21, 2001 Board letter (Attachment 4). The San Jose ordinance (Exhibit B of Attachment 4) is similar to our Level **IV** review in that there it is an administrative decision and public notice is given of both the request for the reasonable accommodation and the proposed decision on the request. However, notice is only provided to adjacent property owners. If an appeal hearing is requested, the Planning

Director conducts the hearing (again, similar to our Level IV appeal). The ordinance also includes a list of required information and establishes the grounds for considering the accommodation.

The Long Beach ordinance (Attachment 4) designates the Zoning Officer or Building Official, as appropriate, as the entity charged with reviewing requests for reasonable accommodation. The decision must be supported by specific findings relating to the property. The Long Beach ordinance does not require noticing of the public of the request nor does the public have the ability to appeal the decision. Appeals by the applicant are considered by the Planning Commission. In addition, this ordinance creates a separate process for the consideration of requests for increased occupancy of group homes. The ordinance waives fees for all requests for reasonable accommodation, except for those associated with increased occupancy of group homes.

The only reference to a form of reasonable accommodation in the Santa Cruz County Code Section 13.10.265(d)3 includes a provision which allows alterations to nonconforming, historic properties to facilitate access by persons with disabilities. The remainder of the existing Santa Cruz County Code does not contain a procedure for considering requests for reasonable consideration.

Conclusion and Recommendation:

In order to comply with Federal and State regulations, the County should enact an ordinance amendment that provides a procedure for considering requests for reasonable accommodations. Staff has prepared a draft ordinance for review by your Board (Attachment 2) which follows an approach similar to San Jose's ordinance. This ordinance, to be incorporated in Chapter 18.10 of the County Code, includes a list of required information for submittal of a request, noticing of adjacent property owners, findings/grounds for reviewing the request and an appeal process.

The proposed ordinance was considered by the County's Commission on Disabilities on February 11, 2002. Several changes to the draft proposed Reasonable Accommodations ordinance, which were suggested at that meeting, were incorporated into the draft the Planning Commission considered at their February 27, 2002 meeting. At their February 27, 2002 meeting, the Planning Commission considered the proposed Reasonable Accommodations ordinance, as revised by the Commission on Disabilities, and recommended its adoption by your Board.

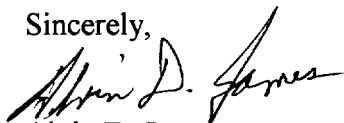
The proposed ordinance has been found by Planning Department staff to be categorically exempt from CEQA and a CEQA Categorical Exemption form has been prepared (Attachment 3).

It is, therefore, RECOMMENDED that your Board:

1. Adopt the attached Resolution Amending County Code Chapter 18.10 to establish procedures for considering requests for reasonable zoning and building code accommodations for persons with disabilities (Attachment 1); and
2. Adopt the attached Ordinance Amending County Code Chapter 18.10 to establish procedures for considering requests for reasonable zoning and building code accommodations for persons with disabilities (Attachment 2); and
3. Certify the CEQA Exemption (Attachment 3); and

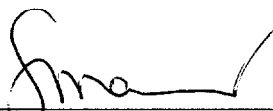
4. Direct the Planning Department to transmit the amendments to the California Coastal Commission as a Local Coastal Program Implementation Plan amendment for their approval and certification.

Sincerely,



Alvin D. James
Planning Director

RECOMMENDED



Susan A. Mauriello
County Administrative Officer

ATTACHMENTS:

1. Resolution Recommending Amendment to County Code Chapter 18.10 to establish procedures for considering requests for reasonable zoning and building code accommodations for persons with disabilities

Exhibit 1-A: Proposed Ordinance Amending County Code Chapter **18.10** to establish procedures for considering requests for reasonable zoning and building code accommodations for persons with disabilities
2. Ordinance Amending County Code Chapter 18.10 to establish procedures for considering requests for reasonable zoning and building code accommodations for persons with disabilities
3. CEQA Exemption
4. Letter of August 8, 2001 from Alvin James, Planning Director, to the Board of Supervisors
5. Commission on Disabilities Resolution
6. Minutes of Commission on Disabilities Meeting of February 11, 2002
7. Commission on Disabilities staff report
8. Planning Commission Resolution
9. Minutes of Planning Commission Meeting of February 27, 2002
10. Planning Commission staff report

cc: Andrea Smith, Commission on Disabilities

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

RESOLUTION NO. _____

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

RESOLUTION ESTABLISHING PROCEDURES FOR CONSIDERING REQUESTS FOR
REASONABLE ZONING AND BUILDING CODE ACCOMMODATIONS FOR PERSONS
WITH DISABILITIES

WHEREAS, the Fair Housing Act and the California Fair Employment and Housing Act require that local governments make “reasonable accommodations” (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for persons with disabilities; and

WHEREAS, the underlying goal of this legislation is to allow persons with disabilities to occupy housing that they could not occupy without the accommodation; and

WHEREAS, “reasonable accommodations” involve such things as reducing the required yard setbacks to permit the construction of a ramp for wheelchair access, or to permit the expansion of bathroom facilities to meet the specifications for disabled access, or increasing the number of residents in a care facility, or allowing more than 50% of a front yard to be paved to allow for accessible parking; and

WHEREAS, the County received a letter from Attorney General Bill Lockyer requesting that the County implement a procedure to consider requests for reasonable accommodation; and

WHEREAS, in order to comply with Federal and State regulations, an ordinance amendment has been proposed that provides a procedure for considering requests for reasonable accommodations; and

WHEREAS, the proposed ordinance was considered and recommended for approval by the County’s Commission on Disabilities at their February 11, 2002 meeting; and

WHEREAS, the proposed ordinance was considered and recommended for approval by the County’s Planning Commission at their February 27, 2002 meeting; and

WHEREAS, the proposed ordinance has been found to be categorically exempt from the California Environmental Quality Act (CEQA), and consistent with the provisions of CEQA and the County of Santa Cruz Environmental Review Guidelines.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Board of Supervisors approves the proposed amendments to Chapter 18.10 of the County Code to establish procedures for considering requests for reasonable zoning and building code accommodations for disabled persons, as set forth in Exhibit I-A, and the CEQA Categorical Exemption, incorporated herein by reference,

Attachment 1

and authorizes their submittal to the California Coastal Commission as part of the next round of LCP Amendments.

BE IT FURTHER RESOLVED AND ORDERED that these amendments will become effective upon certification by the California Coastal Commission.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 2002 by the following vote:

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

 Chairperson of the Board of Supervisors

ATTEST: _____
 Clerk of the Board of Supervisors

APPROVED AS TO FORM: 

 County Counsel

cc: County Counsel
 Planning Department

Exhibits:

1-A: Proposed Ordinance amending County Code Chapter 18.10 to establish procedures for considering requests for reasonable zoning and building code accommodations for persons with disabilities

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 18.10
OF THE SANTA CRUZ COUNTY CODE CREATING A PROCEDURE FOR
CONSIDERING REQUESTS FOR REASONABLE ACCOMMODATION**

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

SECTION I

Chapter 18.10 of the Santa Cruz County Code is hereby amended to read as follows:

18.10.128 Requests for Reasonable Accommodation

(a) Purpose

It is the policy of the County of Santa **Cruz**, pursuant to the Federal Fair Housing Amendments Act of **1988**, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Section is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.

(b) Requesting Reasonable Accommodation

1. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.
2. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing.
3. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant shall be entitled to be represented at all stages of the proceeding by a person designated by the applicant.

EXHIBIT 1-A

4. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(c) Required Information

All requests for reasonable accommodation shall include the following information:

1. Applicant's name, address and telephone number;
2. Assessor's Parcel Number and address of the property for which the request is being made;
3. The current actual use of the property;
4. The code provision, regulation or policy from which accommodation is being requested;
5. Verification of the claim that the individual is considered disabled under the federal Fair Housing Act or the California Fair Employment and Housing Act and a brief description of why the accommodation is necessary to make the specific housing available to the individual;

(d) Notice of Request for Accommodation

Written notice of a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.
2. In the event that the request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(e) Required Findings

The following findings must be analyzed, made and adopted before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record of the proceeding relating to such approval or denial:

1. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Federal Fair Housing Act of **1988** or the California Fair Employment and Housing Act.
2. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Federal Fair Housing Amendments Act of **1988** or the California Fair Employment and Housing Act.

EXHIBIT 1-A

3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the County.
4. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the County.
5. The requested accommodation will not deprive adjacent properties of light, air and open space consistent with the intent of the Zoning Ordinance.

(f) Jurisdiction

1. The Planning Director, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation. The Planning Director shall designate the Chief Building Official to act on his/her behalf for requests that involve reasonable accommodations to the Building Code. When a request for reasonable accommodation is filed with the Department, it will be referred to the Planning Director, or his/her designee, for review and consideration. The Planning Director shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, or (3) deny the request. All written determinations shall give notice of the right to appeal.
2. If necessary to reach a determination on the request for reasonable accommodation, the Planning Director may request further information from the applicant consistent with this Section, specifying in detail what information is required. In the event a request for further information is made, the thirty (30) day period to issue a written determination shall be stayed until the applicant responds to the request.

(g) Notice of Proposed Decision

1. Notice of the proposed decision shall be made in the same manner as provided above.
2. Within fourteen (14) days of the date the notice is mailed, any person may make a request for a Planning Director's review of a proposed decision.
3. If no request for review is received the proposed decision shall become a final director's decision.

(h) Director's Review

The Planning Director shall conduct a review hearing on the request for reasonable accommodation at which all evidence and testimony shall be considered.

EXHIBIT 1-A

(i) Notice of Director's Decision.

1. Within thirty (30) days after the hearing, the Planning Director shall issue a decision granting the request, including any reasonable conditions, or denying the request.
2. The notice of decision shall contain the Planning Director's factual findings, conclusions and reasons for the decision.
3. The notice of decision shall be made in the same manner as set forth in the previous section.

(j) Removal of Improvement

All improvements constructed under the auspices of this section shall be removed upon the vacation of the unit by the person to whom the reasonable accommodation was granted unless it is determined that the unit has been re-occupied by a qualified person, or if it is determined by the County of Santa Cruz that the removal of the improvement is not readily achievable.

SECTION II

This ordinance shall take effect on the 31st day after the date of final passage outside the Coastal Zone, and upon certification by the California Coastal Commission within the Coastal Zone.

PASSED AND ADOPTED this ____ day of _____, 2002, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson of the Board of Supervisors

ATTESTED: _____

Clerk of the Board

APPROVED AS TO FORM: _____


County Counsel

DISTRIBUTION: County Counsel, Planning, CAO

ATTACHMENT 2

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 18.10
OF THE SANTA CRUZ COUNTY CODE CREATING A PROCEDURE FOR
CONSIDERING REQUESTS FOR REASONABLE ACCOMMODATION**

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

SECTION I

Chapter 18.10 of the Santa Cruz County Code is hereby amended to read as follows:

18.10.128 Requests for Reasonable Accommodation

(a) Purpose

It is the policy of the County of Santa Cruz, pursuant to the Federal Fair Housing Amendments Act of **1988**, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Section is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.

(b) Requesting Reasonable Accommodation

1. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.
2. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing.
3. If **an** individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant shall be entitled to be represented at all stages of the proceeding by a person designated by the applicant.

ATTACHMENT 2

4. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(c) Required Information

All requests for reasonable accommodation shall include the following information:

1. Applicant's name, address and telephone number;
2. Assessor's Parcel Number and address of the property for which the request is being made;
3. The current actual use of the property;
4. The code provision, regulation or policy from which accommodation is being requested;
5. Verification of the claim that the individual is considered disabled under the federal Fair Housing Act or the California Fair Employment and Housing Act and a brief description of why the accommodation is necessary to make the specific housing available to the individual;

(d) Notice of Request for Accommodation

Written notice of a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.
2. In the event that the request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(e) Required Findings

The following findings must be analyzed, made and adopted before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record of the proceeding relating to such approval or denial:

1. The housing, which is the subject of the request for reasonable accommodation, will be used by **an** individual protected under the Federal Fair Housing Act of 1988 or the California Fair Employment and Housing Act.
2. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Federal Fair Housing Amendments Act of 1988 or the California Fair Employment and Housing Act.

ATTACHMENT 2

3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the County.
4. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the County.
5. The requested accommodation will not deprive adjacent properties of light, air and open space consistent with the intent of the Zoning Ordinance.

(f) Jurisdiction

The Planning Director, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation. The Planning Director shall designate the Chief Building Official to act on his/her behalf for requests that involve reasonable accommodations to the Building Code. When a request for reasonable accommodation is filed with the Department, it will be referred to the Planning Director, or his/her designee, for review and consideration. The Planning Director shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, or (3) deny the request. All written determinations shall give notice of the right to appeal.

2. If necessary to reach a determination on the request for reasonable accommodation, the Planning Director may request further information from the applicant consistent with this Section, specifying in detail what information is required. In the event a request for further information is made, the thirty (30) day period to issue a written determination shall be stayed until the applicant responds to the request.

(g) Notice of Proposed Decision

1. Notice of the proposed decision shall be made in the same manner as provided above
2. Within fourteen (14) days of the date the notice is mailed, any person may make a request for a Planning Director's review of a proposed decision.
3. If no request for review is received the proposed decision shall become a final director's decision..

(h) Director's Review

The Planning Director shall conduct a review hearing on the request for reasonable accommodation at which all evidence and testimony shall be considered.

ATTACHMENT 2

(i) Notice of Director's Decision.

1. Within thirty (30) days after the hearing, the Planning Director shall issue a decision granting the request, including any reasonable conditions, or denying the request.
2. The notice of decision shall contain the Planning Director's factual findings, conclusions and reasons for the decision.
3. The notice of decision shall be made in the same manner as set forth in the previous section.

(j) Removal of Improvement

All improvements constructed under the auspices of this section shall be removed upon the vacation of the unit by the person to whom the reasonable accommodation was granted unless it is determined that the unit has been re-occupied by a qualified person, or if it is determined by the County of Santa Cruz that the removal of the improvement is not readily achievable.

SECTION II

This ordinance shall take effect on the 31st day after the date of final passage outside the Coastal Zone, and upon certification by the California Coastal Commission within the Coastal Zone.

PASSED AND ADOPTED this ____ day of _____, 2002, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES:

NOES:

ABSENT:


ABSTAIN:

Chairperson of the Board of Supervisors

ATTESTED: _____

Clerk of the Board

APPROVED AS TO FORM: _____


County Counsel

DISTRIBUTION: County Counsel, Planning, CAO

**NOTICE OF EXEMPTION FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Attachment 3

0931

The County of Santa Cruz has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15329 of CEQA for the reason(s) which have been checked on this document.

Application No. *N/A*

Assessor Parcel No. *N/A*

Project Location: *Countywide*

Project Description: ***Proposed Ordinance Establishing Procedures for Considering Requests for Reasonable Zoning and Building Code Accommodations for Disabled Persons***

Person or Agency Proposing Project: ***Santa Cruz County Planning Department***

Phone Number: ***(831) 454-3183***

A. _____ The proposed activity is not a project under CEQA Guidelines, Sections 1928 and 501.

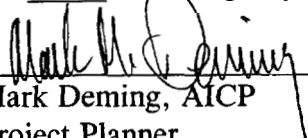
B. _____ Ministerial Project involving only the use of fixed standards or objective measurements without personal judgement.

c. **X** _____ Statutory Exemption other than a Ministerial Project.
Specify type:

D. Categorical Exemption

- | | |
|---|--|
| _____ 1. Existing Facility | _____ 17. Open Space Contracts or Easements |
| _____ 2. Replacement or Reconstruction | _____ 18. Designation of Wilderness Areas |
| _____ 3. New Construction of Small Structure | _____ 19. Annexation of Existing Facilities/Lots for Exempt Facilities |
| _____ 4. Minor Alterations to Land | _____ 20. Changes in Organization of Local Agencies |
| <u>X</u> 5. Alterations in Land Use Limitations | _____ 21. Enforcement Actions by Regulatory Agencies |
| _____ 6. Information Collection | _____ 22. Educational Programs |
| _____ 7. Actions by Regulatory Agencies for Protection of the Environment | _____ 23. Normal Operations of Facilities for Public Gatherings |
| _____ 8. Actions by Regulatory Agencies for Protection of Nat. Resources | _____ 24. Regulation of Working Conditions |
| _____ 9. Inspection | _____ 25. Transfers of Ownership of Interests in Land to Preserve Open Space |
| _____ 10. Loans | |
| _____ 11. Accessory Structures | _____ 26. Acquisition of Housing for Housing Assistance Programs |
| _____ 12. Surplus Govt. Property Sales | _____ 27. Leasing New Facilities |
| _____ 13. Acquisition of Land for Wildlife Conservation Purposes | _____ 28. Small Hydroelectric Projects at Existing Facilities |
| _____ 14. Minor Additions to Schools | _____ 29. Cogeneration Projects at Existing Facilities |
| _____ 15. Minor Land Divisions | |
| _____ 16. Transfer of Ownership of Land to Create Parks | |

E. _____ Lead Agency Other Than County: _____



Mark Deming, AICP
Project Planner

Date: _____



County of Santa Cruz 0251

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTACRUZ, CA 95060

(831)454-2580 FAX: (831)4562131 TDD: (831)454-2123

ALVIN D. JAMES, DIRECTOR

August 8, 2001

AGENDA: August 21, 2001

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

REPORT ON A REASONABLE ACCOMMODATION REVIEW PROCESS

Members of the Board:

On June 5, 2001, your Board, on the recommendation of Supervisor Campos, directed County Counsel and the Planning Director to report back on this date with report regarding the development of ordinance language to create a process for reviewing requests for "reasonable accommodation." The recommendation by Supervisor Campos was the result of a letter from Attorney General Bill Lockyer requesting that the County implement a procedure to consider requests for reasonable accommodation (Attachment 1). Planning staff and County Counsel have researched the issue, and the following information and recommendations have been prepared for consideration by your Board.

The term "reasonable accommodation" refers to the requirements of the Fair Housing Act and the California Fair Employment and Housing Act that local governments make reasonable accommodations (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for disabled persons. The Federal and State laws have numerous exceptions and much legal terminology, but the underlying goal of this legislation is to promote the bending of oftentimes rigid zoning regulations to allow disabled persons to occupy housing that they could not occupy without the accommodation. Usually, these accommodations involve such things as reducing the required yard setbacks to permit the construction of a ramp for wheelchair access or to permit the expansion of bathroom facilities to meet the specifications for disabled access. Other types of accommodations could include increasing the number of residents in a care facility and allowing more than 50% of a

0252

front yard to be paved to allow for accessible parking.

Two California communities have adopted ordinances which create a procedure to consider requests for reasonable accommodation. Staff has obtained the ordinances from these two California cities (San Jose and Long Beach) and have attached them to this report for your Board's review. The San Jose ordinance (Attachment 2) is similar to our Level IV review in that there it is an administrative decision and public notice is given of both the request for the reasonable accommodation and the proposed decision on the request. However, notice is only provided to adjacent property owners. If an appeal hearing is requested, the Planning Director conducts the hearing (again, similar to our Level IV appeal). The ordinance also includes a list of required information and establishes the grounds for considering the accommodation.

The Long Beach ordinance (Attachment 3j) designates the Zoning Officer or Building Official, as appropriate, as the entity charged with reviewing requests for reasonable accommodation. The decision must be supported by specific findings relating to the property. The Long Beach ordinance does not require noticing of the public of the request nor does the public have the ability to appeal the decision. Appeals by the applicant are considered by the Planning Commission. In addition, this ordinance creates a separate process for the consideration of requests for increased occupancy of group homes. The ordinance waives fees for all requests for reasonable accommodation, except for those associated with increased occupancy of group homes.

The only reference to a form of reasonable accommodation in the Santa Cruz County Code Section 13.10.265(d)3 includes a provision which allows alterations to nonconforming, historic properties to facilitate access by persons with disabilities. The remainder of the existing Santa Cruz County Code does not contain a procedure for considering requests for reasonable consideration.

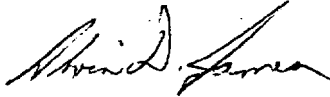
In order to comply with Federal and State regulations, the County should enact an ordinance amendment that provides a procedure for considering requests for reasonable accommodations. Staff has prepared a draft ordinance for review by your Board (Attachment 4) which follows an approach similar to San Jose's ordinance. This ordinance, to be incorporated in Chapter 18.10, includes a list of required information for submittal of a request, noticing of adjacent property owners, findings/grounds for reviewing the request and an appeal process.

It is, therefore, RECOMMENDED that your Board:

1. Accept and file this report on requests for reasonable accommodations, and
2. Review and give initial approval to the Draft Ordinance which would establish a procedure for considering requests for reasonable accommodation (Attachment 4), and

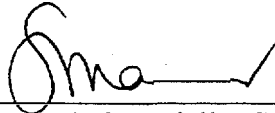
3. Direct the Planning Department to process the ordinance amendment, including⁷²⁵³ CEQA review and review by the Commission on Disabilities and the Planning Commission.

Sincerely,



Alvin D. James
Planning Director

RECOMMENDED:



Susan A. Mauriello, CAO

Attachments: 1. Letter of Supervisor Campos, dated May 25, 2001, with attachments.
 2. Reasonable Accommodations Ordinance - San Jose, CA
 3. Reasonable Accommodations Ordinance - Long Beach, CA
 4. Draft Reasonable Accommodations Ordinance

cc: Commission on Disabilities
 County Counsel

0254



County of Santa Cruz ~~0071~~

BOARD OF SUPERVISORS

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MARDI WORMHOUDT
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FOURTH DISTRICT

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FIFTH DISTRICT

AGENDA: 6/5/01

May 25, 2001

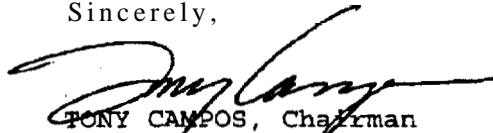
BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE SUGGESTED ADOPTION OF A REASONABLE ACCOMMODATION PROCEDURE

Dear Members of the Board:

Attached is a copy of a letter from Attorney General Bill Lockyer urging that the County of Santa Cruz amend our zoning ordinances to include a procedure for handling requests for reasonable accommodation made pursuant to the Fair Housing Act and the California Fair Employment and Housing Act. I know that all members of the Board share Mr. Lockyer's concerns about the importance of providing housing which is accessible for persons with disabilities. In order for the Board to be able to have a thoughtful discussion of the issues raised by the Attorney General, I recommend that the Board direct the Planning Director and County Counsel to prepare a report and **recommendations** for consideration by the Board on or before August 21, 2001.

Sincerely,


TONY CAMPOS, Chairman
Board of Supervisors

TC: ted
Attachment

cc: Bill Lockyer, Attorney General
Commission on Disabilities

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STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
BILL LOCKYER
ATTORNEY GENERAL

May 15, 2001

The Honorable Mardi Wormhoudt
Chair, Santa Cruz County Board of Supervisors
701 Ocean Street
Santa Cruz, CA 95060

RE: Adoption of A Reasonable Accommodation Procedure

Dear Supervisor Wormhoudt:

Both the federal Fair Housing Act ("FHA") and the California Fair Employment and Housing Act ("FEHA") impose an affirmative duty on local governments to make reasonable accommodations (i.e., modifications or exceptions) in their zoning laws and other land use regulations and practices when such accommodations "may be necessary to afford" disabled persons "an equal opportunity to use and enjoy a dwelling." (42 U.S.C. § 3604(f)(3)(B); see also Gov. Code, §§ 12927(c)(1), 12955(1).) ¹ Although this mandate has been in existence for some years now, it is our understanding that only two or three local jurisdictions in California provide a process specifically designed for people with disabilities and other eligible persons to utilize in making such requests. In my capacity as Attorney General of the State of California, I share responsibility for the enforcement of the FEHA's reasonable accommodations requirement with the Department of Fair Employment and Housing. Accordingly, I am writing to encourage your jurisdiction to adopt a procedure for handling such requests and to make its availability known within your community. ²

¹ Title 11 of the Americans with Disabilities Act (42 U.S.C. §§ 12131-65) and section 504 of the Rehabilitation Act (29 U.S.C. § 794) have also been found to apply to zoning ordinances and to require local jurisdictions to make reasonable accommodations in their requirements in certain circumstances. (See *Bay Area Addiction Research v. City of Antioch* (9th Cir. 1999) 179 F.3d 725; see also 28 C.F.R. § 35.130(b)(7) (1997))

² A similar appeal has been issued by the agencies responsible for enforcement of the FHA, (See Joint Statement of the Department of Justice and the Department of Housing and Urban Development, *Group Homes, Local Land Use and the Fair Housing Act* (Aug. 18, 1999), p. 4, at <<http://www.bazelon.org/cpfha/cpfha.html>> [as of February 27, 2001].)

The Honorable Mardi Wormhoudt
 May 15, 2001
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It is becoming increasingly important that a process be made available for handling such requests that operates promptly and efficiently. A report issued in 1999 by the California Independent Living Council makes it abundantly clear that the need for accessible and affordable housing for Californians with disabilities will increase significantly over the course of the present decade.³ The report's major findings include the following:

- Between 1999 and 2010, the number of Californians with some form of physical or psychological disability is expected to increase by at least 19 percent, from approximately 6.6 million to 7.8 million, and may rise as high as 11.2 million. The number with severe disabilities is expected to increase at approximately the same rate, from 3.1 million to 3.7 million, and may reach 6.3 million.⁴ Further, most of this increase will likely be concentrated in California's nine largest counties?
- If the percentages of this population who live in community settings—that is, in private homes or apartments (roughly 66.4 percent) and group homes (approximately 10.8 percent)—is to be maintained, there will have to be a substantial expansion in the stock of suitable housing in the next decade. The projected growth of this population translates into a need to accommodate an additional 800,000 to 3.1 million people with disabilities in affordable and accessible private residences or apartments and an additional 100,000 to 500,000 in group homes.

I recognize that many jurisdictions currently handle requests by people with disabilities for relief from the strict terms of their zoning ordinances pursuant to existing variance or conditional use permit procedures. I also recognize that several courts called upon to address the matter have concluded that requiring people with disabilities to utilize existing, non-

³See Tootelian & Gaedeke, *The Impact of Housing Availability, Accessibility, and Affordability on People With Disabilities* (April 1999) at <http://www.calsilc.org/housing.html> [as of February 27, 2001].

⁴The lower projections are based on the assumption that the percentage of California residents with disabilities will remain constant over time, at approximately 19 percent (i.e., one in every five) overall, with about 9.2 percent having severe disabilities. The higher figures, reflecting adjustments for the aging of the state's population and the higher proportion of the elderly who are disabled, assume that these percentages will increase to around 28 percent (i.e., one in every four) overall, with 16 percent having severe disabilities. (*ibid.*)

⁵These are: Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, and Santa Clara. (*ibid.*)

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The Honorable Mardi Wormhoudt
 May 15, 2001
 Page 3

discriminatory procedures such as these is not of itself a violation of the **FHA**.⁶ Several considerations counsel against exclusive reliance on these alternative procedures, however.

Chief among these is the increased risk of wrongfully denying a disabled applicant's request for relief and incurring the consequent liability for monetary damages, penalties, attorneys' fees, and costs which violations of the state and federal fair housing laws often entail.⁷ This risk exists because the criteria for determining whether to grant a variance or conditional use permit typically differ from those which govern the determination whether a requested accommodation is reasonable within the meaning of the fair housing laws.⁸

Thus, municipalities relying upon these alternative procedures have found themselves in the position of having refused to approve a project as a result of considerations which, while sufficient to justify the refusal under the criteria applicable to grant of a variance or conditional use permit, were insufficient to justify the denial when judged in light of the fair housing laws' reasonable accommodations mandate. (See, e.g., *Hovson's Inc. v. Township of Brick* (3rd Cir. 1996) 89 F.3d 1096 (township found to have violated the FHA's reasonable accommodation mandate in refusing to grant a conditional use permit to allow construction of a nursing home in a "Rural Residential-Adult Community Zone" despite the fact that the denial was sustained by the state courts under applicable zoning criteria); *Trovato v. City of Manchester, N.H.* (D.N.H. 1997) 992 F.Supp. 493 (city which denied disabled applicants permission to build a paved parking space in front of their home because of their failure to meet state law requirements for a variance found to have violated the FHA's reasonable accommodation mandate).)

⁶See, *U.S. v. Village of Palatine, Ill.* (7th Cir. 1994) 37 F.3d 1230, 1234; *Oxford House, Inc. v. City of Virginia Beach* (E.D.Va. 1993) 825 F.Supp. 1251, 1262; see generally *h o t*. (1998) 148 A.L.R. Fed. 1, 115-121, and later cases (2000 pocket supp.) p. 4.)

⁷ See 42 U.S.C. § 3604(f)(3)(B); Gov. Code, §§ 12987(a), 12989.3(f).

⁸ Under the FHA, an accommodation is deemed "reasonable" so long as it does not impose "undue financial and administrative burdens" on the municipality or require a "fundamental alteration in the nature" of its zoning scheme. (See, e.g., *City of Edmonds v. Washington State Bldg. Code Council* (9th Cir. 1994) 18 F.3d 802, 806; *Turning Point, Inc. v. City of Caldwell* (9th Cir. 1996) 74 F.3d 941; *Hovsons, Inc. v. Township of Brick* (3rd Cir. 1996) 89 F.3d 1096, 1104; *Smith & Lee Associates, Inc. v. City of Taylor, Michigan* (6th Cir. 1996) 102 F.3d 781, 795; *Erdman v. City of Fort Atkinson* (7th Cir. 1996) 84 F.3d 960; *Shapiro v. Cadman Towers, Inc.* (2d Cir. 1995) 51 F.3d 328, 334; see also Gov. Code, § 12955.6 [explicitly declaring that the FEHA's housing discrimination provisions shall be construed to afford people with disabilities, among others, no lesser rights or remedies than the FHA].)

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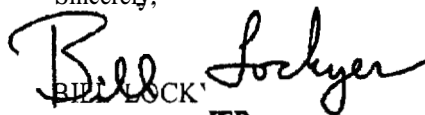
The Honorable Mardi Wormhoudt
May 15, 2001
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Further, and perhaps even more importantly, it may well be that reliance on these alternative procedures, with their different governing criteria, serves at least in some circumstances to encourage community opposition to projects involving desperately needed housing for the disabled. As you are well aware, opposition to such housing is often grounded on stereotypical assumptions about people with disabilities and apparently equally unfounded concerns about the impact of such homes on surrounding property values.⁹ Moreover, once triggered, it is difficult to quell. Yet this is the very type of opposition that, for example, the typical conditional use permit procedure, with its general health, safety, and welfare standard, would seem rather predictably to invite, whereas a procedure conducted pursuant to the more focused criteria applicable to the reasonable accommodation determination would not.

For these reasons, I urge your jurisdiction to amend your zoning ordinances to include a procedure for handling requests for reasonable accommodation made pursuant to the fair housing laws. This task is not a burdensome one. Examples of reasonable accommodation ordinances are easily attainable from jurisdictions which have already taken this step¹⁰ and from various nonprofit groups which provide services to people with disabilities, among others.¹¹ It is, however, an important one. By taking this one, relatively simple step, you can help to ensure the inclusion in our communities of those among us who are disabled.

Sincerely,


BILL LOCKYER

Attorney General

⁹Numerous studies support the conclusion that such concerns about property values are misplaced. (See Lauber, *A Real LULU: Zoning for Group Homes and Halfway Houses Under The Fair Housing Amendments Act of 1988* (Winter 1996) 29 J. Marshall L. Rev. 369, 384-385 & fn. 50 (reporting that there are more than fifty such studies, all of which found no effect on property values, even for the homes immediately adjacent).) A compendium of these studies, many of which also document the lack of any foundation for other commonly expressed fears about housing for people with disabilities, is available. (See Council of Planning Librarians, *There Goes the Neighborhood. . . A Summary of Studies Addressing the Most Often Expressed Fears about the Effects of Group Homes on Neighborhoods in which They Are Placed* (Bibliography No. 259) (Apr. 1990).)

¹⁰ Within California, these include the cities of Long Beach and San Jose.

¹¹ Mental Health Advocacy Services, Inc., of Los Angeles for example, maintains a collection of reasonable accommodations ordinances, copies of which are available upon request.

REASONABLE ACCOMMODATION ORDINANCE – SAN JOSE, CA 0259

20.160.010 Purpose

It is the policy of the city of San Jose to provide reasonable accommodation for persons with disabilities seeking fair access to housing in the application of its zoning laws. The purpose of this chapter is to provide a process for making a request for reasonable accommodation.

(Ord. 26248.)

20.160.020 Application

A. Any person who requires reasonable accommodation, because of a disability, in the application of a zoning law which may be acting as a barrier to fair housing opportunities **may** do so on a form to be provided by the director.

B. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(Ord. 26248.)

20.160.030 Required information

The applicant shall provide the following information:

1. Applicant's name, address and telephone number;
2. Address of the property for which the request is being made;
3. The current actual use of the property;
4. The zoning code provision, regulation or policy from which accommodation is being requested;
5. The bases for the claim that the individual is considered disabled under the Fair Housing Act and why the accommodation is necessary to make the specific housing available to the individual.

(Ord. 26248.)

20.160.040 Notice of request for accommodation

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Written notice of a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.
2. In the event that the request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(Ord. 26248.)

20.160.050 Grounds for accommodation

In making a determination regarding the reasonableness of a requested accommodation, the following factors shall be considered:

1. Special need created by the disability;
2. Potential benefit that can be accomplished by the requested modification;
3. Potential impact on surrounding uses;
4. Physical attributes of the property and structures;
5. Alternative accommodations which may provide an equivalent level of benefit;
6. In the case of a determination involving a one-family dwelling, whether the household would be considered a single housekeeping unit if it were not using special services that are required because of the disabilities of the residents;
7. Whether the requested accommodation would impose an undue financial or administrative burden on the city; and
8. Whether the requested accommodation would require a fundamental alteration in the nature of a program.

(Ord. 26248.)

20.160.060 Notice of proposed decision

A. Notice of the proposed decision shall be made in the same manner as provided above.

B. Within ten (10) days of the date the notice is mailed, any person may make a request for a director's hearing upon a proposed decision. ⁰²⁶¹

C. If no request for hearing is received the proposed decision shall become a final director's decision.

(Ord. 26248.)

20.160.070 Director's hearing

The director shall conduct a hearing on the request for reasonable accommodation at which all reasonable evidence and credible testimony shall be considered.

(Ord. **26248.**)

20.160.080 Notice of director's decision

A. Within thirty (30) days after the hearing, the director shall issue a decision granting the request, including any reasonable conditions, or denying the request.

B. The notice of decision shall contain the director's factual findings, conclusions and reasons for the decision.

C. The notice of decision shall be made in the same manner as set forth in the previous section,

(Ord. 26248.)

REASONABLE ACCOMMODATIONS ORDINANCE – LONG BEACH, CA

21.25.1301 Purpose.

It is the policy of the City, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Division is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City. (Ord. C-7639 § 1, 1999).

21.25.1303 Definitions.

A. Act. The Fair Housing Amendments Act of 1988.

B. Applicant. An individual making a request for reasonable accommodation pursuant to this Division.

C. Code. The Long Beach Municipal code.

D. Department. The Department of Planning and Building of the City of Long Beach,

E Disabled Person. Any person who has a physical or mental impairment that substantially limits one or more major life activities; anyone who is regarded as having such impairment; or anyone who has a record of such impairment. People who are currently using illegal substances are not covered under the Act or this Division unless they have a separate disability.

F. Group Home. Refer to any and all facilities which are regulated by the provisions of the California Community Care Facilities Act (Health & Safety Code Section 1500 et seq.), the California Residential Care Facilities for the Elderly Act (Health & Safety Code Section 1569) or any alcoholism or drug abuse recovery or treatment facility as defined by Health & Safety Code Section 11834.02 or any successor statutes.

G. Increased Occupancy. Refer to a request to increase the number of individuals permitted or licensed by State or local law to occupy a group home. (Ord. C-7639 § 1, 1999).

21.25.1305 Notice to the public of availability of accommodation process.

The Department of Planning and Building shall prominently display in both the Development Services Center and the Planning Bureau a notice advising those with

disabilities or their representatives that they may request a reasonable accommodation hearing in accordance with the procedures established in this Division. (Ord. C-7639 § 0263 1, 1999).

21.25.1307 Requesting reasonable accommodation.

A In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City.

B. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant shall be entitled to be represented at all stages of the proceeding by a person designated by the applicant.

C A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed on an application form provided by the Department at any time that the accommodation may be necessary to ensure equal access to housing. (Ord. C-7639 § 1, 1999).

21.25.1309 Jurisdiction.

A. Zoning Officer/Building Official. The Zoning Officer, or Building Official, as appropriate, shall have the authority to consider and act on requests for reasonable accommodation. When a request for reasonable accommodation is filed with the Department, it will be referred to the Zoning Officer or Building Official for review and consideration. The Zoning Officer or Building Official shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, or (3) deny the request. **All** written determinations shall give notice of the right to appeal and the right to request reasonable accommodation on the appeals process, if necessary. The notice of determination shall be sent to the applicant by certified mail, return receipt requested.

B. If necessary to reach a determination on the request for reasonable accommodation, the Zoning Officer or Building Official may request further information from the applicant consistent with this Division, specifying in detail what information is required. In the event a request for further information is made, the thirty (30) day period to issue a written determination shall be stayed until the applicant responds to the request. (Ord. C-7639 § 1, 1999).

21.25.1311 Required findings.

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The following findings must be analyzed, made and adopted before any action is taken to approve ~~or~~ deny a request for reasonable accommodation and must be incorporated into the record of the proceeding relating to such approval or denial:

- A. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Act.
- B. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Act.
- C. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.
- D. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City. (Ord. C-7639 § 1, 1999).

21.25.1313 Appeals.

- A. Within thirty (30) days of the date the Zoning Officer or Building Official issues a written determination, the applicant requesting the accommodation may appeal an adverse determination or any conditions or limitations imposed in the written determination.
- B. All appeals shall contain a statement of the grounds for the appeal.
- C. Appeals shall be to the Planning Commission who shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed. All determinations on appeal shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken.
- D. An applicant may request reasonable accommodation in the procedure by which an appeal will be conducted. (Ord. C-7639 § 1, 1999).

21.25.1315 Reasonable accommodation relating to requests for increased occupancy of group homes.

- A. All requests for reasonable accommodation relating to increased occupancy of a group home shall be filed first with the City's Zoning Officer.
- B. The Zoning Officer may hold a hearing on a request for reasonable accommodation

relating to the increased occupancy of a group home, or may instead, at his/her sole discretion, refer the application to the Planning Commission for hearing. If the Zoning Officer acts on a request for reasonable accommodation pursuant to this Section, the Zoning Officer shall hear the matter and issue a written determination within thirty (30) days of the date of receipt of a completed application. If the Planning Commission acts on a request for reasonable accommodation pursuant to this Section, the Planning Commission shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than sixty (60) days of receipt of a completed application.

C. Notice of hearing pursuant to this Section shall be provided not less than fourteen (14) days prior to the hearing and shall be mailed or delivered to all owners of real property as shown on the latest equalized assessment roll within three hundred feet (300') of the real property that is the subject of the hearing. In all cases under this Section, the applicant shall bear the cost of the radius mailing.

D. The Zoning Officer or Planning Commission acting pursuant to this Section, shall (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, including, but not limited to, a condition requiring the applicant to show proof of any required State license for the activity or occupancy contemplated, or (3) deny the request.

E. The Zoning Officer or Planning Commission, as appropriate, shall explain, in writing, the basis of the determination including the Zoning Officer's or Planning Commissioner's findings on the criteria set forth in Section 21.25.1311. All written determinations shall give notice of the right to appeal and the right to request reasonable accommodation on the appeals process, if necessary. The notice of the determination shall be sent to the applicant by certified mail, return receipt requested.

F. Within thirty (30) days of the issuance of a written determination on the hearing conducted pursuant to this Section, any aggrieved party within the meaning of this Code, may file an appeal from the determination of the Zoning Officer or Planning Commission. Appeals from a determination of the Zoning Officer shall be to the Planning Commission, appeals from a determination of the Planning Commission shall be to the City Council. All appeals shall contain a statement of the grounds for the appeal.

G. Appeals to the Planning Commission or City Council pursuant to this Section shall be heard as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed. All determinations on appeal shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken. (Ord. C-7639 § 1, 1999).

21.25.1317 Fee.

There shall be no fee imposed in connection with a request for reasonable accommodation under the provisions of this Division, except that a fee equivalent to the fee imposed for an administrative use permit shall be required if the application for reasonable accommodation relates to an increase in the occupancy of a group home. (Ord. C-7639 § 1, 1999).

ATTACHMENT 4

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 18.10
OF THE SANTA CRUZ COUNTY CODE CREATING A PROCEDURE FOR
CONSIDERING REQUESTS FOR REASONABLE ACCOMMODATION**

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

SECTION I

The following new Section is hereby added to Chapter 18.10 of the Santa Cruz County Code:

18.10.128 Requests for Reasonable Accommodation

(a) Purpose

It is the policy of the County of Santa Cruz, pursuant to the Federal Fair Housing Amendments Act of **1988**, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Section is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.

(b) Requesting Reasonable Accommodation

1. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.

2. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing.

3. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant shall be entitled to be represented at all stages of

the proceeding by a person designated by the applicant.

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4. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(c) Required Information

All requests for reasonable accommodation shall include the following information:

1. Applicant's name, address and telephone number;
2. Assessor's Parcel Number and address of the property for which the request is being made;
3. The current actual use of the property;
4. The code provision, regulation or policy from which accommodation is being requested; and
5. The basis for the claim that the individual is considered disabled under the Fair Housing Act and why the accommodation is necessary to make the specific housing available to the individual.

(d) Notice of Request for Accommodation

Written notice of a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.
2. In the event that the request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(e) Required Findings

The following findings must be analyzed, made and adopted before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record of the proceeding relating to such approval or denial:

1. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Federal Fair Housing Amendments Act of 1988.
2. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Federal Fair Housing Amendments Act of 1988.
3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the County.
4. The requested accommodation will not require a fundamental alteration of the zoning or

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building laws, policies and/or procedures of the County.

5. The requested accommodation will not deprive adjacent properties of light, air and open space consistent with the intent of the Zoning Ordinance.

(f) Jurisdiction

1. The Planning Director, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation. The Planning Director shall designate the Chief Building Official to act on his/her behalf for requests that involve reasonable accommodations to the Building Code. When a request for reasonable accommodation is filed with the Department, it will be referred to the Planning Director, or his/her designee, for review and consideration. The Planning Director shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, or (3) deny the request. All written determinations shall give notice of the right to appeal.

2. If necessary to reach a determination on the request for reasonable accommodation, the Planning Director may request further information from the applicant consistent with this Section, specifying in detail what information is required. In the event a request for further information is made, the thirty (30) day period to issue a written determination shall be stayed until the applicant responds to the request.

(g) Notice of Proposed Decision

1. Notice of the proposed decision shall be made in the same manner as provided above,

2. Within ten (10) days of the date the notice is mailed, any person may make a request for a Planning Director's review of a proposed decision.

3. If no request for review is received the proposed decision shall become a final director's decision.

(h) Director's Review

The Planning Director shall conduct a review hearing on the request for reasonable accommodation at which all evidence and testimony shall be considered.

(i) Notice of Director's Decision.

1. Within thirty (30) days after the hearing, the Planning Director shall issue a decision granting the request, including any reasonable conditions, or denying the request,

2. The notice of decision shall contain the Planning Director's factual findings, conclusions and reasons for the decision.

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3. The notice of decision shall be made in the same manner as set forth in the previous section.

SECTION II


This ordinance shall take effect on the 31st day after the date of final passage outside the Coastal Zone, and upon certification by the California Coastal Commission within the Coastal Zone.

PASSED AND ADOPTED this ____ day of _____, 2001, by the Board of Supervisors of the County of Santa Cruz by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Chair of the Board of Supervisors

ATTESTED: _____
Clerk of the Board

APPROVED AS TO FORM: 
County Counsel

DISTRIBUTION: County Counsel
Planning
CAO

BEFORE THE COMMISSION ON DISABILITIES
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. _____

On the motion of Commissioner
duly seconded by Commissioner
the following Resolution is adopted:

COMMISSION ON DISABILITIES RESOLUTION RECOMMENDING ESTABLISHMENT OF
PROCEDURES FOR CONSIDERING REQUESTS FOR REASONABLE ZONING AND
BUILDING CODE ACCOMMODATIONS FOR DISABLED **PERSONS**

WHEREAS, the Fair Housing Act and the California Fair Employment and Housing Act require that local governments make “reasonable accommodations” (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for persons with disabilities; and

WHEREAS, the underlying goal of this legislation is to promote the bending of oftentimes rigid zoning regulations to allow persons with disabilities to occupy housing that they could not occupy without the accommodation; and

WHEREAS, “reasonable ‘accommodations’” involve such things as reducing the required yard setbacks to permit the construction of a ramp for wheelchair access, or to permit the expansion of bathroom facilities to meet the specifications for disabled access, or increasing the number of residents in a care facility, or allowing more than 50% of a front yard to be paved to allow for accessible parking; and

WHEREAS, the County received a letter from Attorney General Bill Lockyer requesting that the County implement a procedure to consider requests for reasonable accommodation; and

WHEREAS, in order to comply with Federal and State regulations, **an** ordinance amendment has been proposed that provides a procedure for considering requests for reasonable accommodations; and

WHEREAS, the proposed ordinance has been found to be categorically exempt from the California Environmental Quality Act (CEQA), and consistent with the provisions of CEQA and the County of Santa Cruz Environmental Review Guidelines.

NOW, THEREFORE, BE IT RESOLVED, that the Commission on Disabilities recommends that the proposed ordinance to establish procedures for considering requests for reasonable zoning and building code accommodations for persons with disabilities, as set forth in Attachment A-1, and the CEQA Categorical Exemption, incorporated herein by reference, be approved by the Board of Supervisors and submitted to the Coastal Commission as part of the Local Coastal Program Update.

Exhibit A

PASSED **AND** ADOPTED by the Commission on Disabilities of the County of Santa Cruz,
State of California, this 11th day of February, 2002 by the following vote:

AYES: 5 COMMISSIONERS
NOES: 0 COMMISSIONERS
ABSENT: 2 COMMISSIONERS
ABSTAIN: 0 COMMISSIONERS

ATTEST: _____

Secretary

James D. Leuro
Vice Chairperson

APPROVED AS TO FORM: _____

COUNTY COUNSEL

cc: County Counsel
Planning Department

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 18.10
OF THE SANTA CRUZ COUNTY CODE CREATING A PROCEDURE FOR
CONSIDERING REQUESTS FOR REASONABLE ACCOMMODATION**

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

SECTION I

Chapter 18.10 of the Santa Cruz County Code is hereby amended to read as follows:

18.10.128 Requests for Reasonable Accommodation

(a) Purpose

It is the policy of the County of Santa Cruz, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Section is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.

(b) Requesting Reasonable Accommodation

1. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.
2. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing.
3. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant shall be entitled to be represented at all stages of the proceeding by a person designated by the applicant.

ATTACHMENT A-1

4. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(c) Required Information

All requests for reasonable accommodation shall include the following information:

1. Applicant's name, address and telephone number;
2. Assessor's Parcel Number and address of the property for which the request is being made;
3. The current actual use of the property;
4. The code provision, regulation or policy from which accommodation is being requested;
5. Verification of the claim that the individual is considered disabled under the federal Fair Housing Act or the California Fair Employment and Housing Act and a brief description of why the accommodation is necessary to make the specific housing available to the individual;

(d) Notice of Request for Accommodation

Written notice of a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.
2. In the event that the request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(e) Required Findings

The following findings must be analyzed, made and adopted before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record of the proceeding relating to such approval or denial:

1. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Federal Fair Housing Act of **1988** or the California Fair Employment and Housing Act.
2. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Federal Fair Housing Amendments Act of **1988** or the California Fair Employment and Housing Act.

3. The requested reasonable accommodation will not impose an undue financial ~~or~~ administrative burden on the County.
4. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the County.
5. The requested accommodation will not deprive adjacent properties of light, air and open space consistent with the intent of the Zoning Ordinance.

(f) Jurisdiction

1. The Planning Director, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation. The Planning Director shall designate the Chief Building Official to act on his/her behalf for requests that involve reasonable accommodations to the Building Code. When a request for reasonable accommodation is filed with the Department, it will be referred to the Planning Director, or his/her designee, for review and consideration. The Planning Director shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, or (3) deny the request. All written determinations shall give notice of the right to appeal.
2. If necessary to reach a determination on the request for reasonable accommodation, the Planning Director may request further information from the applicant consistent with this Section, specifying in detail what information is required. In the event a request for further information is made, the thirty (30) day period to issue a written determination shall be stayed until the applicant responds to the request.

(g) Notice of Proposed Decision

1. Notice of the proposed decision shall be made in the same manner as provided above.
2. Within fourteen (14) days of the date the notice is mailed, any person may make a request for a Planning Director's review of a proposed decision.
3. If no request for review is received the proposed decision shall become a final director's decision.

(h) Director's Review

The Planning Director shall conduct a review hearing on the request for reasonable accommodation at which all evidence and testimony shall be considered.

(i) Notice of Director's Decision.

1. Within thirty (30) days after the hearing, the Planning Director shall issue a decision granting the request, including any reasonable conditions, or denying the request.
2. The notice of decision shall contain the Planning Director's factual findings, conclusions and reasons for the decision.
3. The notice of decision shall be made in the same manner as set forth in the previous section.

(j) Removal of Improvement

All improvements constructed under the auspices of this section shall be removed upon the vacation of the unit by the person to whom the reasonable accommodation was granted unless it is determined that the unit has been re-occupied by a qualified person, or if it is determined by the County of Santa **Cruz** that the removal of the improvement is not readily achievable.

SECTION II

This ordinance shall take effect on the 31st day after the date of final passage outside the Coastal Zone, and upon certification by the California Coastal Commission within the Coastal Zone.

PASSED AND ADOPTED this ____ day of _____, 2002, by the Board of Supervisors of the County of Santa **Cruz** by the following vote:

AYES:

NOES:

ABSENT:


ABSTAIN:

Chair of the Board of Supervisors

ATTESTED: _____

Clerk of the Board

APPROVED AS TO FORM: _____


County Counsel

DISTRIBUTION: County Counsel, Planning, CAO



Commission on Disabilities
Minutes – **Approved 3/11/02**

Date: 2/11/02
Time: 2:30pm-4:30pm
Place: 1080 Emeline Avenue, Bldg D, Small Auditorium
Santa Cruz, CA 95060

1.0 Call to Order

Vice Chair Lewis called the meeting to order at 2:30pm.

2.0 Roll Call

Present: James Lewis, Michael Bush, Bob McGaw, Jenny Sarmiento, Peter McLean
Excused: Tom Ferr, Rebecca Northcutt
Absent:
Guest(s): Mark Demming, Frank Baron – County Planning Department, Foster Anderson – Shared Adventures, Anna Maynard, Sandra Seeger, Krista OConnor – Easter Seals, Megan Baker
Siaff: Andrea Smith

3.3 Announcements

Commissioner Bush announced that funding for Life Designs for Peace And Health did not materialize and they currently looking for other sources. Also the newly renovated Del Mar Theatre is now open. The restrooms are still in progress.

4.0 Minutes

**ACTION: The Commission approved minutes from the January 2002 meeting with revisions.
msp Bush/Sarmiento Mcgaw abstained**

5.0 Additions/Deletions

Move item 8.5 to 8.1.
Move 8.4
Defer 8.3

6.0 Oral Communications

Sandra Seeger, community member and member of the In-Home Support Advisory Commission reported on an incident she experienced at Dominican hospital where her rights were allegedly violated.

~~ACTION: The Commission will send a letter to Ombudsman and Dominican Hospital requesting information on the hospital's 51/50 policy (72-hour psychiatric hold) and to be present at any future in-services if they occur.~~

~~msp Bush/Mcgaw~~

In accordance with the Brown Act, this item will be on the April or May agenda for approval.

Krista O'Connor of Easter Seals announced that they are hosting a Strategic Planning meeting on March 27, 2002 and requested Commission participation.

Anna Bagta, Community Coordinator for HiCAP invited the Commissions input in their three- year Strategic Planning process. They are specifically looking for input from persons on Medicare.

0959

7.3 Reports

7.1 Commissioners

Vice Chair Lewis reported on his volunteer service with the parking enforcement team. He attended the first three-hour training of a series of eight.

Commissioner Bush attended the Emergency Response Training at Cabrillo College. A comprehensive plan was discussed in case of an emergency and further meetings will occur to discuss unresolved issues.

7.2 Coordinator's Report

- ▶ Reported that in his absence, Commissioner Ferr is researching the Santa Monica's exploration of the feasibility of a "visitability" ordinance.
- ▶ Informed Commission that Cultural Competency Packet from the County's Planning meeting was available in the Commission office.

8.0 Old or On-Going Business

8.1 Updates:

- Accessibility

Commissioner Bush reported that the Access Santa Cruz County Educational Brochure is in its final stages of approval before being distributed.

- Disability Awareness
- Accessible Parking Enforcement
- MAP Services
- Children with Disabilities

Commission McLean reported on his service on the CAC (community advisory committee). There is concern funding cuts may result in cuts to service to students with disabilities.

ACTION: The Commission will write a letter requesting copies of minutes for the past year from the CAC, attention to Eileen Bunch.

msh Mcgaw/Bush

- Resource Directory

8.2 Affordable accessible housing-delete

ACTION: Delete item 8.2

msh Bush/Mclean

8.3 Meeting Date and Time Evaluation

Commissioners agreed to defer this item until more Commissioners were present.

8.4 Goals Planning

The March meeting will be dedicated to goals planning.

8.5 Reasonable Accommodations Ordinance

Frank Baron and Mark Demming from the Planning Department presented the latest edition of the Counties draft for an ordinance on Reasonable Accommodation and asked for the Commission's recommendation to the Board of Supervisors. The ordinance will go for a public hearing at the planning commission then to the Board of Supervisors in April.

ACTION: The Commission approved to sign a resolution recommending the proposed Reasonable Accommodation ordinance with amendments.

msh Mclean/Bush

9.1 Shared Adventures Access Guide

Foster Anderson Proposing to put together an access guide for locals and travelers to Santa Cruz. Using San Diago. Requested a letter of recommendation from the Commission on Disabilities to seek funding for this project.

ACTION: The commission will write a letter recommending funding for Shared Adventures' Access Guide.

msp Bush/Mcgaw

9.2 Annual Report

ACTION: The Commission approved the Annual Report for submission to the Board of Supervisors.

msp Mclean/Bush

The meeting adjourned at 4:25p.m.

Respectfully submitted,



Andrea Smith



COUNTY OF SANTA CRUZ

0961

PLANNING DEPARTMENT

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

February 4, 2002

AGENDA: February 11, 2002

Disabilities Commission
 County of Santa Cruz
 701 Ocean Street
 Santa Cruz, California 95060

PUBLIC HEARING TO CONSIDER ORDINANCE ESTABLISHING PROCEDURES FOR CONSIDERING REQUESTS FOR REASONABLE ZONING AND BUILDING CODE ACCOMMODATIONS FOR DISABLED PERSONS

Commissioners:

Your Commission is being asked to consider a proposed ordinance to create a process for reviewing requests for "reasonable accommodation", and to forward your recommendations to the Planning Commission and the Board of Supervisors. The term "reasonable accommodation" refers to the requirements of the Fair Housing Act and the California Fair Employment and Housing Act that local governments make reasonable accommodations (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for disabled persons. The proposed ordinance (Attachment A-1 of Exhibit A), to be incorporated in Chapter 18.10 of the County Code, includes a list of required information for submittal of a request for "reasonable accommodation", noticing of adjacent property owners, findings/grounds for reviewing the request and an appeal process.

Background:

On June 5, 2001, the Board of Supervisors, on the recommendation of Supervisor Campos, directed County Counsel and the Planning Director to report back on this date with report regarding the development of ordinance language to create a process for reviewing requests for "reasonable accommodation." The recommendation by Supervisor Campos was the result of a letter from Attorney General Bill Lockyer requesting that the County implement a procedure to consider requests for reasonable accommodation (Attachment 1 of Exhibit C). Planning staff and County Counsel researched the issue, and presented a report to the Board (Exhibit C), which included a preliminary "reasonable accommodations" ordinance, at their August 21, 2001 meeting. At their August 21, 2001 meeting, the Board of Supervisors considered the preliminary ordinance and directed staff to process the ordinance through the Disabilities Commission and Planning Commission.

Discussion:

As noted above, the term “reasonable accommodation” refers to the requirements of the Fair Housing Act and the California Fair Employment and Housing Act that local governments make reasonable accommodations (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for disabled persons. The Federal and State laws have numerous exceptions and much legal terminology, but the underlying goal of this legislation is to promote the bending of oftentimes rigid zoning regulations to allow disabled persons to occupy housing that they could not occupy without the accommodation. Usually, these accommodations involve such things as reducing the required yard setbacks to permit the construction of a ramp for wheelchair access or to permit the expansion of bathroom facilities to meet the specifications for disabled access. Other types of accommodations could include increasing the number of residents in a care facility and allowing more than 50% of a front yard to be paved to allow for accessible parking.

Two California communities have adopted ordinances which create a procedure to consider requests for reasonable accommodation. Staff has obtained the ordinances from these two California cities (San Jose and Long Beach) and they are included as attachments to the attached to the August 21, 2001 Board letter (Exhibit C). The San Jose ordinance (Attachment 2 of Exhibit C) is similar to our Level IV review in that there it is an administrative decision and public notice is given of both the request for the reasonable accommodation and the proposed decision on the request. However, notice is only provided to adjacent property owners. If an appeal hearing is requested, the Planning Director conducts the hearing (again, similar to our Level IV appeal). The ordinance also includes a list of required information and establishes the grounds for considering the accommodation.

The Long Beach ordinance (Attachment 3 of Exhibit C) designates the Zoning Officer or Building Official, as appropriate, as the entity charged with reviewing requests for reasonable accommodation. The decision must be supported by specific findings relating to the property. The Long Beach ordinance does not require noticing of the public of the request nor does the public have the ability to appeal the decision. Appeals by the applicant are considered by the Planning Commission. In addition, this ordinance creates a separate process for the consideration of requests for increased occupancy of group homes. The ordinance waives fees for all requests for reasonable accommodation, except for those associated with increased occupancy of group homes.

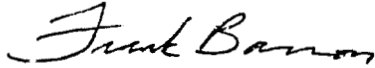
The only reference to a form of reasonable accommodation in the Santa Cruz County Code Section 13.10.265(d)3 includes a provision which allows alterations to nonconforming, historic properties to facilitate access by persons with disabilities. The remainder of the existing Santa Cruz County Code does not contain a procedure for considering requests for reasonable consideration.

Conclusion and Recommendation:


In order to comply with Federal and State regulations, the County should enact an ordinance amendment that provides a procedure for considering requests for reasonable accommodations. Staff has prepared a draft ordinance for review by your Commission (Attachment A-1 of Exhibit A) which follows an approach similar to San Jose’s ordinance. This ordinance, to be incorporated in Chapter 18.10 of the County Code, includes a list of required information for submittal of a request, noticing of adjacent property owners, findings/grounds for reviewing the request and an appeal

process. The proposed ordinance has been found by Planning Department staff to be categorically exempt from CEQA and a CEQA Categorical Exemption form has been prepared (Exhibit B). It is RECOMMENDED that your Commission approve of the attached Resolution recommending Board of Supervisors adoption of an ordinance establishing procedures for considering requests for reasonable zoning and building code accommodations for disabled persons (Exhibit A).

Sincerely,



Frank Barron, AICP
Planner



Mark M. Deming, AICP
Principal Planner

EXHIBITS:

- A. Resolution Recommending Adoption of an Ordinance Establishing Procedures for Considering Requests for Reasonable Zoning and Building Code Accommodations for Disabled Persons

Attachment **A-1**: Proposed Ordinance No. ____ Establishing Procedures for Considering Requests for Reasonable Zoning and Building Code Accommodations for Disabled Persons

- B. CEQA Exemption
- C. Letter of August 8, 2001 from Alvin James, Planning Director, to the Board of Supervisors

BEFORE **THE** COMMISSION ON DISABILITIES
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. _____

On the motion of Commissioner
duly seconded by Commissioner
the following Resolution is adopted:

COMMISSION ON DISABILITIES RESOLUTION RECOMMENDING ESTABLISHMENT OF
PROCEDURES FOR CONSIDERING REQUESTS FOR REASONABLE ZONING AND
BUILDING CODE ACCOMMODATIONS FOR DISABLED PERSONS

WHEREAS, the Fair Housing Act and the California Fair Employment and Housing Act require that local governments make “reasonable accommodations” (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for disabled persons; and

WHEREAS, the underlying goal of this legislation is to promote the bending of oftentimes rigid zoning regulations to allow disabled persons to occupy housing that they could not occupy without the accommodation; and

WHEREAS, “reasonable accommodations” involve such things as reducing the required yard setbacks to permit the construction of a ramp for wheelchair access, or to permit the expansion of bathroom facilities to meet the specifications for disabled access, or increasing the number of residents in a care facility, or allowing more than 50% of a front yard to be paved to allow for accessible parking; and

WHEREAS, the County received a letter from Attorney General Bill Lockyer requesting that the County implement a procedure to consider requests for reasonable accommodation; and

WHEREAS, in order to comply with Federal and State regulations, an ordinance amendment has been proposed that provides a procedure for considering requests for reasonable accommodations; and

WHEREAS, the proposed ordinance has been found to be categorically exempt from the California Environmental Quality Act (CEQA), and consistent with the provisions of CEQA and the County of Santa Cruz Environmental Review Guidelines;

NOW, THEREFORE, BE IT RESOLVED, that the Commission on Disabilities recommends that the proposed ordinance to establish procedures for considering requests for reasonable zoning and building code accommodations for disabled persons, as set forth in Attachment A-1, and the CEQA Categorical Exemption, incorporated herein by reference, be approved by the Board of Supervisors and submitted to the Coastal Commission as **part** of the Local Coastal Program Update.

Exhibit A

0965

PASSED AND ADOPTED by the Commission on Disabilities of the County of Santa Cruz,
State of California, this _____ day of _____, 2002 by the following vote:

AYES: COMMISSIONERS
NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Chairperson

ATTEST: _____
Secretary

APPROVED AS TO FORM:

COUNTY COUNSEL

cc: County Counsel
Planning Department

ATTACHMENT A-1

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 18.10
OF THE SANTA CRUZ COUNTY CODE CREATING A PROCEDURE FOR
CONSIDERING REQUESTS FOR REASONABLE ACCOMMODATION**

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

SECTION I

The following new Section is hereby added to Chapter 18.10 of the Santa Cruz County Code:

18.10.128 Requests for Reasonable Accommodation

(a) Purpose

It is the policy of the County of Santa Cruz, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Section is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.

(b) Requesting Reasonable Accommodation

1. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.
2. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing.
3. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant shall be entitled to be represented at all stages of the proceeding by a person designated by the applicant.

4. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(c) Required Information

All requests for reasonable accommodation shall include the following information:

1. Applicant's name, address and telephone number;
2. Assessor's Parcel Number and address of the property for which the request is being made;
3. The current actual use of the property;
4. The code provision, regulation or policy from which accommodation is being requested;
5. Verification of the claim that the individual is considered disabled under the Fair Housing Act and a brief description of why the accommodation is necessary to make the specific housing available to the individual;

(d) Notice of Request for Accommodation

Written notice of a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.
2. In the event that the request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(e) Required Findings

The following findings must be analyzed, made and adopted before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record of the proceeding relating to such approval or denial:

1. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Federal Fair Housing Amendments Act of 1988.
2. The request for reasonable accommodation is necessary to make specific housing

available to an individual protected under the Federal Fair Housing Amendments Act of 1988.

3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the County.
4. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the County.
5. The requested accommodation will not deprive adjacent properties of light, air and open space consistent with the intent of the Zoning Ordinance.

(f) Jurisdiction

1. The Planning Director, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation. The Planning Director shall designate the Chief Building Official to act on his/her behalf for requests that involve reasonable accommodations to the Building Code. When a request for reasonable accommodation is filed with the Department, it will be referred to the Planning Director, or his/her designee, for review and consideration. The Planning Director shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, or (3) deny the request. All written determinations shall give notice of the right to appeal.
2. If necessary to reach a determination on the request for reasonable accommodation, the Planning Director may request further information from the applicant consistent with this Section, specifying in detail what information is required. In the event a request for further information is made, the thirty (30) day period to issue a written determination shall be stayed until the applicant responds to the request.

(g) Notice of Proposed Decision

1. Notice of the proposed decision shall be made in the same manner as provided above.
2. Within fourteen (14) days of the date the notice is mailed, any person may make a request for a Planning Director's review of a proposed decision.
3. If no request for review is received the proposed decision shall become a final director's decision.

(h) Director's Review

The Planning Director shall conduct a review hearing **on the** request for reasonable accommodation at which all evidence and testimony shall be considered.

(i) Notice of Director's Decision.

1. Within thirty (30) days after the hearing, the Planning Director shall issue a decision granting the request, including any reasonable conditions, or denying the request.
2. The notice of decision shall contain the Planning Director's factual findings, conclusions and reasons for the decision.
3. The notice of decision shall be made in the same manner as set forth in the previous section.

(j) Removal of Improvement

All improvements constructed under the auspices of this section shall be removed upon the vacation of the unit by the person to whom the reasonable accommodation was granted unless it is determined that the unit has been re-occupied by a qualified person or if it is determined to be infeasible to remove the improvement.

SECTION II

This ordinance shall take effect on the 31st day after the date of final passage outside the Coastal Zone, and upon certification by the California Coastal Commission within the Coastal Zone.

PASSED AND ADOPTED this ____ day of _____, 2001, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair of the Board of Supervisors

ATTESTED: _____

Clerk of the Board

APPROVED AS TO FORM: _____

County Counsel

**NOTICE OF EXEMPTION FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Exhibit B

0970

The County of Santa Cruz has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections **15061 - 15329** of CEQA for the reason(s) which have been checked on this document.

Application No. *N/A*

Assessor Parcel No. *N/A*

Project Location: *Countywide*

Project Description: *Proposed Ordinance Establishing Procedures for Considering Requests for Reasonable Zoning and Building Code Accommodations for Disabled Persons*

Person or Agency Proposing Project: *Santa Cruz County Planning Department*

Phone Number: *(831) 454-3183*

A. ☐ The proposed activity is not a project under CEQA Guidelines, Sections **1928** and 501.

B. ☐ Ministerial Project involving only the use of fixed standards or objective measurements without personal judgement.

C. ☒ Statutory Exemption other than a Ministerial Project.
Specify type:

D. Categorical Exemption

- | | |
|--|---|
| <input type="checkbox"/> 1. Existing Facility | <input type="checkbox"/> 17. Open Space Contracts or Easements |
| <input type="checkbox"/> 2. Replacement or Reconstruction | <input type="checkbox"/> 18. Designation of Wilderness Areas |
| <input type="checkbox"/> 3. New Construction of Small Structure | <input type="checkbox"/> 19. Annexation of Existing Facilities/Lots for Exempt Facilities |
| <input type="checkbox"/> 4. Minor Alterations to Land | <input type="checkbox"/> 20. Changes in Organization of Local Agencies |
| <input checked="" type="checkbox"/> 5. Alterations in Land Use Limitations | <input type="checkbox"/> 21. Enforcement Actions by Regulatory Agencies |
| <input type="checkbox"/> 6. Information Collection | <input type="checkbox"/> 22. Educational Programs |
| <input type="checkbox"/> 7. Actions by Regulatory Agencies for Protection of the Environment | <input type="checkbox"/> 23. Normal Operations of Facilities for Public Gatherings |
| <input type="checkbox"/> 8. Actions by Regulatory Agencies for Protection of Nat. Resources | <input type="checkbox"/> 24. Regulation of Working Conditions |
| <input type="checkbox"/> 9. Inspection | <input type="checkbox"/> 25. Transfers of Ownership of Interests in Land to Preserve Open Space |
| <input type="checkbox"/> 10. Loans | |
| <input type="checkbox"/> 11. Accessory Structures | <input type="checkbox"/> 26. Acquisition of Housing for Housing Assistance Programs |
| <input type="checkbox"/> 12. Surplus Govt. Property Sales | <input type="checkbox"/> 27. Leasing New Facilities |
| <input type="checkbox"/> 13. Acquisition of Land for Wildlife Conservation Purposes | <input type="checkbox"/> 28. Small Hydroelectric Projects at Existing Facilities |
| <input type="checkbox"/> 14. Minor Additions to Schools | <input type="checkbox"/> 29. Cogeneration Projects at Existing Facilities |
| <input type="checkbox"/> 15. Minor Land Divisions | |
| <input type="checkbox"/> 16. Transfer of Ownership of Land to Create Parks | |

E. ☐ Lead Agency Other Than County: _____

Date: _____

Mark Deming, AICP
Project Planner



County of Santa Cruz 0251

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060

(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

August 8, 2001

AGENDA: August 21, 2001

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

REPORT ON A REASONABLE ACCOMMODATION REVIEW PROCESS

Members of the Board:

On June 5, 2001, your Board, on the recommendation of Supervisor Campos, directed County Counsel and the Planning Director to report back on this date with report regarding the development of ordinance language to create a process for reviewing requests for "reasonable accommodation." The recommendation by Supervisor Campos was the result of a letter from Attorney General Bill Lockyer requesting that the County implement a procedure to consider requests for reasonable accommodation (Attachment 1). Planning staff and County Counsel have researched the issue, and the following information and recommendations have been prepared for consideration by your Board.

The term "reasonable accommodation" refers to the requirements of the Fair Housing Act and the California Fair Employment and Housing Act that local governments make reasonable accommodations (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for disabled persons. The Federal and State laws have numerous exceptions and much legal terminology, but the underlying goal of this legislation is to promote the bending of oftentimes rigid zoning regulations to allow disabled persons to occupy housing that they could not occupy without the accommodation. Usually, these accommodations involve such things as reducing the required yard setbacks to permit the construction of a ramp for wheelchair access or to permit the expansion of bathroom facilities to meet the specifications for disabled access. Other types of accommodations could include increasing the number of residents in a care facility and allowing more than 50% of a

front yard to be paved to allow for accessible parking.

0252

Two California communities have adopted ordinances which create a procedure to consider requests for reasonable accommodation. Staff has obtained the ordinances from these two California cities (San Jose and Long Beach) and have attached them to this report for your Board's review. The San Jose ordinance (Attachment 2) is similar to our Level IV review in that there it is an administrative decision and public notice is given of both the request for the reasonable accommodation and the proposed decision on the request. However, notice is only provided to adjacent property owners. If an appeal hearing is requested, the Planning Director conducts the hearing (again, similar to our Level IV appeal). The ordinance also includes a list of required information and establishes the grounds for considering the accommodation.

The Long Beach ordinance (Attachment 3) designates the Zoning Officer or Building Official, as appropriate, as the entity charged with reviewing requests for reasonable accommodation. The decision must be supported by specific findings relating to the property. The Long Beach ordinance does not require noticing of the public of the request nor does the public have the ability to appeal the decision. Appeals by the applicant are considered by the Planning Commission. In addition, this ordinance creates a separate process for the consideration of requests for increased occupancy of group homes. The ordinance waives fees for all requests for reasonable accommodation, except for those associated with increased occupancy of group homes.

The only reference to a form of reasonable accommodation in the Santa Cruz County Code Section 13.10.265(d)3 includes a provision which allows alterations to nonconforming, historic properties to facilitate access by persons with disabilities. The remainder of the existing Santa Cruz County Code does not contain a procedure for considering requests for reasonable consideration.

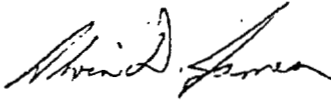
In order to comply with Federal and State regulations, the County should enact an ordinance amendment that provides a procedure for considering requests for reasonable accommodations. Staff has prepared a draft ordinance for review by your Board (Attachment 4) which follows an approach similar to San Jose's ordinance. This ordinance, to be incorporated in Chapter 18.10, includes a list of required information for submittal of a request, noticing of adjacent property owners, findings/grounds for reviewing the request and an appeal process.

It is, therefore, RECOMMENDED that your Board:

1. Accept and file this report on requests for reasonable accommodations, and
2. Review and give initial approval to the Draft Ordinance which would establish a procedure for considering requests for reasonable accommodation (Attachment 4), and

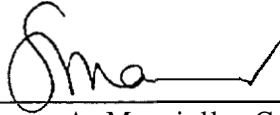
3. Direct the Planning Department to process the ordinance amendment, including CEQA review and review by the Commission on Disabilities and the Planning Commission. 0253

Sincerely,



Alvin D. James
Planning Director

RECOMMENDED:



Susan A. Mauriello, CAO

Attachments: 1. Letter of Supervisor Campos, dated May 25, 2001, with attachments.
 2. Reasonable Accommodations Ordinance - San Jose, CA
 3. Reasonable Accommodations Ordinance - Long Beach, CA
 4. Draft Reasonable Accommodations Ordinance

cc: Commission on Disabilities
 County Counsel



County of Santa Cruz

BOARD OF SUPERVISORS

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FOURTH DISTRICT

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FIFTH DISTRICT

AGENDA: 6/5/01

May 25, 2001

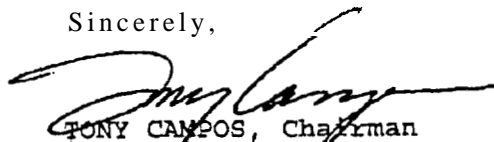
BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

**RE SUGGESTED ADOPTION OF A REASONABLE
ACCOMMODATION PROCEDURE**

Dear Members of the Board:

Attached is a copy of a letter from Attorney General Bill Lockyer urging that the County of Santa Cruz amend our zoning ordinances to include a procedure for handling requests for reasonable accommodation made pursuant to the Fair Housing Act and the California Fair Employment and Housing Act. I know that all members of the Board share Mr. Lockyer's concerns about the importance of providing housing which is accessible for persons with disabilities. In order for the Board to be able to have a thoughtful discussion of the issues raised by the Attorney General, I recommend that the Board direct the Planning Director and County Counsel to prepare a report and **recamendations** for consideration by the Board on or before August 21, 2001.

Sincerely,


TONY CAMPOS, Chairman
Board of Supervisors

TC: ted
Attachment

cc: Bill Lockyer, Attorney General
Commission on Disabilities

258616



ATTACHMENT 1 0975

0255

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STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
BILL LOCKYER
ATTORNEY GENERAL

May 15, 2001

The Honorable Mardi Wormhoudt
Chair, Santa Cruz County Board of Supervisors
701 Ocean Street
Santa Cruz, CA 95060

RE: Adoption of A Reasonable Accommodation Procedure

Dear Supervisor Wormhoudt:

Both the federal Fair Housing Act ("FHA") and the California Fair Employment and Housing Act ("FEHA") impose an affirmative duty on local governments to make reasonable accommodations (i.e., modifications or exceptions) in their zoning laws and other land use regulations and practices when such accommodations "may be necessary to afford" disabled persons "an equal opportunity to use and enjoy a dwelling." (42 U.S.C. § 3604(f)(3)(B); see also Gov. Code, §§ 12927(c)(1), 12955(1).) ¹ Although this mandate has been in existence for some years now, it is our understanding that only two or three local jurisdictions in California provide a process specifically designed for people with disabilities and other eligible persons to utilize in making such requests. In my capacity as Attorney General of the State of California, I share responsibility for the enforcement of the FEHA's reasonable accommodations requirement with the Department of Fair Employment and Housing. Accordingly, I am writing to encourage your jurisdiction to adopt a procedure for handling such requests and to make its availability known within your community. ²

¹ Title 11 of the Americans with Disabilities Act (42 U.S.C. §§ 12131-65) and section 504 of the Rehabilitation Act (29 U.S.C. § 794) have also been found to apply to zoning ordinances and to require local jurisdictions to make reasonable accommodations in their requirements in certain circumstances. (See *Bay Area Addiction Research v. City of Antioch* (9th Cir. 1999) 179 F.3d 725; see also 28 C.F.R. § 35.130(b)(7) (1997))

² A similar appeal has been issued by the agencies responsible for enforcement of the FHA. (See Joint Statement of the Department of Justice and the Department of Housing and Urban Development. *Group Homes, Local Land Use and the Fair Housing Act* (Aug. 18, 1999), p. 4, at <<http://www.bazelon.org/cpfha/cpfha.html>> [as of February 27, 2001].)

The Honorable Mardi Wormhoudt
May 15, 2001
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It is becoming increasingly important that a process be made available for handling such requests that operates promptly and efficiently. A report issued in 1999 by the California Independent Living Council makes it abundantly clear that the need for accessible and affordable housing for Californians with disabilities will increase significantly over the course of the present decade.³ The report's major findings include the following:

- Between 1999 and 2010, the number of Californians with some form of physical or psychological disability is expected to increase by at least 19 percent, from approximately 6.6 million to 7.8 million, and may rise as high as 11.2 million. The number with severe disabilities is expected to increase at approximately the same rate, from 3.1 million to 3.7 million, and may reach 6.3 million.⁴ Further, most of this increase will likely be concentrated in California's nine largest counties?
- If the percentages of this population who live in community settings—that is, in private homes or apartments (roughly 66.4 percent) and group homes (approximately 10.8 percent)—is to be maintained, there will have to be a substantial expansion in the stock of suitable housing in the next decade. The projected growth of this population translates into a need to accommodate an additional 800,000 to 3.1 million people with disabilities in affordable and accessible private residences or apartments and an additional 100,000 to 500,000 in group homes.

I recognize that many jurisdictions currently handle requests by people with disabilities for relief from the strict terms of their zoning ordinances pursuant to existing variance or conditional use permit procedures. I also recognize that several courts called upon to address the matter have concluded that requiring people with disabilities to utilize existing, non-

³See Tootelian & Gaedeke, *The Impact of Housing Availability, Accessibility, and Affordability on People With Disabilities* (April 1999) at <http://www.calsilc.org/housing.html> [as of February 27, 2001].

⁴The lower projections are based on the assumption that the percentage of California residents with disabilities will remain constant over time, at approximately 19 percent (i.e., one in every five) overall, with about 9.2 percent having severe disabilities. The higher figures, reflecting adjustments for the aging of the state's population and the higher proportion of the elderly who are disabled, assume that these percentages will increase to around 28 percent (i.e., one in every four) overall, with 16 percent having severe disabilities. (*Ibid.*)

⁵These are: Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, and Santa Clara. (*Ibid.*)

The Honorable Mardi Womhoudt
May 15, 2001
Page 3

discriminatory procedures such as these is not of itself a violation of the **FHA**.⁶ Several considerations counsel against exclusive reliance on these alternative procedures, however.

Chief among these is the increased **risk** of wrongfully denying a disabled applicant's request for relief and incurring the consequent liability for monetary damages, penalties, attorneys' fees, and costs which violations of the state and federal fair housing laws often entail.⁷ This risk exists because the criteria for determining whether to grant a variance or conditional use permit typically differ from those which govern the determination whether a requested accommodation is reasonable within the meaning of the fair housing laws.⁸

Thus, municipalities relying upon these alternative procedures have found themselves in the position of having refused to approve a project as a result of considerations which, while sufficient to justify the refusal under the criteria applicable to grant of a variance or conditional use permit, were insufficient to justify the denial when judged in light of the fair housing laws' reasonable accommodations mandate. (See, e.g., *Hovson's Inc. v. Township of Brick* (3rd Cir. 1996) 89 F.3d 1096 (township found to have violated the FHA's reasonable accommodation mandate in refusing to grant a conditional use permit to allow construction of a nursing home in a "Rural Residential-Adult Community Zone" despite the fact that the denial was sustained by the state courts under applicable zoning criteria); *Trovato v. City of Manchester, N.H.* (D.N.H. 1997) 992 F.Supp. 493 (city which denied disabled applicants permission to build a paved parking space in front of their home because of their failure to meet state law requirements for a variance found to have violated the **FHA's** reasonable accommodation mandate).)

⁶See, *U.S. v. Village of Palatine, Ill.* (7th Cir. 1994) 37 F.3d 1230, 1234; *Oxford House, Inc. v. City of Virginia Beach* (E.D.Va. 1993) 825 F.Supp. 125 1, 1262; see generally Annot. (1998) 148A.L.R. Fed. 1, 115-121, and later cases (2000 pocket supp.) p. 4,.)

⁷ See 42 U.S.C. § 3604(f)(3)(B); Gov. Code, §§ 12987(a), 12989.3(f).

⁸ Under the FHA, an accommodation is deemed "reasonable" so long as it does not impose "undue financial and administrative burdens" on the municipality or require a "fundamental alteration in the nature" of its zoning scheme. (See, e.g., *City of Edmonds v. Washington State Bldg. Code Council* (9th Cir. 1994) 18 F.3d 802, 806; *Turning Point, Inc. v. City of Caldwell* (9th Cir. 1996) 74 F.3d 941; *Hovsons, Inc. v. Township of Brick* (3rd Cir. 1996) 89 F.3d 1096, 1104; *Smith & Lee Associates, Inc. v. City of Taylor, Michigan* (6th Cir. 1996) 102 F.3d 781, 795; *Erdman v. City of Fort Atkinson* (7th Cir. 1996) 84 F.3d 960; *Shapiro v. Cadman Towers, Inc.* (2d Cir. 1995) 51 F.3d 328, 334; see also Gov. Code, § 12955.6 [explicitly declaring that the **FEHA's** housing discrimination provisions shall be construed to afford people with disabilities, among others, no lesser rights or remedies than the **FHA**].)

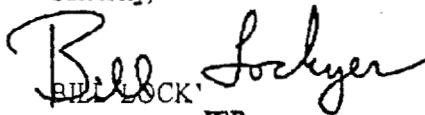
The Honorable Mardi Wormhoudt
May 15, 2001
Page 4

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Further, and perhaps even more importantly, it may well be that reliance on these alternative procedures, with their different governing criteria, serves at least in some circumstances to encourage community opposition to projects involving desperately needed housing for the disabled. As you are well aware, opposition to such housing is often grounded on stereotypical assumptions about people with disabilities and apparently equally unfounded concerns about the impact of such homes on surrounding property values! Moreover, once triggered, it is difficult to quell. Yet this is the very type of opposition that, for example, the typical conditional use permit procedure, with its general health, safety, and welfare standard, would seem rather predictably to invite, whereas a procedure conducted pursuant to the more focused criteria applicable to the reasonable accommodation determination would not.

For these reasons, I urge your jurisdiction to amend your zoning ordinances to include a procedure for handling requests for reasonable accommodation made pursuant to the fair housing laws. This task is not a burdensome one. Examples of reasonable accommodation ordinances are easily attainable from jurisdictions which have already taken this *step*⁹ and from various nonprofit groups which provide services to people with disabilities, among others.¹¹ It is, however, an important one. By taking this one, relatively simple step, you can help to ensure the inclusion in our communities of those among us who are disabled.

Sincerely,



Attorney General

⁹Numerous studies support the conclusion that such concerns about property values are misplaced. (See Lauber, *A Real LULU: Zoning for Group Homes and Halfway Houses Under The Fair Housing Amendments Act of 1988* (Winter 1996) 29 J. Marshall L. Rev. 369, 384-385 & fn. 50 (reporting that there are more than fifty such studies, all of which found no effect on property values, even for the homes immediately adjacent).) A compendium of these studies, many of which also document the lack of any foundation for other commonly expressed fears about housing for people with disabilities, is available. (See Council of Planning Librarians, *There Goes the Neighborhood. . . A Summary of Studies Addressing the Most Often Expressed Fears about the Effects of Group Homes on Neighborhoods in which They Are Placed* (Bibliography No. 259) (Apr. 1990).)

¹⁰ Within California, these include the cities of Long Beach and San Jose.

¹¹ Mental Health Advocacy Services, Inc., of Los Angeles for example, maintains a collection of reasonable accommodations ordinances, copies of which are available upon request.

REASONABLE ACCOMMODATION ORDINANCE – SAN JOSE, CA 0259**20.160.010 Purpose**

It is the policy of the city of San Jose to provide reasonable accommodation for persons with disabilities seeking fair access to housing in the application of its zoning laws. The purpose of this chapter is to provide a process for making a request for reasonable accommodation.

(Ord. 26248.)

20.160.020 Application

A. Any person who requires reasonable accommodation, because of a disability, in the application of a zoning law which may be acting as a barrier to fair housing opportunities **may** do so on a form to be provided by the director.

B. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(Ord. 26248.)

20.160.030 Required information

The applicant shall provide the following information:

1. Applicant's name, address and telephone number;
2. Address of the property for which the request is being made;
3. The current actual use of the property;
4. The zoning code provision, regulation or policy from which accommodation **is** being requested;
5. The bases for the claim that the individual is considered disabled under the Fair Housing Act and why the accommodation is necessary to make the specific housing available to the individual.

(Ord. 26248.)

20.160.040 Notice of request for accommodation

0260

Written notice of a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.
2. In the event that the request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(Ord. 26248.)

20.160.050 Grounds for accommodation

In making a determination regarding the reasonableness of a requested accommodation, the following factors shall be considered:

1. Special need created by the disability;
2. Potential benefit that can be accomplished by the requested modification;
3. Potential impact on surrounding uses;
4. Physical attributes of the property and structures;
5. Alternative accommodations which may provide an equivalent level of benefit;
6. In the case of a determination involving a one-family dwelling, whether the household would be considered a single housekeeping unit if it were not using special services that are required because of the disabilities of the residents;
7. Whether the requested accommodation would impose an undue financial or administrative burden on the city; and
8. Whether the requested accommodation would require a fundamental alteration in the nature of a program.

(Ord. 26248.)

20.160.060 Notice of proposed decision

- A. Notice of the proposed decision shall be made in the same manner as provided above.

B. Within ten (10) days of the date the notice is mailed, any person may make a request for a director's hearing upon a proposed decision.

C. If no request for hearing is received the proposed decision shall become a final director's decision.

(Ord. 26248.)

20.160.070 Director's hearing

The director shall conduct a hearing on the request for reasonable accommodation at which all reasonable evidence and credible testimony shall be considered.

(Ord. 26248.)

20.160.080 Notice of director's decision

A. Within thirty (30) days after the hearing, the director shall issue a decision granting the request, including any reasonable conditions, or denying the request.

B. The notice of decision shall contain the director's factual findings, conclusions and reasons for the decision.

C. The notice of decision shall be made in the same manner as set forth in the previous section.

(Ord. 26248.)

REASONABLE ACCOMMODATIONS ORDINANCE – LONG BEACH, CA**21.25.1301 Purpose.**

It is the policy of the City, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Division is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City. (Ord. C-7639 § 1, 1999).

21.25.1303 Definitions.

A. Act. The Fair Housing Amendments Act of 1988.

B. Applicant. An individual making a request for reasonable accommodation pursuant to this Division.

C. Code. The Long Beach Municipal Code.

D. Department. The Department of Planning and Building of the City of Long Beach.

E Disabled Person. Any person who has a physical or mental impairment that substantially limits one or more major life activities; anyone who is regarded as having such impairment; or anyone who has a record of such impairment. People who are currently using illegal substances are not covered under the Act or this Division unless they have a separate disability.

F. Group Home. Refers to any and all facilities which are regulated by the provisions of the California Community Care Facilities Act (Health & Safety Code Section 1500 et seq.), the California Residential Care Facilities for the Elderly Act (Health & Safety Code Section 1569) or any alcoholism or drug abuse recovery or treatment facility as defined by Health & Safety Code Section 11834.02 or any successor statutes.

G. increased Occupancy. Refers to a request to increase the number of individuals permitted or licensed by State or local law to occupy a group home. (Ord. C-7639 § 1, 1999).

21.25.1305 Notice to the public of availability of accommodation process.

The Department of Planning and Building shall prominently display in both the Development Services Center and the Planning Bureau a notice advising those with

disabilities or their representatives that they may request a reasonable accommodation hearing in accordance with the procedures established in this Division. (Ord. C-7639 § 1, 1999). 0263

21.25.1307 Requesting reasonable accommodation.

A In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City.

B. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant shall be entitled to be represented at all stages of the proceeding by a person designated by the applicant.

C A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed on an application form provided by the Department at any time that the accommodation may be necessary to ensure equal access to housing. (Ord. C-7639 § 1, 1999).

21.25.1309 Jurisdiction.

A. Zoning Officer/Building Official. The Zoning Officer, or Building Official, as appropriate, shall have the authority to consider and act on requests for reasonable accommodation. When a request for reasonable accommodation is filed with the Department, it will be referred to the Zoning Officer or Building Official for review and consideration. The Zoning Officer or Building Official shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, or (3) deny the request. **All** written determinations shall give notice of the right to appeal and the right to request reasonable accommodation on the appeals process, if necessary. The notice of determination shall be sent to the applicant by certified mail, return receipt requested.

B. If necessary to reach a determination on the request for reasonable accommodation, the Zoning Officer or Building Official may request further information from the applicant consistent with this Division, specifying in detail what information is required. In the event a request for further information is made, the thirty (30) day period to issue a written determination shall be stayed until the applicant responds to the request. (Ord. C-7639 § 1, 1999).

21.25.1311 Required findings.

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The following findings must be analyzed, made and adopted before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record of the proceeding relating to such approval or denial:

- A. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Act,
- B. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Act.
- C. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.
- D. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City. (Ord. C-7639 § 1, 1999).

21.25.1313 Appeals.

- A. Within thirty (30) days of the date the Zoning Officer or Building Official issues a written determination, the applicant requesting the accommodation may appeal an adverse determination or any conditions or limitations imposed in the written determination.
- B. All appeals shall contain a statement of the grounds for the appeal.
- C. Appeals shall be to the Planning Commission who shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed. All determinations on appeal shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken.
- D. An applicant may request reasonable accommodation in the procedure by which an appeal will be conducted. (Ord. C-7639 § 1, 1999).

21.25.1315 Reasonable accommodation relating to requests for increased occupancy of group homes,

- A. All requests for reasonable accommodation relating to increased occupancy of a group home shall be filed first with the City's Zoning Officer.
- B. The Zoning Officer may hold a hearing on a request for reasonable accommodation

relating to the increased occupancy of a group home, or may instead, at his/her sole discretion, refer the application to the Planning Commission for hearing. If the Zoning Officer acts on a request for reasonable accommodation pursuant to this Section, the Zoning Officer shall hear the matter and issue a written determination within thirty (30) days of the date of receipt of a completed application. If the Planning Commission acts on a request for reasonable accommodation pursuant to this Section, the Planning Commission shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than sixty (60) days of receipt of a completed application.

C. Notice of hearing pursuant to this Section shall be provided not less than fourteen (14) days prior to the hearing and shall be mailed or delivered to all owners of real property as shown on the latest equalized assessment roll within three hundred feet (300') of the real property that is the subject of the hearing. In all cases under this Section, the applicant shall bear the cost of the radius mailing.

D. The Zoning Officer or Planning Commission acting pursuant to this Section, shall (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, including, but not limited to, a condition requiring the applicant to show proof of any required State license for the activity or occupancy contemplated, or (3) deny the request.

E. The Zoning Officer or Planning Commission, as appropriate, shall explain, in writing, the basis of the determination including the Zoning Officer's or Planning Commissioner's findings on the criteria set forth in Section 21.25.131.1. All written determinations shall give notice of the right to appeal and the right to request reasonable accommodation on the appeals process, if necessary. The notice of the determination shall be sent to the applicant by certified mail, return receipt requested.

F. Within thirty (30) days of the issuance of a written determination on the hearing conducted pursuant to this Section, any aggrieved party within the meaning of this Code, may file an appeal from the determination of the Zoning Officer or Planning Commission. Appeals from a determination of the Zoning Officer shall be to the Planning Commission, appeals from a determination of the Planning Commission shall be to the City Council. All appeals shall contain a statement of the grounds for the appeal.

G. Appeals to the Planning Commission or City Council pursuant to this Section shall be heard as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed. All determinations on appeal shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken. (Ord. C-7639 § 1, 1999).

21.25.1317 Fee.

There shall be no fee imposed in connection with a request for reasonable accommodation under the provisions of this Division, except that a fee equivalent to the fee imposed for an administrative use permit shall be required if the application for reasonable accommodation relates to an increase in the occupancy of a group home. (Ord. C-7639 § 1, 1999).

ATTACHMENT 4

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 18.10
OF THE SANTA CRUZ COUNTY CODE CREATING A PROCEDURE FOR
CONSIDERING REQUESTS FOR REASONABLE ACCOMMODATION**

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

SECTION I

The following new Section is hereby added to Chapter 18.10 of the Santa Cruz County Code:

18.10.128 Requests for Reasonable Accommodation

(a) Purpose

It is the policy of the County of Santa Cruz, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Section is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.

(b) Requesting Reasonable Accommodation

1. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.

2. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing.

3. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant shall be entitled to be represented at all stages of

the proceeding by a person designated by the applicant.

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4. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(c) Required Information

All requests for reasonable accommodation shall include the following information:

1. Applicant's name, address and telephone number;
2. Assessor's Parcel Number and address of the property for which the request is being made;
3. The current actual use of the property;
4. The code provision, regulation or policy from which accommodation is being requested; and
5. The basis for the claim that the individual is considered disabled under the Fair Housing Act and why the accommodation is necessary to make the specific housing available to the individual.

(d) Notice of Request for Accommodation

Written notice of a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.
2. In the event that the request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(e) Required Findings

The following findings must be analyzed, made and adopted before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record of the proceeding relating to such approval or denial:

1. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Federal Fair Housing Amendments Act of 1988.
2. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Federal Fair Housing Amendments Act of 1988.
3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the County.
4. The requested accommodation will not require a fundamental alteration of the zoning or

0269

building laws, policies and/or procedures of the County.

5. The requested accommodation will not deprive adjacent properties of light, air and open space consistent with the intent of the Zoning Ordinance.

(f) Jurisdiction

1. The Planning Director, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation. The Planning Director shall designate the Chief Building Official to act on his/her behalf for requests that involve reasonable accommodations to the Building Code. When a request for reasonable accommodation is filed with the Department, it will be referred to the Planning Director, or his/her designee, for review and consideration. The Planning Director shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, or (3) deny the request. All written determinations shall give notice of the right to appeal.

2. If necessary to reach a determination on the request for reasonable accommodation, the Planning Director may request further information from the applicant consistent with this Section, specifying in detail what information is required. In the event a request for further information is made, the thirty (30) day period to issue a written determination shall be stayed until the applicant responds to the request.

(g) Notice of Proposed Decision

1. Notice of the proposed decision shall be made in the same manner as provided above,
2. Within ten (10) days of the date the notice is mailed, any person may make a request for a Planning Director's review of a proposed decision.
3. If no request for review is received the proposed decision shall become a final director's decision.

(h) Director's Review

The Planning Director shall conduct a review hearing on the request for reasonable accommodation at which all evidence and testimony shall be considered.

(i) Notice of Director's Decision.

1. Within thirty (30) days after the hearing, the Planning Director shall issue a decision granting the request, including any reasonable conditions, or denying the request.
2. The notice of decision shall contain the Planning Director's factual findings, conclusions and reasons for the decision.

3. The notice of decision shall be made in the same manner as set forth in the previous section.

SECTION II

This ordinance shall take effect on the 31st day after the date of final passage outside the Coastal Zone, and upon certification by the California Coastal Commission within the Coastal Zone.

PASSED AND ADOPTED this ____ day of _____, 2001, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair of the Board of Supervisors

ATTESTED: _____
Clerk of the Board

APPROVED AS TO FORM:


County Counsel

DISTRIBUTION: County Counsel
Planning
CAO

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 6-02

On the motion of Commissioner Durkee
duly seconded by Commissioner Shepherd
the following Resolution is adopted:

PLANNING COMMISSION RESOLUTION RECOMMENDING ESTABLISHMENT OF
PROCEDURES FOR CONSIDERING REQUESTS FOR REASONABLE ZONING AND
BUILDING CODE ACCOMMODATIONS FOR DISABLED PERSONS

WHEREAS, the Fair Housing Act and the California Fair Employment and Housing Act require that local governments make “reasonable accommodations” (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for disabled persons; and

WHEREAS, the underlying goal of this legislation is to allow disabled persons to occupy housing that they could not occupy without the accommodation; and

WHEREAS, “reasonable accommodations” involve such things as reducing the required yard setbacks to permit the construction of a ramp for wheelchair access, or to permit the expansion of bathroom facilities to meet the specifications for disabled access, or increasing the number of residents in a care facility, or allowing more than 50% of a front yard to be paved to allow for accessible parking; and

WHEREAS, the County received a letter from Attorney General Bill Lockyer requesting that the County implement a procedure to consider requests for reasonable accommodation; and

WHEREAS, in order to comply with Federal and State regulations, an ordinance amendment has been proposed that provides a procedure for considering requests for reasonable accommodations; and

WHEREAS, the proposed ordinance was considered and recommended for approval by the County’s Commission on Disabilities at their February 11, 2002 meeting; and

WHEREAS, the proposed ordinance has been found to be categorically exempt from the California Environmental Quality Act (CEQA), and consistent with the provisions of CEQA and the County of Santa Cruz Environmental Review Guidelines.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends that the proposed ordinance to establish procedures for considering requests for reasonable zoning and building code accommodations for disabled persons, as set forth in Attachment A-1, and the CEQA Categorical Exemption, incorporated herein by reference, be approved by the Board of Supervisors and submitted to the Coastal Commission as part of the Local Coastal Program Update.

Exhibit A

0992

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this 27th day of February, 2002 by the following vote:

AYES: COMMISSIONERS Bremner, Durkee, Hummel, Osmer and Shepherd
NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

ATTEST:

Secretary

Chairperson

APPROVED AS TO FORM:

COUNTY COUNSEL

cc: County Counsel
Planning Department

PLANNING COMMISSION MINUTES 2-27-02

Proceedings of the
Santa Cruz County
Planning Commission

Volume **2002**, Number **4**
February 27, 2002

LOCATION: Board of Supervisors Chambers, County Government Center,
701 Ocean Street, Room **525**, Santa Cruz, CA **95060**

ACTION SUMMARY MINUTES

VOTING KEY

Commissioners: Shepherd, Chair: Osmer, Bremner, Durkee

Alternate Commissioners: Hancock, Hummel, Messer, DeAlba

All original commissioners except Holbert were present. Marilyn Hummel, Holbert's alternate was present instead.

F. CONSENT AGENDA

F-1. **Approval of 2-13-02 Planning Commission Meeting Minutes**

Bremner made motion to approve the minutes and Durkee seconded.

Voice Vote, carried 5-0, with ayes from commissioners Bremner, Durkee, Hummel, Osmer, and Shepherd.

G. CONTINUED ITEMS

There were no continued on this agenda.

H. SCHEDULED ITEMS

H-1. Public hearing to consider revisions to County Code Sections 13.10.322(b), 13.10.323(e)6 and **13.10.700-D** concerning accessory structures.

APPLICANT: COUNTY OF SANTA CRUZ

PROJECT PLANNER: GLENDA HILL, **454-3216**

Motion made by Shepherd to approve staff recommendation with modification to limit height within USL on parcels >15,000 sq. ft. to be equal to or less than the height of the main structure. Osmer seconded the motion.

Voice Vote, carried **3-2**, with ayes from Durkee, Osmer and Shepherd. Bremner and Hummel voted no.

H-2. Public hearing to consider amendments to county code sections 13.10.312(B) and **13.10.681**, to allow second units on agricultural parcels.

PROJECT PLANNER: FRANK BARRON, **454-2530**

Bremner made motion to approve staffs recommendation as amended by APAC and as recommended by staff, Durkee seconded the motion. Voice Vote, carried 5-0, with ayes from Bremner, Durkee, Hummel, Osmer, and Shepherd.

H-3. Public hearing to consider amendments to county code chapter **18.10**, establishing procedures for considering requests for reasonable zoning and building code accommodation for disabled persons,

PROJECT PLANNER: FRANK BARRON, **454-2530**

Durkee made motion to approve staffs recommendation and Shepherd seconded.

Voice Vote, carried 5-0, with ayes from Bremner, Durkee, Hummel, Osmer, and Shepherd.

- H-4.** Public hearing to consider amendments to county code 18.10 re-establishing a planned unit development (PUD) ordinance.
PROJECT PLANNER: FRANK BARRON, 454-2530

Shepherd made motion to recommend that B.O.S. *not* adopt ordinance. Hummel seconded the motion.
Voice Vote, carried **3-2**, with ayes from Bremner, Durkee, and Osmer. Hummel and Shepherd voted no.



ATTACHMENT 10
COUNTY OF SANTA CRUZ

H-3

0995

PLANNING DEPARTMENT

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

February 6, 2002

AGENDA: February 11, 2002

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

**PUBLIC HEARING TO CONSIDER ORDINANCE ESTABLISHING
PROCEDURES FOR CONSIDERING REQUESTS FOR REASONABLE
ZONING AND BUILDING CODE ACCOMMODATIONS FOR DISABLED PERSONS**

Commissioners:

Your Commission is being asked to consider a proposed ordinance to create a process for reviewing requests for "reasonable accommodation", and to forward your recommendations to the Board of Supervisors. The term "reasonable accommodation" refers to the requirements of the Fair Housing Act and the California Fair Employment and Housing Act that local governments make reasonable accommodations (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for disabled persons. The proposed ordinance (Attachment A-1 of Exhibit A), to be incorporated in Chapter 18.10 of the County Code, includes a list of required information for submittal of a request for "reasonable accommodation", noticing of adjacent property owners, findings/grounds for reviewing the request and an appeal process.

Background:

On June 5, 2001, the Board of Supervisors, on the recommendation of Supervisor Campos, directed County Counsel and the Planning Director to report back on this date with report regarding the development of ordinance language to create a process for reviewing requests for "reasonable accommodation." The recommendation by Supervisor Campos was the result of a letter from Attorney General Bill Lockyer requesting that the County implement a procedure to consider requests for reasonable accommodation (Attachment 1 of Exhibit C). Planning staff and County Counsel researched the issue, and presented a report to the Board (Exhibit C), which included a preliminary "reasonable accommodations" ordinance, at their August 21, 2001 meeting. At their August 21, 2001 meeting, the Board of Supervisors considered the preliminary ordinance and directed staff to process the ordinance through the Disabilities Commission and Planning Commission.

Proposed Ordinance:

The proposed ordinance, which would be incorporated in Chapter **18.10** of the County Code, includes a list of required information for submittal of a request, noticing of adjacent property owners, findings/grounds for reviewing the request and an appeal process. The proposed ordinance provides that a disabled person, or their representative, may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County, at any time that the accommodation may be necessary to ensure equal access to housing. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the proposed ordinance states that the Planning Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. If the project for which the request is being made also requires some other planning permit or approval, the proposed ordinance provides that the applicant can file the request together with the application for such permit or approval.

The proposed ordinance requires that all improvements constructed under the auspices of the ordinance be removed upon the vacation of the unit by the person to whom the reasonable accommodation was granted, unless it is determined that the unit has been re-occupied by a qualified person, or if it is determined by the County of Santa Cruz that the removal of the improvement is not readily achievable. For example, removal of something like a front door access ramp might be considered “readily achievable”, whereas something like a structural addition to a bathroom would not be so considered and thus would not have to be removed.

Discussion:

As noted above, the term “reasonable accommodation” refers to the requirements of the Fair Housing Act and the California Fair Employment and Housing Act that local governments make reasonable accommodations (e.g., modifications or exceptions) in their zoning **laws** and other land use regulations and practices to facilitate equal housing opportunities for disabled persons. The Federal and State laws have numerous exceptions and much legal terminology, but the underlying goal of this legislation is to promote the bending of oftentimes rigid zoning regulations to allow disabled persons to occupy housing that they could not occupy without the accommodation. Usually, these accommodations involve such things as reducing the required yard setbacks to permit the construction of a ramp for wheelchair access or to permit the expansion of bathroom facilities to meet the specifications for disabled access. Other types of accommodations could include increasing the number of residents in a care facility and allowing more than 50% of a front yard to be paved to allow for accessible parking.

Two California communities have adopted ordinances which create a procedure to consider requests for reasonable accommodation. Staff has obtained the ordinances from these two California cities (San Jose and Long Beach) and they are included as attachments to the attached to the August **21**, 2001 Board letter (Exhibit C). The **San** Jose ordinance (Attachment 2 of Exhibit C) is similar to our Level IV review in that there it is an administrative decision and public notice is given of both the request for the reasonable accommodation and the proposed decision on the request. However, notice is only provided to adjacent property owners. If an appeal hearing is requested, the Planning Director conducts the hearing (again, similar to our Level **IV** appeal). The ordinance also includes a list of required information and establishes the grounds for considering the accommodation.

The Long Beach ordinance (Attachment 3 of Exhibit C) designates the Zoning Officer or Building Official, as appropriate, as the entity charged with reviewing requests for reasonable accommodation. The decision must be supported by specific findings relating to the property. The Long Beach ordinance does not require noticing of the public of the request nor does the public have the ability to appeal the decision. Appeals by the applicant are considered by the Planning Commission. In addition, this ordinance creates a separate process for the consideration of requests for increased occupancy of group homes. The ordinance waives fees for all requests for reasonable accommodation, except for those associated with increased occupancy of group homes.

The only reference to a form of reasonable accommodation in the Santa Cruz County Code Section 13.10.265(d)3 includes a provision which allows alterations to nonconforming, historic properties to facilitate access by persons with disabilities. The remainder of the existing Santa Cruz County Code does not contain a procedure for considering requests for reasonable consideration.

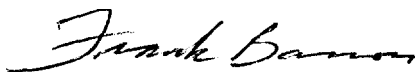
Conclusion and Recommendation:

In order to comply with Federal and State regulations, the County should enact an ordinance amendment that provides a procedure for considering requests for reasonable accommodations. Staff has prepared a draft ordinance for review by your Commission (Attachment A-1 of Exhibit A) which follows an approach similar to San Jose's ordinance. This ordinance, to be incorporated in Chapter 18.10 of the County Code, includes a list of required information for submittal of a request, noticing of adjacent property owners, findings/grounds for reviewing the request and an appeal process.

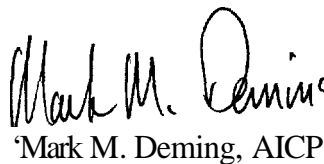
The proposed ordinance was scheduled for consideration by the County's Commission on Disabilities on February 11, 2002. Several changes to the draft proposed Reasonable Accommodations ordinance, which were suggested at that meeting, have been incorporated into the draft your Commission is now considering (Attachment A-1 of Exhibit A).

The proposed ordinance has been found by Planning Department staff to be categorically exempt from CEQA and a CEQA Categorical Exemption form has been prepared (Exhibit B). It is RECOMMENDED that your Commission approve of the attached Resolution recommending Board of Supervisors adoption of an ordinance establishing procedures for considering requests for reasonable zoning and building code accommodations for disabled persons (Exhibit A).

Sincerely,



Frank Barron, AICP
Planner



Mark M. Deming, AICP
Principal Planner

EXHIBITS:

- A. Resolution Recommending Adoption of an Ordinance Establishing Procedures for Considering Requests for Reasonable Zoning and Building Code Accommodations for Disabled Persons

Attachment A-1: Proposed Ordinance No. ____ Establishing Procedures for
Considering Requests for Reasonable Zoning and Building Code
Accommodations for Disabled Persons

- B. CEQA Exemption
- C. Letter of August 8, 2001 from Alvin James, Planning Director, to the Board of Supervisors

cc: Andrea Smith, Commission on Disabilities

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. _____

On the motion of Commissioner
duly seconded by Commissioner
the following Resolution is adopted:

PLANNING COMMISSION RESOLUTION RECOMMENDING ESTABLISHMENT OF
PROCEDURES FOR CONSIDERING REQUESTS FOR REASONABLE ZONING AND
BUILDING CODE ACCOMMODATIONS FOR DISABLED PERSONS

WHEREAS, the Fair Housing Act and the California Fair Employment and Housing Act require that local governments make “reasonable accommodations” (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for disabled persons; and

WHEREAS, the underlying goal of this legislation is to allow disabled persons to occupy housing that they could not occupy without the accommodation; and

WHEREAS, “reasonable accommodations” involve such things as reducing the required yard setbacks to permit the construction of a ramp for wheelchair access, or to permit the expansion of bathroom facilities to meet the specifications for disabled access, or increasing the number of residents in a care facility, or allowing more than 50% of a front yard to be paved to allow for accessible parking; and

WHEREAS, the County received a letter from Attorney General Bill Lockyer requesting that the County implement a procedure to consider requests for reasonable accommodation; and

WHEREAS, in order to comply with Federal and State regulations, an ordinance amendment has been proposed that provides a procedure for considering requests for reasonable accommodations; and

WHEREAS, the proposed ordinance was considered and recommended for approval by the County’s Commission on Disabilities at their February 11, 2002 meeting; and

WHEREAS, the proposed ordinance has been found to be categorically exempt from the California Environmental Quality Act (CEQA), and consistent with the provisions of CEQA and the County of Santa Cruz Environmental Review Guidelines.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends that the proposed ordinance to establish procedures for considering requests for reasonable zoning and building code accommodations for disabled persons, as set forth in Attachment A-1, and the CEQA Categorical Exemption, incorporated herein by reference, be approved by the Board of Supervisors and submitted to the Coastal Commission as part of the Local Coastal Program Update.

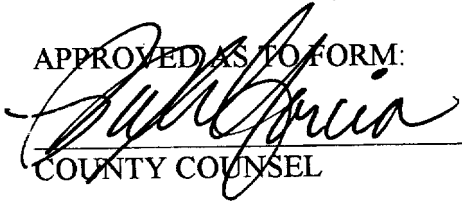
PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this _____ day of _____, 2002 by the following vote:

AYES: COMMISSIONERS
 NOES: COMMISSIONERS
 ABSENT: COMMISSIONERS
 ABSTAIN: COMMISSIONERS

 Chairperson

ATTEST: _____
 Secretary

APPROVED AS TO FORM:


 COUNTY COUNSEL

cc: County Counsel
 Planning Department

ATTACHMENT A-1**ORDINANCE NO. _____****ORDINANCE AMENDING CHAPTER 18.10 OF THE SANTA CRUZ COUNTY CODE
CREATING A PROCEDURE FOR CONSIDERING REQUESTS FOR REASONABLE
ACCOMMODATION**

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

SECTION I

Chapter 18.10 of the Santa Cruz County Code is hereby amended to read as follows:

18.10.128 Requests for Reasonable Accommodation**(a) Purpose**

It is the policy of the County of Santa Cruz, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Section is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.

(b) Requesting Reasonable Accommodation

1. In order to make housing available at a specified location to an individual with a disability, said individual or his or her representative may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.
2. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing.
3. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Department will provide the assistance necessary to ensure that the process is accessible to the applicant or his or her representative. The applicant shall be entitled to be represented at all stages of the proceeding by a person designated by the applicant.
4. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(c) Required Information

All requests for reasonable accommodation shall include the following information:

ATTACHMENT A-1

1. Applicant's name, address and telephone number;
2. Assessor's Parcel Number and address of the property for which the request is being made;
3. The current actual use of the property;
4. The code provision, regulation or policy from which accommodation is being requested;
5. Documentation of the claim that the individual is considered disabled under the federal Fair Housing Act or the California Fair Employment and Housing Act and a brief description of why the accommodation is necessary to make the specific housing available to the individual;

(d) Notice of Request for Accommodation

Written notice of a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.
2. In the event that the request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(e) Required Findings

In addition to any other findings required for a permit approval made in conjunction with a request for reasonable accommodation, the Approving Body may approve a reasonable accommodation as either applied for or in modified form if, on the basis of the application and the evidence submitted, the Approving Body makes the findings listed below; no approval shall be granted unless the findings below are made:

1. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Federal Fair Housing Act of **1988** or the California Fair Employment and Housing Act.
2. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Federal Fair Housing Amendments Act of **1988** or the California Fair Employment and Housing Act.
3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the County.
4. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the County.

ATTACHMENT A-1

5. The requested accommodation will not deprive adjacent properties of light, air and open space consistent with the intent of the Zoning Ordinance.
6. The accommodation will not be detrimental to the health, safety or welfare of persons residing or working in the neighborhood or general public, and will not result in the inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

(f) Jurisdiction

1. The Planning Director, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation. The Planning Director shall designate the Chief Building Official to act on his/her behalf for requests that involve reasonable accommodations to the Building Code. When a request for reasonable accommodation is filed with the Department, it will be referred to the Planning Director, or his/her designee, for review and consideration. The Planning Director shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, or (3) deny the request. All written determinations shall give notice of the right to appeal, pursuant to County Code Section 18.10.320.
2. If necessary to reach a determination on the request for reasonable accommodation, the Planning Director may request further information from the applicant consistent with this Section, specifying in detail what information is required. In the event a request for further information is made, the thirty (30) day period to issue a written determination shall be stayed until the applicant responds to the request.

(g) Notice of Proposed Decision

1. Notice of the proposed decision shall be made in the same manner as provided in Section 18.10.128(d)1.
2. Within fourteen (14) days of the date the notice is mailed, any person may make a request for a Planning Director's review of a proposed decision.
3. If no request for review is received the proposed decision shall become a final director's decision.

(h) Director's Review

The Planning Director shall conduct a review hearing on the request for reasonable accommodation at which all evidence and testimony shall be considered.

(i) Notice of Director's Decision.

1. Within thirty (30) days after the hearing, the Planning Director shall issue a decision granting the request, including any reasonable conditions and/or modifications, or denying the request.
2. The notice of decision shall contain the Planning Director's factual findings, conclusions and reasons for the decision.
3. The notice of decision shall be made in the same manner as set forth in subdivision (d) of this section

(j) Removal of Improvement

All improvements constructed as a part of a reasonable accommodation approval pursuant to this section shall be removed within 180 days of the vacation of the unit by the person to whom the reasonable accommodation was granted unless it is determined that the unit has been re-occupied by a qualified person, or if it is determined by the County of Santa Cruz, following an inspection by the Building Official, that the removal of the improvement is not readily achievable.

SECTION II

This ordinance shall take effect on the 31st day after the date of final passage outside the Coastal Zone, and upon certification by the California Coastal Commission within the Coastal Zone.

PASSED AND ADOPTED this ____ day of _____, 2002, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson of the Board of Supervisors

ATTESTED: _____

Clerk of the Board

APPROVED AS TO FORM



County Counsel

DISTRIBUTION: County Counsel, Planning, CAO

**NOTICE OF EXEMPTION FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Exhibit B

1005

The County of Santa Cruz has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15329 of CEQA for the reason(s) which have been checked on this document.

Application No. *N/A*

Assessor Parcel No. *N/A*

Project Location: *Countywide*

Project Description: ***Proposed Ordinance Establishing Procedures for Considering Requests for Reasonable Zoning and Building Code Accommodations for Disabled Persons***

Person or Agency Proposing Project: ***Santa Cruz County Planning Department***

Phone Number: (831) ***454-3183***

A. _____ The proposed activity is not a project under CEQA Guidelines, Sections 1928 and 501.

B. _____ Ministerial Project involving only the use of fixed standards or objective measurements without personal judgement.

C. ☒ Statutory Exemption other than a Ministerial Project.
Specify type:

D. Categorical Exemption

- | | |
|--|---|
| <p>_____ 1. Existing Facility</p> <p>_____ 2. Replacement or Reconstruction</p> <p>_____ 3. New Construction of Small Structure</p> <p>_____ 4. Minor Alterations to Land</p> <p><input checked="" type="checkbox"/> 5. Alterations in Land Use Limitations</p> <p>_____ 6. Information Collection</p> <p>_____ 7. Actions by Regulatory Agencies for Protection of the Environment</p> <p>_____ 8. Actions by Regulatory Agencies for Protection of Nat. Resources</p> <p>_____ 9. Inspection</p> <p>_____ 10. Loans</p> <p>_____ 11. Accessory Structures</p> <p>_____ 12. Surplus Govt. Property Sales</p> <p>_____ 13. Acquisition of Land for Wildlife Conservation Purposes</p> <p>_____ 14. Minor Additions to Schools</p> <p>_____ 15. Minor Land Divisions</p> <p>_____ 16. Transfer of Ownership of Land to Create Parks</p> | <p>_____ 17. Open Space Contracts or Easements</p> <p>_____ 18. Designation of Wilderness Areas</p> <p>_____ 19. Annexation of Existing Facilities] Lots for Exempt Facilities</p> <p>_____ 20. Changes in Organization of Local Agencies</p> <p>_____ 21. Enforcement Actions by Regulatory Agencies</p> <p>_____ 22. Educational Programs</p> <p>_____ 23. Normal Operations of Facilities for Public Gatherings</p> <p>_____ 24. Regulation of Working Conditions</p> <p>_____ 25. Transfers of Ownership of Interests in Land to Preserve Open Space</p> <p>_____ 26. Acquisition of Housing for Housing Assistance Programs</p> <p>_____ 27. Leasing New Facilities</p> <p>_____ 28. Small Hydroelectric Projects at Existing Facilities</p> <p>_____ 29. Cogeneration Projects at Existing Facilities</p> |
|--|---|

E. _____ Lead Agency Other Than County: _____

Mark Deming, AICP
Project Planner

Date: _____



County of Santa Cruz 0251

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060

(831)454-2580 FAX: (831)454-2131 TDD: (831)454-2123

ALVIN D. JAMES, DIRECTOR

August 8, 2001

AGENDA: August 21, 2001

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

REPORT ON A REASONABLE ACCOMMODATION REVIEW PROCESS

Members of the Board:

On June 5, 2001, your Board, on the recommendation of Supervisor Campos, directed County Counsel and the Planning Director to report back on this date with report regarding the development of ordinance language to create a process for reviewing requests for "reasonable accommodation." The recommendation by Supervisor Campos was the result of a letter from Attorney General Bill Lockyer requesting that the County implement a procedure to consider requests for reasonable accommodation (Attachment 1). Planning staff and County Counsel have researched the issue, and the following information and recommendations have been prepared for consideration by your Board.

The term "reasonable accommodation" refers to the requirements of the Fair Housing Act and the California Fair Employment and Housing Act that local governments make reasonable accommodations (e.g., modifications or exceptions) in their zoning laws and other land use regulations and practices to facilitate equal housing opportunities for disabled persons. The Federal and State laws have numerous exceptions and much legal terminology, but the underlying goal of this legislation is to promote the bending of oftentimes rigid zoning regulations to allow disabled persons to occupy housing that they could not occupy without the accommodation. Usually, these accommodations involve such things as reducing the required yard setbacks to permit the construction of a ramp for wheelchair access or to permit the expansion of bathroom facilities to meet the specifications for disabled access. Other types of accommodations could include increasing the number of residents in a care facility and allowing more than 50% of a

front yard to be paved to allow for accessible parking.

0252

Two California communities have adopted ordinances which create a procedure to consider requests for reasonable accommodation. Staff has obtained the ordinances from these two California cities (San Jose and Long Beach) and have attached them to this report for your Board's review. The San Jose ordinance (Attachment 2) is similar to our Level IV review in that there it is an administrative decision and public notice is given of both the request for the reasonable accommodation and the proposed decision on the request. However, notice is only provided to adjacent property owners. If an appeal hearing is requested, the Planning Director conducts the hearing (again, similar to our Level IV appeal). The ordinance also includes a list of required information and establishes the grounds for considering the accommodation.

The Long Beach ordinance (Attachment 3) designates the Zoning Officer or Building Official, as appropriate, as the entity charged with reviewing requests for reasonable accommodation. The decision must be supported by specific findings relating to the property. The Long Beach ordinance does not require noticing of the public of the request nor does the public have the ability to appeal the decision. Appeals by the applicant are considered by the Planning Commission. In addition, this ordinance creates a separate process for the consideration of requests for increased occupancy of group homes. The ordinance waives fees for all requests for reasonable accommodation, except for those associated with increased occupancy of group homes.

The only reference to a form of reasonable accommodation in the Santa Cruz County Code Section 13.10.265(d)3 includes a provision which allows alterations to nonconforming, historic properties to facilitate access by persons with disabilities. The remainder of the existing Santa Cruz County Code does not contain a procedure for considering requests for reasonable consideration.

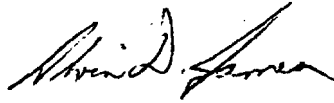
In order to comply with Federal and State regulations, the County should enact an ordinance amendment that provides a procedure for considering requests for reasonable accommodations. Staff has prepared a draft ordinance for review by your Board (Attachment 4) which follows an approach similar to San Jose's ordinance. This ordinance, to be incorporated in Chapter 18.10, includes a list of required information for submittal of a request, noticing of adjacent property owners, findings/grounds for reviewing the request and an appeal process.

It is, therefore, RECOMMENDED that your Board:

1. Accept and file this report on requests for reasonable accommodations, and
2. Review and give initial approval to the Draft Ordinance which would establish a procedure for considering requests for reasonable accommodation (Attachment 4), and

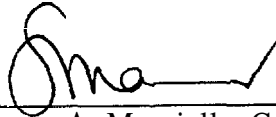
3. Direct the Planning Department to process the ordinance amendment, including CEQA review and review by the Commission on Disabilities and the Planning Commission. ⁰²⁵³

Sincerely,



Alvin D. James
Planning Director

RECOMMENDED:



Susan A. Mauriello, CAO

- Attachments:
1. Letter of Supervisor Campos, dated May 25, 2001, with attachments.
 2. Reasonable Accommodations Ordinance - San Jose, CA
 3. Reasonable Accommodations Ordinance - Long Beach, CA
 4. Draft Reasonable Accommodations Ordinance

cc: Commission on Disabilities
County Counsel

0254



County of Santa Cruz

BOARD OF SUPERVISORS

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THIRD DISTRICT

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FOURTH DISTRICT

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FIFTH DISTRICT

AGENDA: 6/5/01

May 25, 2001

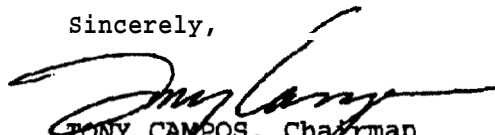
BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE SUGGESTED ADOPTION OF A REASONABLE ACCOMMODATION PROCEDURE

Dear Members of the Board:

Attached is a copy of a letter from Attorney General Bill Lockyer urging that the County of Santa Cruz amend our zoning ordinances to include a procedure for handling requests for reasonable accommodation made pursuant to the Fair Housing Act and the California Fair Employment and Housing Act. I know that all members of the Board share Mr. Lockyer's concerns about the importance of providing housing which is accessible for persons with disabilities. In order for the Board to be able to have a thoughtful discussion of the issues raised by the Attorney General, I recommend that the Board direct the Planning Director and County Counsel to prepare a report and recommendations for consideration by the Board on or before August 21, 2001.

Sincerely,


TONY CAMPOS, Chairman
Board of Supervisors

TC: ted
Attachment

cc: Bill Lockyer, Attorney General
Commission on Disabilities

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STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
BILL LOCKYER
ATTORNEY GENERAL

May 15, 2001

The Honorable Mardi Wormhoudt
Chair, Santa Cruz County Board of Supervisors
701 Ocean Street
Santa Cruz, CA 95060

RE: Adoption of A Reasonable Accommodation Procedure

Dear Supervisor Wormhoudt:

Both the federal Fair Housing Act ("FHA") and the California Fair Employment and Housing Act ("FEHA") impose an affirmative duty on local governments to make reasonable accommodations (i.e., modifications or exceptions) in their zoning laws and other land use regulations and practices when such accommodations "may be necessary to afford" disabled persons "an equal opportunity to use and enjoy a dwelling." (42 U.S.C. § 3604(f)(3)(B); see also Gov. Code, §§ 12927(c)(1), 12955(1).) ¹ Although this mandate has been in existence for some years now, it is our understanding that only two or three local jurisdictions in California provide a process specifically designed for people with disabilities and other eligible persons to utilize in making such requests. In my capacity as Attorney General of the State of California, I share responsibility for the enforcement of the FEHA's reasonable accommodations requirement with the Department of Fair Employment and Housing. Accordingly, I am writing to encourage your jurisdiction to adopt a procedure for handling such requests and to make its availability known within your community.

¹ Title 11 of the Americans with Disabilities Act (42 U.S.C. §§ 12131-65) and section 504 of the Rehabilitation Act (29 U.S.C. § 794) have also been found to apply to zoning ordinances and to require local jurisdictions to make reasonable accommodations in their requirements in certain circumstances, (*See Bay Area Addiction Research v. City of Antioch* (9th Cir. 1999) 179 F.3d 725; see also 28 C.F.R. § 35.130(b)(7) (1997))

² A similar appeal has been issued by the agencies responsible for enforcement of the FHA. (See Joint Statement of the Department of Justice and the Department of Housing and Urban Development, *Group Homes, Local Land Use and the Fair Housing Act* (Aug. 18, 1999), p. 4, at < <http://www.bazelon.org/cpfha/cpfha.html> > [as of February 27, 2001].)

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The Honorable Mardi Wormhoudt

May 15, 2001

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It is becoming increasingly important that a process be made available for handling such requests that operates promptly and efficiently, A report issued in 1999 by the California Independent Living Council makes it abundantly clear that the need for accessible and affordable housing for Californians with disabilities will increase significantly over the course of the present decade.³ The report's major findings include the following:

- Between 1999 and 2010, the number of Californians with some form of physical or psychological disability is expected to increase by at least 19 percent, from approximately 6.6 million to 7.8 million, and may rise as high as 11.2 million. The number with severe disabilities is expected to increase at approximately the same rate, from 3.1 million to 3.7 million, and may reach 6.3 million.⁴ Further, most of this increase will likely be concentrated in California's nine largest counties?
- If the percentages of this population who live in community settings—that is, in private homes or apartments (roughly 66.4 percent) and group homes (approximately 10.8 percent)—is to be maintained, there will have to be a substantial expansion in the stock of suitable housing in the next decade. The projected growth of this population translates into a need to accommodate an additional 800,000 to 3.1 million people with disabilities in affordable and accessible private residences or apartments and an additional 100,000 to 500,000 in group homes.

I recognize that many jurisdictions currently handle requests by people with disabilities for relief from the strict terms of their zoning ordinances pursuant to existing variance or conditional use permit procedures. I also recognize that several courts called upon to address the matter have concluded that requiring people with disabilities to utilize existing, non-

³See Tootelian & Gaedeke, *The Impact of Housing Availability, Accessibility, and Affordability on People With Disabilities* (April 1999) at <http://www.calsilc.org/housing.html> [as of February 27, 2001].

⁴The lower projections are based on the assumption that the percentage of California residents with disabilities will remain constant over time, at approximately 19 percent (i.e., one in every five) overall, with about 9.2 percent having severe disabilities. The higher figures, reflecting adjustments for the aging of the state's population and the higher proportion of the elderly who are disabled, assume that these percentages will increase to around 28 percent (i.e., one in every four) overall, with 16 percent having severe disabilities. (*Ibid.*)

⁵These are: Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, and Santa Clara. (*Ibid.*)

The Honorable Mardi Wormhoudt
 May 15, 2001
 Page 3

discriminatory procedures such as these is not of itself a violation of the **FHA**.⁶ Several considerations counsel against exclusive reliance on these alternative procedures, however.

Chief among these is the increased risk of wrongfully denying a disabled applicant's request for relief and incurring the consequent liability for monetary damages, penalties, attorneys' fees, and costs which violations of the state and federal fair housing laws often entail.⁷ This risk exists because the criteria for determining whether to grant a variance or conditional use permit typically differ from those which govern the determination whether a requested accommodation is reasonable within the meaning of the fair housing laws.⁸

Thus, municipalities relying upon these alternative procedures have found themselves in the position of having refused to approve a project as a result of considerations which, while sufficient to justify the refusal under the criteria applicable to grant of a variance or conditional use permit, were insufficient to justify the denial when judged in light of the fair housing laws' reasonable accommodations mandate. (See, e.g., *Hovson's Inc. v. Township of Brick* (3rd Cir. 1996) 89 F.3d 1096 (township found to have violated the FHA's reasonable accommodation mandate in refusing to grant a conditional use permit to allow construction of a nursing home in a "Rural Residential-Adult Community Zone" despite the fact that the denial was sustained by the state courts under applicable zoning criteria); *Trovato v. City of Manchester, N.H.* (D.N.H. 1997) 992 F.Supp. 493 (city which denied disabled applicants permission to build a paved parking space in front of their home because of their failure to meet state law requirements for a variance found to have violated the FHA's reasonable accommodation mandate).

⁶See, *U.S. v. Village of Palatine, Ill.* (7th Cir. 1994) 37 F.3d 1230, 1234; *Oxford House, Inc. v. City of Virginia Beach* (E.D.Va. 1993) 825 F.Supp. 125 1, 1262; see generally Annot. (1998) 148 A.L.R. Fed. 1, 115-121, and later cases (2000 pocket supp.) p. 4.)

⁷ See 42 U.S.C. § 3604(f)(3)(B); Gov. Code, §§ 12987(a), 12989.3(f).

⁸ Under the **FHA**, an accommodation is deemed "reasonable" so long as it does not impose "undue financial and administrative burdens" on the municipality or require a "fundamental alteration in the nature" of its zoning scheme. (See, e.g., *City of Edmonds v. Washington State Bldg. Code Council* (9th Cir. 1994) 18 F.3d 802, 806; *Turning Point, Inc. v. City of Caldwell* (9th Cir. 1996) 74 F.3d 941; *Hovsons, Inc. v. Township of Brick* (3rd Cir. 1996) 89 F.3d 1096, 1104; *Smith & Lee Associates, Inc. v. City of Taylor, Michigan* (6th Cir. 1996) 102 F.3d 781, 795; *Erdman v. City of Fort Atkinson* (7th Cir. 1996) 84 F.3d 960; *Shapiro v. Cadman Towers, Inc.* (2d Cir. 1995) 51 F.3d 328, 334; see also Gov. Code, § 12955.6 [explicitly declaring that the **FEHA**'s housing discrimination provisions shall be construed to afford people with disabilities, among others, no lesser rights or remedies than the **FHA**].)

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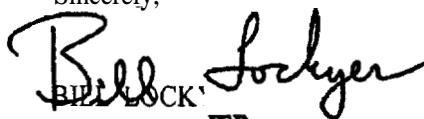
The Honorable Mardi Wormhoudt
 May 15, 2001
 Page 4

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Further, and perhaps even more importantly, it may well be that reliance on these alternative procedures, with their different governing criteria, serves at least in some circumstances to encourage community opposition to projects involving desperately needed housing for the disabled. As you are well aware, opposition to such housing is often grounded on stereotypical assumptions about people with disabilities and apparently equally unfounded concerns about the impact of such homes on surrounding property values! Moreover, once triggered, it is difficult to quell. Yet this is the very type of opposition that, for example, the typical conditional use permit procedure, with its general health, safety, and welfare standard, would seem rather predictably to invite, whereas a procedure conducted pursuant to the more focused criteria applicable to the reasonable accommodation determination would not.

For these reasons, I urge your jurisdiction to amend your zoning ordinances to include a procedure for handling requests for reasonable accommodation made pursuant to the fair housing laws. This task is not a burdensome one. Examples of reasonable accommodation ordinances are easily attainable from jurisdictions which have already taken this step⁹ and from various nonprofit groups which provide services to people with disabilities, among others? It is, however, an important one. By taking this one, relatively simple step, you can help to ensure the inclusion in our communities of those among us who are disabled.

Sincerely,


 BILL LOCKYER

Attorney General

⁹Numerous studies support the conclusion that such concerns about property values are misplaced. (See Lauber, *A Real LULU: Zoning for Group Homes and Halfway Houses Under The Fair Housing Amendments Act of 1988* (Winter 1996) 29 J. Marshall L. Rev. 369, 384-385 & fn. 50 (reporting that there are more than fifty such studies, all of which found no effect on property values, even for the homes immediately adjacent).) A compendium of these studies, many of which also document the lack of any foundation for other commonly expressed fears about housing for people with disabilities, is available. (See Council of Planning Librarians, *There Goes the Neighborhood. . . A Summary of Studies Addressing the Most Often Expressed Fears about the Effects of Group Homes on Neighborhoods in which They Are Placed* (Bibliography No. 259) (Apr. 1990).)

¹⁰ Within California, these include the cities of Long Beach and San Jose.

¹¹ Mental Health Advocacy Services, Inc., of Los Angeles for example, maintains a collection of reasonable accommodations ordinances, copies of which are available upon request.

REASONABLE ACCOMMODATION ORDINANCE - SAN JOSE, CA

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20.160.010 Purpose

It is the policy of the city of San Jose to provide reasonable accommodation for persons with disabilities seeking fair access to housing in the application of its zoning laws. The purpose of this chapter is to provide a process for making a request for reasonable accommodation.

(Ord. 26248.)

20.160.020 Application

A. Any person who requires reasonable accommodation, because of a disability, in the application of a zoning law which may be acting as a barrier to fair housing opportunities may do so on a form to be provided by the director.

B. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(Ord. 26248.)

20.160.030 Required information

The applicant shall provide the following information:

1. Applicant's name, address and telephone number;
2. Address of the property for which the request is being made;
3. The current actual use of the property;
4. The zoning code provision, regulation or policy from which accommodation is being requested;
5. The bases for the claim that the individual is considered disabled under the Fair Housing Act and why the accommodation is necessary to make the specific housing available to the individual.

(Ord. 26248.)

20.160.040 Notice of request for accommodation

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Written notice of a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.

2. In the event that the request is being made inconjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(Ord. 26248.)

20.160.050 Grounds for accommodation

In making a determination regarding the reasonableness of a requested accommodation, the following factors shall be considered:

1. Special need created by the disability;

2. Potential benefit that can be accomplished by the requested modification;

3. Potential impact on surrounding uses;

4. Physical attributes of the property and structures;

5. Alternative accommodations which may provide an equivalent level of benefit;

6. In the case of a determination involving a one-family dwelling, whether the household would be considered a single housekeeping unit if it were not using special services that are required because of the disabilities of the residents;

7. Whether the requested accommodation would impose an undue financial or administrative burden on the city; and

8. Whether the requested accommodation would require a fundamental alteration in the nature of a program.

(Ord. 26248.)

20.160.060 Notice of proposed decision

A. Notice of the proposed decision shall be made in the same manner as provided above.

B. Within ten (10) days of the date the notice is mailed, any person may make a request for a director's hearing upon a proposed decision. ⁰²⁶¹

C. If no request for hearing is received the proposed decision shall become a final director's decision.

(Ord. 26248.)

20.160.070 Director's hearing

The director shall conduct a hearing on the request for reasonable accommodation at which all reasonable evidence and credible testimony shall be considered.

(Ord. **26248.**)

20.160.080 Notice of director's decision

A. Within thirty (30) days after the hearing, the director shall issue a decision granting the request, including any reasonable conditions, or denying the request.

B. The notice of decision shall contain the director's factual findings, conclusions and reasons for the decision.

C. The notice of decision shall be made in the same manner as set forth in the previous section.

(Ord. 26248.)

REASONABLE ACCOMMODATIONS ORDINANCE – LONG BEACH, CA

21.25.1301 Purpose.

It is the policy of the City, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Division is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City. (Ord. C-7639 § 1, 1999).

21.25.1303 Definitions.

A. **Act.** The Fair Housing Amendments Act of 1988.

B. **Applicant.** An individual making a request for reasonable accommodation pursuant to this Division.

C. **Code.** The Long Beach Municipal Code.

D. **Department.** The Department of Planning and Building of the City of Long Beach.

E Disabled Person. Any person who has a physical or mental impairment that substantially limits one or more major life activities; anyone who is regarded as having such impairment; or anyone who has a record of such impairment. People who are currently using illegal substances are not covered under the Act or this Division unless they have a separate disability.

F. **Group Home.** Refers to any and all facilities which are regulated by the provisions of the California Community Care Facilities Act (Health & Safety Code Section 1500 et seq.), the California Residential Care Facilities for the Elderly Act (Health & Safety Code Section 1569) or any alcoholism or drug abuse recovery or treatment facility as defined by Health & Safety Code Section 11834.02 or any successor statutes.

G. **Increased Occupancy.** Refers to a request to increase the number of individuals permitted or licensed by State or local law to occupy a group home. (Ord. C-7639 § 1, 1999).

21.25.1305 Notice to the public of availability of accommodation process.

The Department of Planning and Building shall prominently display in both the Development Services Center and the Planning Bureau a notice advising those with

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disabilities or their representatives that they may request a reasonable accommodation hearing in accordance with the procedures established in this Division. (Ord. C-7639 § 1, 1999). 0263

21.25.1307 Requesting reasonable accommodation.

A In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City.

B. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant shall be entitled to be represented at all stages of the proceeding by a person designated by the applicant.

C A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed on an application form provided by the Department at any time that the accommodation may be necessary to ensure equal access to housing. (Ord. C-7639 § 1, 1999).

21.25.1309 Jurisdiction.

A. Zoning Officer/Building Official. The Zoning Officer, or Building Official, as appropriate, shall have the authority to consider and act on requests for reasonable accommodation. When a request for reasonable accommodation is filed with the Department, it will be referred to the Zoning Officer or Building Official for review and consideration. The Zoning Officer or Building Official shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, or (3) deny the request. All written determinations shall give notice of the right to appeal and the right to request reasonable accommodation on the appeals process, if necessary. The notice of determination shall be sent to the applicant by certified mail, return receipt requested.

B. If necessary to reach a determination on the request for reasonable accommodation, the Zoning Officer or Building Official may request further information from the applicant consistent with this Division, specifying in detail what information is required. In the event a request for further information is made, the thirty (30) day period to issue a written determination shall be stayed until the applicant responds to the request. (Ord. C-7639 § 1, 1999).

21.25.131 1 Required findings.

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The following findings must be analyzed, made and adopted before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record of the proceeding relating to such approval or denial:

- A. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Act.
- B. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Act.
- C. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.
- D. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City. (Ord. C-7639 § 1, 1999).

21.25.1 313 Appeals.

- A. Within thirty (30) days of the date the Zoning Officer or Building Official issues a written determination, the applicant requesting the accommodation may appeal an adverse determination or any conditions or limitations imposed in the written determination.
- B. All appeals shall contain a statement of the grounds for the appeal.
- C. Appeals shall be to the Planning Commission who shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed. All determinations on appeal shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken.
- D. An applicant may request reasonable accommodation in the procedure by which an appeal will be conducted. (Ord. C-7639 § 1, 1999).

21.25.1315 Reasonable accommodation relating to requests for increased occupancy of group homes.

- A. All requests for reasonable accommodation relating to increased occupancy of a group home shall be filed first with the City's Zoning Officer.
- B. The Zoning Officer may hold a hearing on a request for reasonable accommodation

relating to the increased occupancy of a group home, or may instead, at his/her sole discretion, refer the application to the Planning Commission for hearing. If the Zoning Officer acts on a request for reasonable accommodation pursuant to this Section, the Zoning Officer shall hear the matter and issue a written determination within thirty (30) days of the date of receipt of a completed application. If the Planning Commission acts on a request for reasonable accommodation pursuant to this Section, the Planning Commission shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than sixty (60) days of receipt of a completed application.

C. Notice of hearing pursuant to this Section shall be provided not less than fourteen (14) days prior to the hearing and shall be mailed or delivered to all owners of real property as shown on the latest equalized assessment roll within three hundred feet (300') of the real property that is the subject of the hearing. In all cases under this Section, the applicant shall bear the cost of the radius mailing.

D. The Zoning Officer or Planning Commission acting pursuant to this Section, shall (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, including, but not limited to, a condition requiring the applicant to show proof of any required State license for the activity or occupancy contemplated, or (3) deny the request.

E. The Zoning Officer or Planning Commission, as appropriate, shall explain, in writing, the basis of the determination including the Zoning Officer's or Planning Commissioner's findings on the criteria set forth in Section 21.25.131. All written determinations shall give notice of the right to appeal and the right to request reasonable accommodation on the appeals process, if necessary. The notice of the determination shall be sent to the applicant by certified mail, return receipt requested.

F. Within thirty (30) days of the issuance of a written determination on the hearing conducted pursuant to this Section, any aggrieved party within the meaning of this Code, may file an appeal from the determination of the Zoning Officer or Planning Commission. Appeals from a determination of the Zoning Officer shall be to the Planning Commission, appeals from a determination of the Planning Commission shall be to the City Council. All appeals shall contain a statement of the grounds for the appeal.

G. Appeals to the Planning Commission or City Council pursuant to this Section shall be heard as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed. All determinations on appeal shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken. (Ord. C-7639 § 1, 1999).

21.25.1317 Fee.

There shall be no fee imposed in connection with a request for reasonable accommodation under the provisions of this Division, except that a fee equivalent to the fee imposed for an administrative use permit shall be required if the application for reasonable accommodation relates to an increase in the occupancy of a group home. (Ord. C-7639 § 1, 1999).

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ATTACHMENT 4

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 18.10
OF THE SANTA CRUZ COUNTY CODE CREATING A PROCEDURE FOR
CONSIDERING REQUESTS FOR REASONABLE ACCOMMODATION**

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

SECTION I

The following new Section is hereby added to Chapter 18.10 of the Santa Cruz County Code:

18.10.128 Requests for Reasonable Accommodation

(a) Purpose

It is the policy of the County of Santa Cruz, pursuant to the Federal Fair Housing Amendments Act of **1988**, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this Section is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.

(b) Requesting Reasonable Accommodation

1. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the County.

2. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing.

3. If an individual needs assistance in making the request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant shall be entitled to be represented at all stages of

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the proceeding by a person designated by the applicant.

4. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(c) Required Information

All requests for reasonable accommodation shall include the following information:

1. Applicant's name, address and telephone number;
2. Assessor's Parcel Number and address of the property for which the request is being made;
3. The current actual use of the property;
4. The code provision, regulation or policy from which accommodation is being requested; and
5. The basis for the claim that the individual is considered disabled under the Fair Housing Act and why the accommodation is necessary to make the specific housing available to the individual.

(d) Notice of Request for Accommodation

Written notice of a request for reasonable accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request.
2. In the event that the request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(e) Required Findings

The following findings must be analyzed, made and adopted before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record of the proceeding relating to such approval or denial:

1. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Federal Fair Housing Amendments Act of 1988.
2. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Federal Fair Housing Amendments Act of 1988.
3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the County.
4. The requested accommodation will not require a fundamental alteration of the zoning or

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building laws, policies and/or procedures of the County.

5. The requested accommodation will not deprive adjacent properties of light, air and open space consistent with the intent of the Zoning Ordinance.

(f) Jurisdiction

1. The Planning Director, or ~~his/her~~ designee, shall have the authority to consider and act on requests for reasonable accommodation. The Planning Director shall designate the Chief Building Official to act on ~~his/her~~ behalf for requests that involve reasonable accommodations to the Building Code. When a request for reasonable accommodation is filed with the Department, it will be referred to the Planning Director, or ~~his/her~~ designee, for review and consideration. The Planning Director shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions, or (3) deny the request. All written determinations shall give notice of the right to appeal.

2. If necessary to reach a determination on the request for reasonable accommodation, the Planning Director may request further information from the applicant consistent with this Section, specifying in detail what information is required. In the event a request for further information is made, the thirty (30) day period to issue a written determination shall be stayed until the applicant responds to the request.

(g) Notice of Proposed Decision

1. Notice of the proposed decision shall be made in the same manner as provided above.

2. Within ten (10) days of the date the notice is mailed, any person may make a request for a Planning Director's review of a proposed decision.

3. If no request for review is received the proposed decision shall become a final director's decision.

(h) Director's Review

The Planning Director shall conduct a review hearing on the request for reasonable accommodation at which all evidence and testimony shall be considered.

(i) Notice of Director's Decision.

1. Within thirty (30) days after the hearing, the Planning Director shall issue a decision granting the request, including any reasonable conditions, or denying the request.

2. The notice of decision shall contain the Planning Director's factual findings, conclusions and reasons for the decision.

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3. The notice of decision shall be made in the same manner as set forth in the previous section.

SECTION II

This ordinance shall take effect on the 31st day after the date of final passage outside the Coastal Zone, and upon certification by the California Coastal Commission within the Coastal **Zone**.

PASSED AND ADOPTED this ____ day of _____, 2001, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair of the Board of Supervisors

ATTESTED: _____
Clerk of the Board

APPROVED AS TO FORM: _____


County Counsel

DISTRIBUTION: County Counsel
Planning
CAO