



# County of Santa Cruz

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## HOUSING ADVISORY COMMISSION

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
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April 14, 2004

Supervisor Tony Campos  
Board of Supervisors  
701 Ocean Street  
Santa Cruz, CA 95060

RE: Request for formal recommendation on Atherton Place development

Dear Supervisor Campos:

At the April 8, 2004 Housing Advisory Commission meeting, the Commission further discussed your letter of January 14, 2004 regarding your request that the Commission formally make a recommendation regarding the Atherton Place development

The Commission reaffirmed that as a general rule, the Housing Advisory Commission does not take positions on specific development projects. Additionally, due to the complexity of the Atherton project and the Commission's general desire not to become involved in specific projects, the Commission decided not to take further action on this particular project.

Thank you for your attention to this matter.

Sincerely,

Mike Guth  
Chairperson

**Julianne Ward**

**From:** David Kendig  
**Sent:** Wednesday, April 28, 2004 2:14 PM  
**To:** Julianne Ward  
**Subject:** FW: something entirely different

Here it is....

David

-----Original Message-----

**From:** David Kendig  
**Sent:** Thursday, April 15, 2004 5:56 PM  
**To:** Mark Deming  
**Cc:** Julianne Ward  
**Subject:** RE: something entirely different

Boy, nine or ten months ago I could very well have told him that - I recall speaking with Mr. Guth, but I don't remember the particulars at this point. It sounds like I forgot to get back to him when I got back from my trip to Canada last summer, so when you forward this along to him please pass along my apologies as well.

Now that I understand that he's not asking whether it's OK to move from campsite to campsite, but rather from one State Park to another, I was able to refine my research a bit. Remember that California Code of Regulations Title 14, § 4455 sets forth Camping Time Limits. That section provides:

"(a) General. Occupancy by the same persons, equipment, or vehicles of any camping facility is limited to a total of 30 days in any calendar year in that unit. The Department may establish shorter or longer limits of occupancy."

Thus, the main limitation (other than the Closure Order) is that one may not spend more than 30 days in a calendar year "in that unit". The question, again, becomes what is a Unit? I found the following section in the Code of Regulations helpful to answer that question. Title 14, Section 4751 provides as follows:

"§ 4751. State Parks

"In the interest of the public, the following units in the State Park System are classified in the category of State Parks, as provided in Section 5019.53 of the Public Resources Code, provided, however, that there is reserved the power to repeal, amend or modify this section as may from time to time hereafter be necessary and proper:

Ahjumawi Lava Springs State Park

Andrew Molera State Park

Angel Island State Park

Annadel State Park

Anza-Borrego Desert State Park

Big Basin Redwoods State Park

Border Field State Park

Bothe-Napa Valley State Park... [list continues from here]"

Note that it refers to the list of State Park as "units", suggesting that each one is a unit. This would tend to support the notion that the 30-day time limit in Section 4455 applies on a park-by-park basis, not County-wide.

That doesn't necessarily mean that the Closure Order is invalid, however.

In fact, I see two problems with attempting a legal challenge to the Order. First, the Public Resources Code and the Title 14 generally set limitations on camping which appear designed to encourage recreational uses by limiting longer-duration (e.g., quasi-residential) uses of State Park camping grounds. While I can understand frustration that some parks may have empty campsites at some times under this policy at the same time that people are looking for housing, the flip side (no time limits) could be that there would be very few open sites available for recreational use if State Parks in Santa Cruz County were available for camping without time limitations. Thus, I think it is unlikely that a Court would find time limitations themselves unreasonable.

More importantly, Section 4455(a) itself expressly reserves to the Department the authority to "establish shorter or longer limits of occupancy" for camping facilities.

As a result, while each State Park appears to be a Unit, the Department nevertheless may adopt shorter limits on occupancy. The Closure order appears to be an exercise of the discretion reserved to the Department to impose shorter limitations on occupancy.

If the HAC could convince the Board that the County should challenge the Closure Order, I'd be happy to give it a go. However, I believe that the most productive avenue for effecting a change in the policy is more likely to be a political appeal to the Department that issued the Order rather than a legal one asking a Court to set aside the Department's exercise of its discretion.

I hope that helps

David Kendig

-----Original Message-----

From: Mark Deming  
Sent: Thursday, April 15, 2004 5:08 PM  
To: David Kendig  
Cc: Julianne Ward  
Subject: FW: something entirely different

David, hi....according to Mike Guth's recollection, you were going to revisit some of the issues regarding the limitation of State Park camping.....is this true? Mark

- \_\_\_Original Message-----

From: Julianne Ward  
Sent: Thursday, April 15, 2004 4:59 PM  
To: David Kendig; Mark Deming  
Subject: FW: something entirely different

Hi there. Here is the response from Mike Guth on the whole park closure thing after I sent him David's 6/9/03 email to Mark. Please let me know if there is more information to provide him (and the HAC) and if not, when that information will be available.

Thanks so much.  
Julianne

- \_\_\_Original Message-----

From: Mike Guth [mailto:mguth@guthpatents.com]  
Sent: Thursday, April 15, 2004 4:54 PM  
To: Julianne Ward  
Subject: RE: something entirely different

Julianne,  
This might be it but .. the original opinion, which I am not sure if this is, but think it is, was discussed between Kendig and myself and he decided to revisit. To wit, the issue was that a region, comprising multiple separate state parks, was limited to 30 days. In other words,

persons who were in one campsite in one state park, then moved to another state park, or went out of town and then returned to another campsite in another park in the county, were still subject to this limit (it traveled with them for the year). Counsel opinion that the limit is valid at different "campsites" of a "state park" misses the question; which is that these are different state parks, not different campsites in a state park.

Mr. Kendig was going to revisit this opinion, based on a discussion of the above points, when he had returned from his vacation last summer. From the looks of the unit discussion, it appears that the issue raised above was not finalized.

This closure has been applied to SC county residents even when the park in question is 90% empty.

There are some residents, including disabled veterans, who had been going out on occasional jobs to other areas, then returning to the County for a month, then repeating the cycle; these parks offered true low cost housing to some residents who live this lifestyle. The closure order impacts all other housing because now these residents must find another place to live while they are here.

Can we please confirm with Counsel with regard to the above mentioned points?

Yours Sincerely,  
Michael A. Guth  
Attorney at Law

This email may contain communications that fall under attorney-client privilege. If you have received this email in error please delete immediately.

-----Original Message-----

From: Julianne Ward (mailto:PLN777@co.santa-cruz.ca.us)  
Sent: Thursday, April 15, 2004 3:54 PM  
To: Michael Guth (E-mail)  
Subject: FW: something entirely different

hi Mike. Perhaps this is what you were looking for with regard to the Parks closure issue.

Thanks.

Julianne

> -\_-\_- Original Message-----

> From: Mark Deming  
> Sent: Thursday, April 15, 2004 3:53 PM  
> To: Julianne Ward  
> Subject: FW: something entirely different

>  
>

> This was presented to the HAC in July 2003

> ---\_Original Message-----

> From: David Kendig  
> Sent: Monday, June 09, 2003 5:46 PM  
> To: Mark Deming  
> Subject: RE: something entirely different

>  
> Hi Mark:

>  
> The following is my response to your June 5, 2003 question. Please let me know if you'd like me to formalize it into a Memo for presentation to the Commission:

>  
> You have directed a question to me whether a Closure Order (No. 715-002-01) posted on June 1, 2001 by the State Department of Parks & Recreation conflicts with state law by preventing some people from

utilizing State Park campgrounds as > "> semi-permanent> "> living areas. County Counsel responds that the Closure Order is consistent with State Law by requiring temporary use of campgrounds.

>  
> The Closure Order limits occupancy of specified State Park lands and campgrounds to an occupancy limit of 30 days by the same person, equipment or vehicle in any calendar year. According to the Closure Order, any person who has occupied a State Park campsite or campsites in the Santa Cruz District for 30 days or more may not reregister for a site until the next calendar year.

>  
> The California Legislature delegated State Park rule-making authority to the State Department of Parks & Regulations. Cal. Pub. Resources Code § 5003. Pursuant to that authority, the Department adopted Camping regulations which are set forth in Title 14 of the California Code of Regulations. California Code of Regulations § 4455 Sets forth Camping Time Limits. That section provides:

>  
> (a) General. Occupancy by the same persons, equipment, or vehicles of any camping facility is limited to a total of 30 days in any calendar year in that unit. The Department may establish shorter or longer limits of occupancy.

>  
> (b) Shorter Limits. When the department has established shorter seasonal limits, no person (or persons) who have occupied a campsite for the established limit may reregister in the unit until the expiration of forty-eight (48) hours, from 12:00 noon of the checkout day to 12:00 noon of the second day following. Upon expiration of the established limit, the registered camper shall vacate the campsite of all persons, vehicles and equipment.

>  
> These provisions indicate a State policy to reserve camping facilities in State Parks for temporary use - e.g. camping is generally limited to no more than 30 days - so the units are not intended for permanent occupancy.

>  
> According to that provision, the time limit is initially established at 30 days in a calendar year > "> in that unit.> "> Thus, depending on the meaning of the term > "> unit> "> , the question might arise whether a camper who, after occupying a campsite for 30 days, vacates that campsite and occupies another site in the same campground has occupied a different > "> unit?> ">. Unit is defined at 14 Cal. Code Regs. 4301 as follows:

>  
> > "> (t) Unit. Unit means any named and classified unit under control of the Department of Parks and Recreation, as well as any Department projects which have not yet been named or classified.> ">

>  
> That definition defines the term > "> unit> "> by using the same term > "> unit,> "> and in doing so is not particularly helpful in resolving the question. However, the California Public Resources Code Section 5019.50 et seq. makes it clear that a > "> unit> "> in State Park parlance refers to a large portion of a park that is part of the state part system. Section 5019.50, for instance, requires that units shall be classified into one of several specified categories, including > "> state parks> "> , > "> state recreation units,> "> > "> historical units,> "> > "> state seashores> "> , etc. This use of the term > "> unit> "> encompasses all or significant portion of a state park, and would ordinarily not be limited to individual camping sites.

>  
> In addition, the Closure Order appears to be a valid exercise of the authority reserved to the Department under the final sentence Section 4455(a) to > "> establish shorter or longer limits of occupancy? "> for camping facilities.

>  
> In conclusion, County Counsel concludes that the Closure Order is consistent with State Law by placing limits upon occupancy of camping

facilities and by requiring temporary rather than permanent use of campgrounds.

> I hope that this memorandum proves helpful in responding to the question. If you have any questions, please feel free to call me at x2072.

> David Kendig  
> Assistant County Counsel

> -----Original Message-----

> From: Mark Deming  
> Sent: Thursday, June 05, 2003 3:41 PM  
> To: David Kendig  
> Subject: something entirely different

> Hi David...the Housing Advisory Commission requested an opinion from County Counsel regarding a closure order by State Parks District Superintendent...the problem, as articulated by Michael Guth (a Commissioner), is that the State Parks is preventing a number of people from utilizing the State Park campgrounds for their sem-permanent living area in conflict with State law....anyhow, I have sent to you via interoffice snail-mail a copy of the closure order and an excerpt from the CCR regarding camping...please take a look at this material and we'll talk....I will need some response by July 1...thanks, Mark

# COUNTY OF SANTA CRUZ

## INTER-OFFICE CORRESPONDENCE



DATE: April 28, 2004

TO: Housing Advisory Commission

FROM: Mark M. Deming / Planning Department

SUBJECT: Work Program

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The Board of Supervisors approved the current work program for the Advanced Planning section of the Planning Department on October 7, 2003. A copy of that work program is attached. There are three planners and a portion of the time of a Planning Technician assigned to this section. There is no "Housing Planner" at this time. Under this work program (and historically), approximately 10 hours per month is allocated for Housing Advisory Commission support. This essentially provides time for the designated staff to prepare the agendas and minutes, to attend the meeting and to coordinate the preparation of any extra agenda materials. The remainder of the available staff time is allocated to the other tasks and duties approved in the work program.

Your Commission requested information regarding next year's work program and the possibility of recommending that specific Housing Element programs be included into that work program. Because the Housing Element is still many months away from any possible decision, this discussion is premature. Furthermore, given the uncertainties of the budget and staffing the Advanced Planning section's work program for FY 2004-2005 is unknowable at this time.

# ADVANCED PLANNING WORK PROGRAM FY 2003-2004

<b>TASKS</b>	<b>STATUS</b>
<b>ON-GOING TASKS</b>	
<u>Inter-agency Technical Advisory Committee</u>	On-going
<u>Annexation Review/Inter</u>	On-going
<u>General Plan Consistency Review of Development Applications</u>	On-going
<u>General Plan/Local Coastal Program Amendment Rounds Coordination</u>	On-going
<u>Historic Resource Commission</u>	On-going
<u>General Plan Annual Report</u>	On-going
<u>Census Information</u>	On-going
<u>AMBAG Population Forecasting</u>	On-going
<u>Growth Report</u>	On-going
<u>Chapter 16.92 Monitoring Report</u>	On-going
<u>Coast Dairies Management Plan</u>	On-going
<b>ONGOING HOUSING TASKS</b>	
<u>Housing Advisory Commission</u>	On-going
<u>Measure J Program</u>	On-going
<u>Housing Policy</u>	On-going
<u>Second Unit Monitoring</u>	On-going
<b>RESOURCE PLANNING/ZONE 4 PROGRAMS</b>	
<u>Implementation of the Watsonville Sloughs Management Plan</u>	On-going
<u>Coordination of the implementation of the FishNet4c recommendations</u>	On-going
<u>Participation in the development of regulations to implement the NPDES II program</u>	On-going

## ADVANCED PLANNING WORK PROGRAM FY 2003-2004

<u>Participation in the Integrated Watershed Restoration Program which seeks to design and obtain permits for 55 restoration projects identified through watershed planning documents</u>	On-soins
<u>Participation in the permit coordination program in conjunction with the NRCS and the RCD</u>	On-going
<u>Continued participation in the Oil Spill Planning and Recovery process</u>	On-going
<u>Participation in the state's Timber Harvest Plan review process</u>	On-going
<u>Continued staffing of the County Fish and Game Advisory Commission</u>	On-going

### PROJECTS FROM 2002-2003 WORK PROGRAM

<u>Watsonville Urban Limit Project</u>	Complete
<u>Wireless Communications Ordinance</u>	Complete
<u>C-1 Use Chart Amendments</u>	Complete
<u>Planned Unit Development ordinance</u>	Complete
<u>Second units on agricultural land ordinance</u>	Complete
<u>Aptos Seascape Combining District</u>	Complete
<u>AB 1866 ordinance amendments (Second Units)</u>	Complete
<u>Highway 9 Rezoning/Redwood School amendment</u>	Complete
<u>Housing Element</u>	Complete
<u>"Right-to-Farm" Ordinance</u>	Complete
<u>Earlier Notification</u>	Complete
<u>Monarch Butterfly Habitat</u>	Complete
<u>Aptos Village Design Framework Revision</u>	Complete

## **ADVANCED PLANNING WORK PROGRAM FY 2003-2004**

FishNet 4C Implementation Complete

Rural Residential Setbacks Complete

Ordinance Revisions - Minor Complete

Green Valley Road Community Project Complete

Park Site Acquisition process Complete

Floor Area Ratio Complete

### **POSSIBLE NEW PROJECTS (2003-2004)**

Minor Ordinance Amendments (Volume II) Complete

Airport Land Use Policy and Ordinance Amendments Complete

Employee Housing, in the Public Facility Zone Complete

General Plan Update Scoping and Financing. Complete

Resource Planner I/IV	DS/TH	6.00		6.00	8.00	8.00	2.00
Code Investigator I/II/III	DQ/IL/CZ	0.00		0.00	1.00	1.00	1.00
Sr. Civil Engineer	NK	1.00		1.00	1.00	1.00	0.00
Typist Clerk I/II/III	J7/J8/JF	0.50		0.50	0.50	0.50	0.00
<b>DEPARTMENTAL TOTAL</b>		<b>12.50</b>	<b>0.00</b>	<b>12.50</b>	<b>75.50</b>	<b>75.50</b>	<b>3.00</b>

As indicated previously, the proposed budget reflects the transfer of a code enforcement position related to the enforcement of environmental regulations. The budget also reflects the mid-year transfer of two resource planners, previously with the Advanced Planning Section, to provide for an integrated Resources and Environmental Planning effort. This section shares a Typist Clerk with Code Enforcement and a Planner with the Project Review section.

### ADVANCED PLANNING

The Advanced Planning Section is currently managed by the Assistant Planning Director in charge of Planning. This Section has responsibility for the General Plan (including the Housing Element) and community plans, portions of the Measure J housing program, housing policy, land use ordinance revisions, coastal planning, historic resources, demographics, special studies and preparing an annual update on the Measure C Program, which is included at the end of the Department's budget narrative. Staff provide support to the Housing Advisory Commission and the Historic Resources Commission.

#### Advanced Planning Staffing Summary

POSITION	Salary Range	2003-04 Allowed	Mid Year Change	2003-04 Total	2004-05 Request	2004-05 Recomm	Recomm. Change
Planner I/IV	DS/TH	3.00		3.00	3.00	3.00	0.00
Planning Technician	FX	1.00		1.00	0.00	0.00	(1.00)
Principal Planner	D7	1.00		1.00	1.00	1.00	0.00
Resource Planner I/IV	DS/TH	2.00		2.00	0.00	0.00	(2.00)
<b>DEPARTMENTAL TOTAL</b>		<b>7.00</b>	<b>0.00</b>	<b>7.00</b>	<b>4.00</b>	<b>4.00</b>	<b>(3.00)</b>

The proposed budget reflects the mid-year transfer of two resource planners to the Environmental Planning Section to consolidate all resource-related activities and the transfer of a Planning Technician to the Zoning Services section to enhance service delivery.

### OTHER PROGRAMS

The Planning Department is also responsible for administering Zone 4 of the Flood Control District (Index **135461**) and the Fish and Game Fund (Index **135420**). The budgets for these two functions are included at the end of the Department's budget presentation. The Environmental Impact Report (EIR) Trust Fund (Trust Fund 72502) is where deposits and expenses are managed over time to reflect actual costs and charges related to the preparation of EIRs. When the Board of Supervisors approves a contract for an environmental report, this fund is used to keep the applicant's deposit separate from General Fund monies and functions.