



# COUNTY OF SANTA CRUZ

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## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

September 29, 2010

**AGENDA DATE: October 13, 2010**

**ITEM #: 10**

**TIME: After 9 AM**

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

**Subject: Public Hearing to Consider Ordinance Amendments Regarding Minor Exceptions to Certain Zoning Standards**

Members of the Commission:

In 2007, Planning staff initiated a program for reforming land use regulations in the County, focusing on streamlining aspects of the planning process while continuing to protect important community resources. The initial regulatory reform process consisted of three phases: 1) Small scale residential reforms, completed in 2008 and now in effect; 2) legal nonconforming structures and uses; and 3) commercial regulations. In a report on the status of regulatory reform presented to the Board of Supervisors in June of this year, Planning Staff recommended a number of additional reform measures to provide greater flexibility in the planning process. Key among these additional reforms is an exception process to allow minor exceptions to certain development standards, subject to a discretionary permit and notice to adjacent neighbors. As directed by the Board of Supervisors, Planning Staff has prepared a draft ordinance amendment implementing the minor exception process. This draft amendment is now before your Commission for review and recommendation.

**Need for a Minor Exception Process**

During our daily interactions with the public and in processing applications, planning staff periodically encounter situations where the strict application of minimum setbacks, maximum lot coverage, and maximum floor area ratio pose practical difficulties for property owners while not creating any benefit for the neighborhood or the greater community. For example, an owner of a legal nonconforming residence may find it difficult to comply with the current, more restrictive site standards when considering additions or remodels. In many cases, Planning staff or the applicant identifies a design solution to meet the needs of the applicant that would require slight modification of site standards (such as a reduced setback or minor increase in lot coverage), but which would not impact neighboring properties or the environment. In some cases, a modification of site standards may even allow better protection of an environmentally sensitive resource, such as a riparian corridor or significant trees, than would be possible without the modification.

Under existing County regulations, the only remedy available to grant even minor exceptions from site standards is a variance. Although a variance can be a useful tool, the state mandated variance findings, especially the requirement that special circumstances apply to the property, greatly limit its applicability. For example, development constraints created by the location and configuration of legal structures and site improvements on the property are not a sufficient reason to recommend variance approval. This high bar for variances has prevented the prudent use of minor deviations from site standards to address land use situations, and has contributed to public frustration with the planning process. The limited circumstances under which the Planning Department can currently consider minor deviations from regular standards may in some cases encourage the property owner to work outside the permit process. Additionally, variances always require public hearings, resulting in an expensive and time-consuming planning process. For a minor deviation that is unlikely to impact neighboring properties, the variance approval process is frequently difficult for the applicant without providing benefit to the community.

To provide relief from this type of hardship, staff has drafted an ordinance amendment to allow minor exceptions from site standards for setbacks, lot coverage, and height (Attachment 1 to Exhibit A). The exception would allow a maximum 15% increase in the allowable height, and a maximum 15% reduction in required setbacks. For lot coverage, an exception would allow a maximum 15% increase in the allowable percentage of lot coverage (for example, 15% of the allowable 40% lot coverage) resulting in a 15% increase in the total allowable square footage of ground coverage. For floor area ratio, the exception would be limited to a 7.5% increase in the floor area ratio for lots 4,000 square feet or less, and a 5% increase for lots greater than 4,000 square feet up to 8,000 square feet. By limiting the exception to allow only minor deviations from specified site standards, providing criteria under which a minor exception would be considered, and requiring discretionary review, notice to adjacent property owners, and specific findings, the minor exception process would provide regulatory relief for many County residents while at the same time protecting neighboring properties and the environment. Such an exception process, similar to that available in many other communities, furthers the regulatory reform goal of providing a more reasonable planning process in our community. Furthermore, by encouraging improvements to existing residences and other buildings, the minor exception process would facilitate the sustainable reuse of existing building resources and help preserve and improve our existing housing stock.

### **Purposes of Minor Exceptions**

#### Creating reasonable flexibility

Recognizing that a minor exception would be appropriate in a wide range of circumstances, the ordinance provides flexibility: a minor exception could be considered to address a practical difficulty that would result from the strict application of site standards, or to accommodate specific design needs. Following is a discussion of several of several common situations encountered by planning staff where the granting of a minor exception could appropriately address land use issues while not negatively impacting neighboring properties.

#### *Extension of an existing, legal, nonconforming setback*

Frequently, legal nonconforming structures in our community have only minor deviations from current site standards, and do not differ noticeably from or impact neighboring residences. For example, a legal residence may have an existing side setback that is 7 feet instead of the

currently required 8 feet. Under our existing regulations, a homeowner planning an addition extending the nonconforming wall of the house would be required to comply with current setback requirements, resulting in an awkward addition with a wall that jogs back from the rest of the residence. The proposed minor exception ordinance would allow consideration of a 15% reduction in setback requirements for such additions, (in this case, a reduction of up to 1' 2" from the required 8-foot setback), subject to discretionary review with noticing to adjacent property owners. For many legal nonconforming residences, such an exception would allow for a more architecturally appropriate addition extending an existing wall of the residence.

#### *Accommodating existing site improvements and design needs*

Frequently, due to the location of existing legal structures or site improvements such as septic systems, the strict application of existing site standards limits the ability of the property owner to construct needed additions. A variance is not a good option since it does not allow consideration of other structures on the subject property as a "special circumstance" to justify variance approval. As an example of a situation occasionally encountered in the Planning Department, a family may wish to add a bedroom to their residence. Due to the configuration of the residence and the proximity of the residence to property lines, the homeowners are unable to design a bedroom meeting the minimum size required under the Building Code that also complies with required setbacks, unless they undertake an extensive remodel or partial demolition of their residence. An exception allowing a minor reduction in the rear setback could allow the construction of an additional bedroom without requiring an expensive remodel and without impacting neighboring properties. As an example, a property owner could request a 15% exception to a 20-foot rear setback to allow an addition with a 17-foot rear setback.

#### *Legalization of an "as built" structure*

Under limited circumstances, it may be appropriate to grant a minor exception to allow for the legalization of an existing structure built without benefit of a permit. Such an exception would be granted only in conjunction with other required code compliance activities by the owner, such as ensuring that the structure was safely constructed, and upon finding that the structure would not impact neighboring properties. For example, the County is currently processing an application to legalize a home built without permits, but the structure is 9 inches too close to the side property line. Approval of a minor exception would allow for legalization of the home, inspections to ensure that it meets building code requirements, and would prevent demolition of the existing improvements.

#### *Additions on small lots*

Occasionally, the buildable area of a small residential lot may be further limited due to a right of way on the parcel. For example, a 3,000 square foot residential lot with a 500 square foot right of way on the parcel would have a net site area of 2,500 square feet. Under the 50% FAR limit, the residence would be limited to a total of 1,250 square feet. Currently, the owner of a 1,250 square foot 2-bedroom residence on such a lot desiring to add a bedroom would be required to apply for a variance, a costly and time-consuming process. Under the proposed exception, the owner could apply for an increase in FAR of up to 7.5%, allowing for an additional 187.5 square feet, sufficient to construct an additional bedroom and resulting in a 1,437 square foot house. The minor exception would provide a more reasonable, faster and less expensive planning process to allow consideration of minor increases in FAR, while at the same time fully addressing all land use issues through discretionary review by the Planning Director and notification of adjacent neighbors to address any neighborhood impacts.

*Flexibility to create accessible residences – “Universal Access”*

For single story residences in the County that are at maximum lot coverage, the FAR provisions allow additional square footage on a second story. For example, a 4,500 square foot lot with a 4,500 net site area would be limited to 1,800 square feet on the ground floor due to the 40% lot coverage limit. However, the 50% floor area ratio limit would allow an additional 700 square feet if constructed as a second story. For elderly county residents or for those with a physical disability, adding a second story to gain additional square footage may not be feasible due to accessibility issues. For a lot with a 4,500 net site area, an exception for lot coverage would allow an increase of up to 15% of the 40% allowable lot coverage (or 15% of 1,800 square feet) resulting in an additional 270 square feet allowed on the ground floor. A minor exception for lot coverage could provide more options in home design for those needing an accessible residence.

Improved consistency with County Regulations

An additional goal of the minor exception process is to allow consideration of an exception from site standards in order to facilitate greater consistency with other provisions in the County Code, particularly regulations protecting the environment. As an example, an applicant may wish to construct a new structure on a small commercial parcel that is adjacent to a residential property. The commercial site standards require a 30- foot setback from residential property. However, a stand of significant trees exists on the other side and in the rear of the property, valuable as wildlife habitat and also as scenic resource. By granting a minor exception to allow the structure to encroach 4 feet into the required 30-foot setback from the residential parcel, the owner could construct the new building, while at the same time preserving the significant trees on the property and providing a 26-foot setback to the residential property line.

**Details of Minor Exception Process**

Applicability

The proposed minor exception process would be applicable Countywide, applying to site standards in all primary zone districts, including agricultural, residential, commercial, and industrial. Because site standards in specific plans and combining zone districts are developed to address land use or design issues specific to these areas, the minor exception would not apply to special standards for height, setbacks, and lot coverage or floor area ratio in these areas unless specifically noted.

Limitations

Minor exceptions would be limited to projects where applicable findings can be made. The exceptions are intended to provide appropriate regulatory relief, while avoiding impacts to neighboring properties. Exceptions would be limited to a maximum 15% reduction in the required front, side or rear setbacks, a maximum 15% increase in the allowed height, and a maximum 15% increase of the total percentage allowed for lot coverage. The following table shows the maximum additional lot coverage that would be allowed with a minor exception:

Allowable Lot Coverage	Maximum Additional Lot Coverage Allowed with a 15% Minor Exception
40%	6%
20%	3%
10%	1.5%

Exceptions for floor area ratio (FAR) would be limited to a 7.5% increase in the total FAR allowed for lots 4,000 square feet or less, and a 5% increase for lots greater than 4,000 square feet up to 8,000 square feet. As shown in the following table, the exception for FAR would allow only small increases in overall square footage, and only on properties no larger than 8,000 square feet, to provide a reasonable amount of flexibility while limiting impacts to adjoining properties:

Maximum Residential FAR allowed with a Minor Exception

Lot Size	50% FAR (FAR site standard)	Lots 4,000 sq ft or less:  Maximum FAR with a 7.5% exception (57.5% FAR):	Lots greater than 4,000 sq ft, up to 8,000 sq ft: Maximum FAR with a 5% exception (55% FAR):
3,000 sq ft	1,500 sq ft	1,725 sq ft (+225 sq ft)	N/A
4,000 sq ft	2,000 sq ft	2,300 sq ft (+300 sq ft)	N/A
5,000 sq ft	2,500 sq ft	N/A	2,750 sq ft (+250 sq ft)
6,000 sq ft	3,000 sq ft	N/A	3,300 sq ft (+300 sq ft)
8,000 sq ft	4,000 sq ft	N/A	4,400 sq ft (+400 sq ft)

Neighborhood protection

To further protect neighboring properties from any potential impacts of a minor exception, the ordinance requires noticing of adjacent property owners, the application of specific findings, and approval by the Planning Director. In addition to the development permit findings in Section 18.10.230, special findings are required for residential minor exceptions to ensure protection of light, air and privacy of residential properties. As is the case for all discretionary applications, minor exceptions can be conditioned appropriately to further protect neighboring properties and the environment from any impacts. Finally, for those projects that do generate neighborhood concerns, a public hearing can be required at the discretion of the Planning Director to ensure that planning issues are fully addressed.

**CEQA Exemption**

The project is statutorily exempt under CEQA Guidelines Section 15265, which states that CEQA does not apply to activities of a local government necessary for the amendment of a local coastal program. Additionally, the project is categorically exempt under CEQA Guidelines Section 15305, minor alterations in land use limitations. The proposed process allows for only minor exceptions from current site standards for setbacks, lot coverage, height and floor area ratio, and requires discretionary approval. As is the case for all discretionary projects, applications would be routed to all appropriate departments and agencies for review. If potential environmental impacts were identified for any project, full review under CEQA could be performed at that time.

**Local Coastal Program Consistency**

The proposed amendment will not result in loss of agricultural land, loss of coastal access, or negative impacts to public viewsheds within the Coastal Zone. The minor exception would allow for only minor deviations from standards for FAR, lot coverage, setbacks, and height. For

example, on a 6,000 square foot lot, an exception for lot coverage would allow a maximum of only 360 additional square feet of ground floor coverage. The proposed height exception would also allow only minor increases, for residential structures allowing up to 4.2 additional feet in height for a total height of up to 32.2 feet. The proposed height exception is similar to other existing height exceptions in the Santa Cruz County Code that were previously certified by the Coastal Commission as consistent with LCP policies. For example, Section 13.10.323(e) 5 allows an increase in building height if all required yards are increased 5 feet for each foot increase over the permitted 28 foot height limit, subject to a Level III or IV discretionary review. To further ensure protection of coastal resources, any application for a minor exception would be discretionary, requiring approval by the Planning Director and noticing to all adjacent neighbors, and would require written findings of compliance with LCP policies protecting scenic corridors and public viewsheds. Applications for minor exceptions would be conditioned as needed to address any potential impacts to coastal resources, or denied if the project could not be conditioned appropriately. Those projects whose location or use currently triggers coastal permits would continue to do so.


### Summary and Recommendations

As directed by the Board of Supervisors, Planning Staff have developed an ordinance amendment to allow a minor exception from certain site standards, subject to a discretionary permit and notice to adjacent property owners. This exception process will provide relief from unnecessary hardship, and in some cases allow for improved consistency with other provisions of the County Code, while at the same time protecting neighboring properties and the environment.

It is therefore **RECOMMENDED** that your Commission take the following actions:

1. Conduct a public hearing on the proposed ordinance amendment to Chapter 13.10 of the County Code (Attachment 1 to Exhibit A); and
2. Adopt the resolution (Exhibit A) recommending that the Board of Supervisors approve the proposed ordinance amendment and certify the Environmental Notice of Exemption (Exhibit B).

Sincerely,

  
Annie Murphy  
Planner II

  
Paia Levine  
Principal Planner

Exhibits:

Exhibit A: Resolution approving the proposed ordinance amendments

Attachment 1 to Exhibit A - Clean copy of proposed ordinance amendments

Exhibit B: CEQA Notice of Exemption

cc: County Counsel  
Coastal Commission

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 is adopted:

PLANNING COMMISSION RESOLUTION RECOMMENDING AMENDMENTS TO  
CHAPTER 13.10 OF THE SANTA CRUZ COUNTY CODE TO ALLOW MINOR  
EXCEPTIONS TO ZONING SITE STANDARDS ESTABLISHED FOR HEIGHT,  
SETBACKS, LOT COVERAGE, AND FLOOR AREA RATIO

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WHEREAS, Santa Cruz County has in recent years enacted a regulatory reform program to streamline aspects of the planning process while continuing to protect the community and environmental resources; and

WHEREAS, the County of Santa Cruz has also recently enacted programs and incentives encouraging the reuse of existing resources including preservation of the existing housing stock; and

WHEREAS, consistent with these goals, in June of 2010 the Board of Supervisors directed planning staff to develop a site exception process whereby minor exceptions from site standards for height, setbacks, lot coverage, and floor area ratio could be approved, subject to administrative discretionary review to ensure that such exceptions do not negatively impact neighboring properties or the environment; and

WHEREAS, amendments to the County Code establishing such a site exception process have been drafted and submitted to the Planning Commission for review (Attachment 1 to Exhibit A); and

WHEREAS, on October 13, 2010, the Planning Commission conducted a public hearing to consider the minor amendments to the Santa Cruz County Code; and

WHEREAS, the Planning Commission finds that the proposed amendments will be consistent with the policies of the General Plan and other provisions of the County Code, and will be consistent with State law; and

WHEREAS, the ordinance amendments have been found to be categorically exempt from further review under the California Environmental Quality Act; and

WHEREAS, Chapter 13.10 is an implementing ordinance of the Local Coastal Program (LCP) and the proposed amendments to these chapters constitute

Exhibit A

amendments to the LCP; and

WHEREAS, the proposed amendment to Chapter 13.10 has been determined to be consistent with the Coastal Act.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Planning Commission recommends that the amendments to Chapter 13.10 of the Santa Cruz County Code, and the Notice of Exemption, incorporated by reference, be approved by the Board of Supervisors.

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2010 by the following vote:

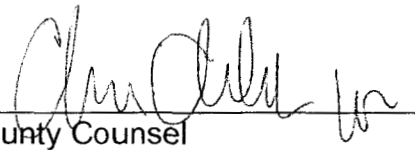
AYES: COMMISSIONERS  
NOES: COMMISSIONERS  
ABSENT: COMMISSIONERS  
ABSTAIN: COMMISSIONERS

\_\_\_\_\_  
Chairperson of the Planning Commission

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
County Counsel

DISTRIBUTION: County Counsel  
Planning Department

Exhibit A



ORDINANCE No. \_\_\_\_\_

**ORDINANCE ADDING SECTION 13.10.235 TO CHAPTER 13.10 OF THE  
SANTA CRUZ COUNTY CODE PROVIDING A DISCRETIONARY APPROVAL  
PROCESS TO ALLOW MINOR EXCEPTIONS FROM ZONING SITE  
STANDARDS ESTABLISHED FOR HEIGHT, SETBACKS, FLOOR AREA  
RATIO AND LOT COVERAGE.**

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

**SECTION I**

Section 13.10.235 is hereby added to Chapter 13.10 of the Santa Cruz County Code to read as follows:

**13.10.235 Minor Exceptions**

a) Purpose. To provide for minor exceptions from the zoning district site standards established for height, setbacks, lot coverage and floor area ratio, in order to address practical hardships that would result from the strict application of site standards or to accommodate design considerations.

b) Applicability. Minor exceptions apply to the zoning site standards contained in the site and structural dimensions charts for Agricultural districts (13.10.313(a)); Residential districts (13.10.323(b)); Commercial districts (13.10.333(a)); Industrial districts (13.10.343(a)); Parks, Recreation and Open Space Parks districts (13.10.353(a)); Public and Community Facilities districts (13.10.363(a)); Timber Production districts (13.10.373(a)); and Special Use districts (13.10.383(a)). Minor exceptions do not apply to special site standards contained in combining zone districts, specific plans or PUD's, unless specifically indicated. Minor exceptions may be approved for new construction, additions, and to recognize structures built without permits.

Minor exceptions shall be limited to the following exceptions from site standards:

Height: Up to a 15% increase in the allowed height

Setbacks: Up to a 15% reduction in the required front, side or rear setback

Floor Area Ratio: Up to a 7.5% increase in the total allowable 50% FAR for lots 4,000 square feet or less, and up to a 5% increase in the total allowable 50% FAR for lots greater than 4,000 square feet up to 8,000 square feet

Lot Coverage: Up to a 15% increase of the total allowable lot coverage, resulting in the following maximum allowable increases:

Allowable Lot Coverage	Maximum Additional Lot Coverage Allowed with a 15% Minor Exception
40%	6%
20%	3%
10%	1.5%

Minor exceptions apply only to the zoning site standards noted above, and do not apply to or supercede limits or building setbacks required in other sections or chapters of the County Code, such as for riparian corridors, geologic hazards, sensitive habitats, or agricultural buffers.

(c) Procedures.

Regulations and procedures such as application, review, project conditions, approval, and appeal for a minor exception shall be in accordance with the provisions of Chapters 18.10 for a Level IV Approval, except that public notice requirements shall be limited to the following: Within 10 days of the receipt of an application for a minor exception, adjacent property owners and property owners directly across a right of way from the subject property shall be mailed a "Notice of Application Submittal". The contents of the notice shall be consistent with those required in Section 18.10.222(b). Not less than 10 days prior to the issuance of the permit, a "Notice of pending action" shall be sent to the same property owners, notifying the property owners of the pending decision on the project and the appeal process. The content of the notice shall be consistent with those required in Section 18.10.222(d). A published notice shall not be required.

(d) Required findings.

(1) Either (a) that a minor exception is necessary to resolve a practical difficulty that would result from the strict application of site standards; or (b) that a minor exception is necessary to accommodate specific design needs.

(2) That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not be materially injurious to properties or improvements in the vicinity.

(3) That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with pertinent County ordinances and the purpose of the zone district in which the site is located.

(4) That the proposed use is consistent with the County General Plan and with any Specific Plan which has been adopted for the area.

(5) That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, neighborhood character, land use intensities, and dwelling unit densities of the neighborhood.

(6) On properties adjacent to residential zone districts or residential dwellings, that the proposed project shall not unreasonably infringe on adequate light, air, or privacy of adjacent residences.

(e) Other regulations. In addition to the minor exception provided in this Section, other possible exceptions addressed by the Santa Cruz County Code are contained in the following sections of Chapter 13.10:

Residential exceptions for structural encroachments, solar access, height, and for accessory structures:	13.10.323(e)
Residential front yard averaging:	13.10.323(e)(7)
General height exceptions:	13.10.510(d)(2)

## SECTION II

This Ordinance shall take effect on the 31<sup>st</sup> day after the date of final passage outside the Coastal Zone and on the 31<sup>st</sup> day after the date of final passage or upon certification by the California Coastal Commission, whichever date is later, inside the Coastal Zone.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2010 by the following vote:

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

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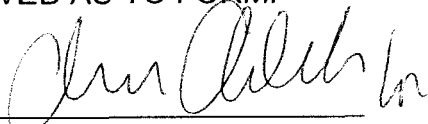
Chair of the Board of Supervisors

ATTEST:

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Clerk of the Board

APPROVED AS TO FORM:



County Counsel

Copies to: County Counsel  
Planning Department

# CALIFORNIA ENVIRONMENTAL QUALITY ACT

## NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of the CEQA Guidelines for the reason(s) which have been specified in this document.

**Application Number:** N/A

**Assessor Parcel Numbers:** Various parcels throughout County

**Project Location:** Countywide

**Project Description:** Ordinance amendment providing a discretionary approval process to allow minor exceptions from zoning site standards established for height, setbacks, lot coverage and floor area ratio.

**Person or Agency Proposing Project:** County of Santa Cruz

**Contact Phone Number:** Annie Murphy (831) 454-3111

- A. ☐ The proposed activity is not a project under CEQA Guidelines Section 15378.  
B. ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).  
C. ☐ **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.  
D. ☒ **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).  
E. ☒ **Categorical Exemption** under CEQA Guidelines section 15305.

**Reasons why the project is exempt:**

The project is statutorily exempt under CEQA Guidelines Section 15265, which states that CEQA does not apply to activities of a local government necessary for the amendment of a local coastal program.

Additionally, the project is categorically exempt under CEQA Guidelines Section 15305, minor alterations in land use limitations. The proposed amendment allows for only minor alterations from current site standards for setbacks, lot coverage, height and floor area ratio. The proposed amendment will not affect any regulations protecting the environment, such as required setbacks from environmentally sensitive habitats or agricultural land. Furthermore, any exceptions from site standards applied for under the proposed amendment would require discretionary approval. If potential environmental impacts were identified for any project, full review under CEQA could be performed at that time. Therefore, the proposed amendment does not have the potential to cause significant environmental effects.

*Annie Murphy*  
Annie Murphy: Project Planner

*10/1/10*  
Date