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Santa Cruz County Planning Commission
701 Ocean Street
Santa Cruz, CA 95060

Re: County's Draft S.B. 9 Implementing Ordinances

Dear Chair and Members of the Commission,

This law firm represents Williams and Susan Porter, the owners of the property located at 3030 Pleasure Point Drive.

This letter is in response to the County of Santa Cruz's ("County") May 28, 2024 Planning Commission meeting agenda item no. 7, "a study session to consider an ordinance implementing Senate Bill 9, allowing two-unit developments and urban lot splits." Adopted in 2021, Senate Bill 9 ("S.B. 9") plays a critical role in the State's coordinated effort to address its severe housing crisis, a crisis that is particularly acute in the coastal zone. By its terms, S.B. 9's streamlining provisions expressly apply within the Coastal zone; nevertheless, we appreciate the County's efforts to adopt local coastal program ("LCP") provisions that are consistent with S.B. 9 in order to ensure the bill's seamless, lawful implementation throughout the County.

Based on our review of the County staff's May 10, 2024 [report](#) on the proposed ordinances implementing S.B. 9 ("Staff Report"), we have identified the following issues with the ordinances as proposed that must be addressed. These considerations would ensure that the County's implementing ordinances are not only consistent with S.B. 9's purposes, but also do not exceed the scope of the legislation.

I. Do Not Exclude Coastal Bluffs From S.B. 9.

In adopting S.B. 9, the Legislature broadly applied the streamlining provision to projects located on residentially zoned sites. In specifying the types of properties excluded from S.B. 9, the Legislature borrowed a list of exclusions from a separate housing streamlining bill, Senate Bill 35 (S.B. 35). (See Gov. Code, § 65852.21, subd. (a)(2).) S.B. 35's list of exclusions includes, farmland, wetlands, fire hazard zones, and more. (*Id.* § 65913.4, subd. (a)(6)(B)-(K).) Notably however, in borrowing these exclusions for S.B. 9, the Legislature specifically drafted the bill's language in a manner that **one of S.B. 35's exclusions would not apply to S.B. 9—the coastal zone exclusion**. S.B. 9 clearly applies within the coastal zone and does not limit the application of its use to projects located near or along the coast.

Despite this clear language in S.B. 9, the County seems to be considering the adoption of an ordinance that would preclude S.B. 9's application altogether on projects located in coastal bluff areas. This language is directly inconsistent with the terms and intent of S.B. 9. Properties located in the coastal zone and on coastal bluffs represent an opportunity for residential densification, including to help meet affordable and market rate housing goals. Thus, any ordinances adopted by the County implementing S.B. 9 should not exclude properties located on coastal bluffs.

II. Add Language Clarifying That Separate Utility Connections Are Not Required for Each Residence.

In the County's proposed ordinance, it states that each lot shall have a "will serve" letter from a water district or mutual water company prior to the issuance of the building permit. Aside from a brief mention of utilities relating to percolation tests, S.B. 9 does not impose any additional utility or connection requirements. Consistent with S.B. 9, no County implementing ordinance should impose any excessive restrictions on utilities, and should expressly permit shared connections between different residential units on the same lot. Such a clarification will help to avoid the imposition of onerous utility requirements that would prevent S.B. 9's successful application.

III. Do Not Permit Excessive Mitigation Requirements.

In the proposed ordinance, the County considers permitting "sufficient mitigation" to be allowed on three specific areas utilizing S.B. 9: (1) geologic hazard areas; (2) qualifying flood hazard areas; and (3) fire hazard areas. As discussed above, the County should not expand upon the Legislature's intentionally drafted, narrow exceptions to S.B. 9's streamlining provisions. These narrow exceptions already exclude S.B. 9's implementation on certain flood and fire hazard areas and should not be further expanded.

Relating to any other project hazards, S.B. 9 already states that in the event a local agency finds that an S.B. 9 project would result in a specific adverse impact to public health and safety, then ***the burden is on the public agency*** and not the project applicant to determine whether there is a means to mitigate the impact. (*Id.* § 65852.21, subd. (d).) Furthermore, S.B. 9 also states that local agencies "shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction" of qualifying S.B. 9 projects.

Thus, the plain language of S.B. 9 already adequately limits and addresses the bill's application to specific at-risk areas and places the burden on the County to demonstrate when other hazards arise. The County should not place any further limiting requirements on S.B. 9-eligible projects.

We appreciate the County's consideration of the foregoing recommendations and look forward to the successful, lawful application of S.B. 9 throughout the County and the State.

Very truly yours,

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