



# COUNTY OF SANTA CRUZ

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## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
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KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

February 1, 2011

**AGENDA DATE: February 9, 2011**

**ITEM #: 11**

**TIME: After 9 AM**

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

**Subject: Review and Recommendation to the Board of Supervisors Regarding Proposed Ordinance Amendments for Minor Exceptions and New Site Standards for Garages**

Members of the Commission:

In October of 2010, your Commission held a public hearing on a proposed "Minor Exceptions" ordinance, which would provide a more streamlined discretionary review process for considering minor deviations from certain zoning site standards. Also in October, your Commission held a public hearing on proposed code changes enabling the placement of residential garages in rear yards, by establishing reduced side and rear setbacks for residential garages and by allowing consideration of additional setback exceptions. As recommended by your Commission, staff brought these zoning ordinance amendments, combined into one ordinance for the purpose of environmental review, before the Board of Supervisors in November and again in January for their consideration. At these hearings, the Board of Supervisors directed Planning staff to revise the proposed ordinance provisions that the Planning Commission had recommended, in order to address a number of concerns. The County Code requires that when there are any changes from the Planning Commission's ordinance that the Board expresses an intention to adopt, the matter must be returned for a review and recommendation of the Commission, which must be provided within 40 days of referral by the Board.

Therefore, the purpose of today's discussion is for the Commission to offer any comments or recommendations for further consideration by the Board of Supervisors, prior to their final action to adopt the proposed ordinance amendments.

### **Revisions to Minor Exceptions and Garage Standards Amendments**

#### **Minor Exceptions Amendments (Section II of Exhibit A)**

As you may recall, the proposed minor exception amendments would provide a more streamlined review process for considering minor deviations from standards for height, setbacks, lot coverage and floor area, subject to discretionary review and certain findings. By eliminating the requirement for a public hearing for considering minor exceptions, the process would save the applicant over \$2,000 and shorten the processing time by up to 6 months. By making the process more reasonable, an additional goal is to encourage more property owners to build structures that are legal, safe and meet environmental protection standards, thereby reducing illegal construction in the County.

Planning Staff presented the proposed minor exception ordinance to your Commission in October, 2010 (Exhibit I). Your Commission recommended that the Board of Supervisors approve the proposed ordinance, with additional direction to clarify the appeal process, to add an additional exemption to allow separation between structures to be reduced by 15%, and to report back in two years on the status of the minor exception process. Additionally, several Commissioners raised concerns regarding the proposed height exception. The draft ordinance was revised to address the concerns of your Commission, and was presented to the Board of Supervisors in November 2010 (Exhibit H).

At the November hearing, the Board of Supervisors expressed general support for the minor exception process. However, several Board members recommended that more specific criteria be provided for approving minor exceptions, questioned whether the minor exception was appropriate for rural areas, and suggested public hearings for appeals of minor exceptions. Some members of the Board expressed concern about potential environmental issues, questioning whether there might be cumulative environmental impacts when the proposed exceptions are considered together. At the hearing, the Sierra Club and several members of the public also recommended environmental review for the minor exceptions amendments.

Planning staff made a number of changes to the proposed minor exception process to address the concerns of the Board of Supervisors. Staff revised the proposed ordinance to require variance findings for approval of minor exceptions, in essence treating minor exceptions as a subclass of variances by limiting the minor exceptions to parcels with "special circumstances" that could qualify for a variance under existing regulations. Staff also scaled back the proposed exceptions for height and floor area ratio. Additionally, staff completed environmental review for the proposed amendments (Exhibit E), which did not identify any significant impacts.

At the hearing in January 2011, the Board of Supervisors supported the changes to the ordinance proposed by staff. However, some Board members again expressed concern that even with new findings limiting minor exceptions to parcels that currently could qualify for a variance, the minor exceptions process and provisions for garages in side and rear yards could be more appropriate for more urban parcels. Discussion included that rural parcels are generally larger, with fewer siting constraints, such that exceptions to required site standards could be less relevant. At the hearing, the Board of Supervisors directed staff to revise the ordinance to limit the applicability of the minor exceptions process and garage provisions to properties within the Urban Services Line (USL), to clarify the appeal process to make it clear that appeals of any Planning Commission decisions could be appealed to the Board, and to require that the notice of pending decisions on minor exceptions also be posted on the Planning Department Website. The Board indicated that after a couple of years experience with the minor exceptions process within the USL, it would be willing to review results and consider expanding provisions beyond the USL. The Board's revised minor exceptions and garage ordinance amendments, with text boxes identifying revisions, are before you today for your review and recommendation back to the Board of Supervisors (Exhibit A), and are also summarized in Exhibit C.

#### Garages within Required Rear and Side Yards Amendments (Sections III and IV of Exhibit A)

As your Commission may recall, the purpose of the garage amendments is to facilitate the placement of residential garages toward the rear of parcels, in order to provide more flexibility in site designs, more community friendly front yards, and facilitate reduced parking along residential streets. The Planning Commission had forwarded to the Board proposed amendments allowing garages meeting certain criteria to encroach "by right" into the required side and rear setbacks, and allow for even further side and rear setback reductions for garages to be considered with a Level IV discretionary approval.

The ordinance before your Commission today includes several changes made subsequent to your review and recommendation in October 2010. These revisions, which reflect the Board's latest direction, would exclude carports from the proposed setback exception since carports are sometimes

later enclosed and illegally converted to dwelling units; would require garages that encroach into the side or rear setbacks to be setback a minimum of 40 feet from the front property line to ensure that such the garages are located towards the rear of the property; and would change the minimum setback from the interior side or rear property lines from three feet to 50% of the required setback to avoid extreme setback reductions on large parcels with larger required setbacks. Additionally, at the hearing in January 2011, the Board of Supervisors directed staff to revise the ordinance to limit the proposed amendments to properties within the Urban Services Line, and to limit the “by right” provisions allowing garages to encroach up to 50% into the required side and rear setback to residential parcels less than 10,000 square feet in size. On parcels 10,000 square feet or larger, proposed use of the provisions allowing garages to encroach up to 50% into the required side and rear setback could be approved only through the minor exceptions process.

#### Specific Exceptions (Sections V and VII of Exhibit A)

The revised ordinance includes several new limited height exceptions to facilitate improved designs for nonresidential buildings, responding to direction from the Board of Supervisors to consider exceptions to address specific land use issues. Additionally, the ordinance provides an exception allowing reductions in the front setback in order to protect sensitive environmental resources or public safety. These exceptions would be limited to parcels within the Urban Services Line.

##### *Height exception for parapets on non-residential buildings*

Under Section 13.10.510 of the Santa Cruz County Code, certain building features such as cooling towers or non-commercial television or radio antennas may exceed the height limit by up to 25 feet. However, there is currently no exception allowed for screening such mechanical features. To facilitate improved designs of commercial buildings, this exception would allow parapets (a low screen or barrier wall) used for screening purposes to exceed the height limit by up to 3.5 feet. To promote fire safety, the exception would also allow parapets required under the building code for fire safety purposes to exceed the height limit by up to 3 feet.

##### *Height exception for non-residential structures, subject to design review and a public hearing*

To facilitate innovative design for non-residential buildings, such as green buildings that require additional height for special ventilation systems, and to be consistent with the existing height exception for residential buildings, this exception would allow commercial or industrial buildings to exceed the height limit by up to 5 feet, subject to discretionary approval with Design Review (Chapter 13.11 of the Santa Cruz County Code) and a public hearing. The design review process in Chapter 13.11 requires protection of the public viewshed. The ordinance includes an additional finding for projects in the coastal zone, requiring compliance with Local Coastal Program policies protecting viewsheds and scenic corridors.

#### **Discussion of Areas within the Rural Services Line**

As the idea of limiting the subject ordinance provisions to apply only within the USL was a new idea and the most substantive change from the prior Planning Commission version of the ordinance, and has not been previously addressed by staff or the Commission, it may be useful to focus on that matter and provide specific input back to the Board. While the Board’s direction was the majority position of the Board, there was also discussion at the Board level about “not losing the benefits too much”, by limiting the minor exceptions process and garage provisions to only the USL.

Since the Board’s discussion related to this matter seemed to link to a distinction between “urban” and “rural large-lot” areas, one option that could be discussed is whether the provisions should extend to “urban-like” areas of the county, such as some or all of the areas within the Rural Services Line (RSL).

The County Code defines the Rural Services Line in part as “areas outside the Urban Services Line which have recognized urban densities.” Many areas within the RSL, such as La Selva Beach and

portions of Davenport, Felton and Boulder Creek, have development patterns similar to those in the Urban Services Line, including a large percentage of parcels smaller than 5,000 square feet (Exhibit D).

Neighborhoods within the RSL could benefit from more flexible garage standards allowing the placement of garages in rear yards. This in turn could benefit the neighborhoods by reducing the presence of garages in front yards and by reducing parking along residential streets. Additionally, smaller constrained parcels common to the RSL are generally the types of parcels that may qualify for a variance due to physical circumstances of the property. Such properties could potentially benefit from the streamlined review that would be provided through the minor exception process. As is the case for parcels within the Urban Services Line, the proposed exceptions would not apply to or override special site standards for areas within Planned Unit Developments. Within the Rural Services Line, properties with the areas of Pajaro Dunes, Place De Mer, Sand Dollar Beach, Paradise Park would be subject to special site standards established by the PUD's and would not be eligible for exceptions to these standards.

The Planning Commission may wish to develop comments or a recommendation regarding this matter for consideration by the Board. As shown by the attached maps, the minor exception provisions and the revised standards for garages may be appropriate for all areas within the RSL that are not already governed by PUD's or other specific site standards. Specifically, these include La Selva Beach; portions of Felton, Ben Lomond and Boulder Creek; Bear Creek Estates located outside of Boulder Creek; and portions of Davenport (Exhibit D).

### **Environmental Review**

A Negative Declaration has been completed for the project (Exhibit E). Staff did not identify any significant impacts that would result from the proposed amendments. To address the potential for increased stormwater runoff, minor exceptions for increases in lot coverage are required ensure that no additional stormwater runoff would occur.

The Negative Declaration focused particular attention on evaluating the potential for cumulative impacts. There is no potential for significant cumulative impacts, since any increases in overall development are projected to be very minor, and any new development would be subject to all existing standards protecting the environment, including setbacks from riparian corridors, coastal bluffs, and other environmentally sensitive areas.

Staff received a number of comments regarding the environmental review (Exhibit G). Staff has reviewed these comments, and did not identify any new information in these comments that would alter the determination that no significant impacts would occur from the proposed code changes. A written response to the comments has been provided (Exhibit F).

The proposed changes to the ordinance amendments have been reviewed by the Environmental Coordinator. Because these changes further limit the applicability and scope of the proposed exceptions and garage standards, there is no potential for significant environmental impacts and no additional environmental review is required (Exhibit E).

### **Conclusions and Recommendations**

As revised, the ordinance would provide a streamlined review process for minor exceptions from site standards, limited to those properties with special circumstance within more urban areas of the County. Additionally, the ordinance includes several new specific exceptions for urban areas: limited exceptions for height to allow for improved designs for nonresidential buildings and improved fire safety, and a front setback exception to allow for better protection of environmental resources and public safety. Finally, the ordinance also proposes new side and rear setback standards for residential garages in urban areas to enable the placement of garages in rear yards, providing more flexibility in site design, more community friendly front yards, and facilitating reduced parking along residential streets.



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

1. Consider the proposed revisions to the ordinance establishing a process for Minor Exceptions and new site standards for garages (Exhibit B);
2. Adopt the resolution (Exhibit A) recommending that the Board of Supervisors approve the proposed ordinance amendments as revised and certify the Negative Declaration (Exhibit E); and
3. Provide a recommendation to the Board of Supervisors regarding whether the proposed amendments should be extended to some or all areas of the County within the Rural Services Line.

Sincerely,



Annie Murphy  
Planner II



Kathy M. Previsich  
Planning Director

Exhibits:

- A: Resolution recommending Chapter 13.10 of the Santa Cruz County Code  
Attachment 1 to Exhibit A: Annotated Ordinance (Strike-through version) amending  
Chapter 13.10 of the Santa Cruz County Code
- B: Clean Copy of proposed ordinance
- C. Table: Proposed revisions to Minor Exceptions Amendments
- D: Areas of the County within the Rural Services Line, excluding those areas within Planned  
Unit Developments
- E: Negative Declaration
- F: Responses to comments received on the Negative Declaration
- G: Letter to the Board of Supervisors regarding Minor Exceptions and Garage Standards dated  
January 25, 2011
- H. Minor Exceptions Planning Commission Report dated September 29, 2010

cc: County Counsel  
Coastal Commission  
Department of Public Works

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 REGARDING MINOR EXCEPTIONS TO CERTAIN  
ZONING SITE STANDARDS AND NEW GARAGE STANDARDS

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WHEREAS, Santa Cruz County has in recent years enacted a number of amendments to streamline aspects of the planning process while continuing to protect the community and environmental resources, and to encourage flexible designs that are appropriate for the community; and

WHEREAS, consistent with these goals, the Board of Supervisors directed planning staff to develop a minor exception process whereby minor deviations from certain zoning site standards could be approved, subject to administrative discretionary review as required by California Government Code Section 65901; and

WHEREAS, the Board of Supervisors further directed planning staff to develop new standards regarding the placement of garages in residential neighborhoods that would result in more flexible site design options and encourage more community-friendly front yards; and

WHEREAS, in October and November of 2010, the Planning Commission conducted a public hearing to consider the proposed amendments to Chapter 13.10 of the Santa Cruz County Code regarding minor exceptions and garage standards, and recommended that the proposed amendments be approved by the Board of Supervisors; and

WHEREAS, the Board of Supervisors conducted public hearings on the proposed amendments in November 2010 and in January 2011, and directed staff to make a number of changes to the proposed amendments, including limiting the proposed amendments to more urban areas within the County and requiring variance findings for the approval of minor exceptions to site standards; and

WHEREAS, on February 9, 2011, the Planning Commission considered the proposed revisions to the amendments regarding minor exceptions and garage standards, and finds that the proposed ordinance as revised 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 environmental review completed for the project has determined that the proposed amendments will not have a significant impact on the environment, and a Negative

Declaration has been prepared in accordance with CEQA; and

WHEREAS, Chapter 13.10 is an implementing ordinance of the Local Coastal Program (LCP) and the proposed amendments to these chapters constitute 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 Negative Declaration, 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 \_\_\_\_\_, 2011 by the following vote:

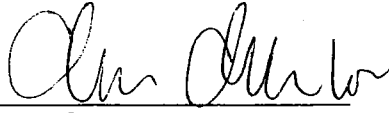
AYES:	COMMISSIONERS
NOES:	COMMISSIONERS
ABSENT:	COMMISSIONERS
ABSTAIN:	COMMISSIONERS

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

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

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

DISTRIBUTION: County Counsel  
Planning Department

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

**ORDINANCE AMENDING CHAPTER 13.10 OF THE SANTA CRUZ COUNTY  
CODE TO ALLOW FOR EXCEPTIONS FROM CERTAIN ZONING SITE  
STANDARDS AND ALLOW GARAGES WITHIN REQUIRED SIDE AND REAR  
YARDS**

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

**SECTION I**

Subsection 13.10.230 (c)(1) of the Santa Cruz County Code is hereby amended to read as follows:

1. That because of special circumstances applicable to the property, including size, shape, topography, location or ~~and surroundings existing structures~~, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

The language in Section 13.10.230 relating to variance findings is being amended to conform to state law.

**SECTION II**

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 within the Urban Services Line**

a) Purpose. To provide a streamlined discretionary review process to allow consideration of minor variations from the zoning district site standards established for height, setbacks, separation between structures on the same property, lot coverage and floor area ratio.

b) Applicability. Within the Urban Services Line only, minor exceptions to the zoning site standards contained in the site and structural dimensions charts may be considered for the following zone districts: Agricultural districts (13.10.313(a)); Residential districts (13.10.323(b) and 13.10.323(e)6(c)); 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.

The ordinance has been revised to specify that only properties within the Urban Services Line may apply for minor exceptions. Additionally, language in the earlier version of the ordinance stating that minor exceptions may be approved to recognize structures built without permits has been deleted.

Minor exceptions shall be limited to the following:

Height: Up to a 5% increase in the allowed height. For example, a 28-foot height limit could be increased by up to 16.8 inches ( $28' \times .05 = 1.4'$ ).

To ensure that minor exceptions for height will not impacts neighboring properties, the revised ordinance allows only a 5% increase in the allowed height through the minor exception process, reduced from a 15% increase previously considered by your Commission.

Setbacks: Up to a 15% reduction in the required front, side or rear setback. For example, a 5-foot setback may be reduced by up to 9 inches ( $5' \times .15 = .75'$ ).

Separation between structures: Up to a 15% exception from the 10-foot separation requirement between structures on the same property, allowing a reduction of up to 1.5 feet, or an 8.5-foot separation.

Floor Area Ratio: Up to a 7.5% increase in the total allowable 50% FAR for lots 4,000 square feet or less, allowing up to 57.5% FAR.

Minor exceptions for up to a 7.5% increase in FAR would be allowed only on lots 4,000 square feet or less. The earlier proposal would have allowed FAR increases on lots 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:

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

Minor exceptions apply only to the zoning site standards noted above, and do not apply to or supersede 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

1) Application. The application for the minor exception shall contain such information as required by the Planning Department.

2) Application Review. The Planning Director or designee shall review and make a determination on the application for a minor exception. At the discretion of the Planning Director, the project may be referred to the Zoning Administrator or Planning Commission for a public hearing.

3) Noticing. Not less than 21 days prior to the County taking action on an application for a minor exception, notice of the pending action shall be posted on the County of Santa Cruz Planning Department Website and shall also be sent to owners and occupants of property adjacent to the subject parcel or across a right of way that overlap any part of the frontage of the subject parcel. The notice shall include the date after which a decision will be made on the project, the final date on which comments will be accepted, and information regarding the appeal process. The contents of the notice shall be consistent with Section 18.10.222(d).

The noticing requirements have been modified to include posting on the Planning Department Website.

4) Required findings. Findings shall be in accordance with findings required for variance approvals in Section 13.10.230 (c), and in accordance with the findings required in Section 18.10.230 for discretionary approvals. In addition, the following finding shall be required for minor exceptions allowing an increase in lot coverage:

A. That there is no increase in stormwater leaving the property as a result of additional impermeable area allowed by a minor exception to increase lot coverage. The project as approved incorporates measures or conditions that direct runoff to the landscape, uses permeable paving material, reduce existing impermeable area, or incorporates other low impact drainage design practices to control any increase in stormwater runoff.

5) Project conditions. The project may be conditioned as needed to ensure compliance with County policies and ordinances, in accordance with Section 18.10.240.

6) Appeal. The determination on the minor exception may be appealed by any person whose interests are adversely affected. Appeals shall be heard at a public hearing before the Zoning Administrator, or by the Planning Commission if the Planning Director determines this to be in the public interest. A notice of the public hearing for the appeal shall be sent to all property owners and occupants within 300 feet of the subject property, and to local agencies that provide essential services to the subject parcel, at least 10 days prior to the hearing. A notice shall also be posted on site in accordance with Section 18.10.224. As is consistent with Section 18.10.340, any person whose interests are adversely affected by an appeal determination of the Zoning Administrator may appeal the decision to the Planning Commission, and any person whose interests are adversely affected by an appeal determination of the Planning Commission may

Attachment 1 to Exhibit A

appeal the decision to the Board of Supervisors. Appeals shall be conducted in accordance with Section 18.10.310.

The revised ordinance requires that Appeals be determined by the Zoning Administrator or Planning Commission at a public hearing. In the earlier version of the ordinance, appeals would have been heard by the Planning Director.

### SECTION III

Subsection (e) 6E of Section 13.10.323 of the Santa Cruz County Code is hereby amended to read as follows:

Distance from Alleys. Detached accessory structures including garages shall not be located within six three feet of any alley.

### SECTION IV

Section 13.10.323(e) 6F is hereby added to the Santa Cruz County Code to read as follows:

Garages within the Urban Services Line located in Required Rear and Side Yards. On residentially zoned parcels smaller than 10,000 square feet, an attached or detached garage ("garage" as defined under 13.10.700-G but excluding carports) may be located within side and rear setback areas with up to a 50% reduction of the required setback distances to the rear and interior side property lines, provided that:

In the revised ordinance, the new "by right" standards for garages would apply in the urban services line only, and to parcels smaller than 10,000 square feet. Additionally, the minimum setback from the interior side or rear property lines has been changed from three feet in the earlier version of the ordinance to 50% of the required setback, to avoid extreme setback reductions on large parcels with larger required setbacks.

- (i) There shall be no windows, doors or other openings on garage walls that are less than five (5) feet from the side or rear property lines;
- (ii) The garage shall be located a minimum of forty (40) feet from the front property line;

The 40' setback requirement has been added to the revised ordinance to ensure that requiring garages that encroach into the side or rear setbacks are located towards the rear of the property.

- (iii) Eaves or other projections on garages with reduced setbacks shall extend no more than two additional feet

Attachment 1 to Exhibit A

closer to the rear and side yard property lines, and no closer than allowed by the California Residential Building Code (CRC).

- (iv) The garage shall have a maximum depth of thirty (30) feet.

The 30' maximum depth for garages has been added to the revised ordinance to ensure that garages that encroach into the side or rear setbacks do not extend along the entire depth of the property.

- (v) On residential parcels 10,000 square feet or larger in size, an attached or detached garage may be located within side and rear setback areas with up to a 50% reduction of the required setback distances to the rear and interior side property lines, subject to subsections (i) through (iv) above, and provided that a minor exception is obtained in accordance with Section 13.10.235.

At the direction of the Board of Supervisors, the ordinance has been revised to require that garage encroachments of up to 50% into the side or rear setbacks on parcels larger than 10,000 square feet require approval through the minor exception process.

- (vi) The garage shall not exceed 17 feet in height or 1 story, unless a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.
- (vii) A garage may be located up to zero (0) feet from the rear or interior side property line if a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

## SECTION V

This section adds several new specific height exceptions for nonresidential buildings to facilitate improved designs and fire safety.



Section 13.10.510(d) 2, entitled Height Exceptions, is hereby amended to read as follows:

(2) Height Exceptions. Chimneys, church spires and steeples, water tanks, cooling towers, elevators, flagpoles, monuments, non-commercial radio and television antennas, fire towers, and similar structures not used for human habitation and not covering more than ten percent of the ground area covered by the structure, may be erected to a height of not more than twenty-five (25) feet above the height limit allowed in any district. Within the Urban Services Line, parapets (a low screen or barrier wall) for non-residential buildings located at least 5 feet from the edge of any exterior wall that are constructed for the purpose of screening mechanical equipment or other building features may exceed the height limit by up to 3.5 feet. Within the Urban Services Line, firewall parapets for non-residential buildings that are upward extensions of an exterior wall and are required by the Building Code for fire safety purposes may exceed the height limit by up to 3 feet. Utility and commercial poles and towers may not be subject to the height limits prescribed in the district regulations. Height limits on windpowered generators shall be established in Section 12.24. Non-commercial radio and television towers or free-standing antennas may exceed the height limits above by twenty-five (25) feet with the approval of a Level IV Use Approval. Flat plate solar collectors on existing structure shall be permitted to exceed height restrictions by ~~three~~ four feet.

In an RM-5 to RM-9 District, for multiple dwelling projects of five or more units which are designed to contain all the required parking spaces under the dwelling structures, a maximum height of thirty-five (35) feet is permitted, provided that one foot of additional side yard beyond the ten (10) foot required minimum side yard is added for every foot of height above twenty-eight (28) feet. Solar access on neighboring sites shall not be obstructed.

In any commercial or industrial zone district located within the Urban Services Line, a building may exceed the height limit as established by the zone district by up to 5 feet, subject to review and recommendation by the Urban Designer and approval by the Zoning Administrator following a public hearing. In addition to the findings required in Chapter 18.10 for discretionary approvals, the project shall be subject to the following additional findings:

A. The additional height complements or completes the architectural design.

B. For properties located in the Coastal Zone, the proposed project complies with LCP policies, including policies protecting scenic corridors and public viewsheds.

## SECTION VI

In this section, existing language in the County Code is being deleted, since such a process supersedes requirements in state law regarding variances.

Subsection 13.10.510(f) of the Santa Cruz County Code is hereby deleted.

Attachment 1 to Exhibit A

~~(f) Building Setback Lines. The Planning commission may establish building setback lines different from those required by the district standards of this Chapter when such district standards would impose a purposeless hardship on new buildings compared to the setback of existing buildings in the same block or area, or where the topography of the area may call for a building setback line contrary to the requirements of any district under this Chapter. This provision does not supersede any building setback which may be established under other chapters of the County Code, such as for riparian corridors, geologic hazards, sensitive habitats, or agricultural buffers. When building setback lines are established by the Planning Commission, they may be shown on the sectional district maps of such districts or on such other maps as may be designated~~

## SECTION VII

This section adds a front setback exception for the purpose of protecting the environment or public safety.

Subsection 13.10.510(i) is hereby added to Section 13.10.510 to read as follows:

(i) Setback reductions for properties located within the Urban Services Line to protect the environment or public safety.

Within the Urban Services Line only, up to a 25% reduction in the required setback established by the zone district for front yards or other yards fronting on a street or vehicular right of way may be allowed, subject to review and approval by the Planning Director (Level 3 approval), for any of the following purposes:

- 1) To minimize grading on steep lots;
- 2) To protect environmentally sensitive resources such as significant trees or sensitive habitats such as riparian corridors; or
- 3) To facilitate conformance with regulations for geologic hazards (Chapter 16.10).

In addition to the findings required in Section 18.10.230 for discretionary approvals, the following additional findings shall be required:

- 1) The reduced setback would result in an environmentally superior outcome or improved public safety, either by minimizing grading, affording better protection to an environmentally sensitive habitat or resource, or resulting in greater conformance with geologic hazard regulations.
- 2) The proposed project shall not unreasonably infringe on adequate light, air, or privacy of adjacent residential property.

## SECTION VIII

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 \_\_\_\_\_, 2011 by the following vote:

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

\_\_\_\_\_  
Chair of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

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

Copies to:        County Counsel  
                     Planning Department

Attachment 1 to Exhibit A

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

**ORDINANCE AMENDING CHAPTER 13.10 OF THE SANTA CRUZ COUNTY  
CODE TO ALLOW FOR EXCEPTIONS FROM CERTAIN ZONING SITE  
STANDARDS AND ALLOW GARAGES WITHIN REQUIRED SIDE AND REAR  
YARDS**

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

**SECTION I**

Subsection 13.10.230 (c)(1) of the Santa Cruz County Code is hereby amended to read as follows:

1. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

**SECTION II**

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 within the Urban Services Line**

a) Purpose. To provide a streamlined discretionary review process to allow consideration of minor variations from the zoning district site standards established for height, setbacks, separation between structures on the same property, lot coverage and floor area ratio.

b) Applicability. Within the Urban Services Line only, minor exceptions to the zoning site standards contained in the site and structural dimensions charts may be considered for the following zone districts: Agricultural districts (13.10.313(a)); Residential districts (13.10.323(b) and 13.10.323(e)6(c)); 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 shall be limited to the following:

Height: Up to a 5% increase in the allowed height. For example, a 28-foot height limit could be increased by up to 16.8 inches ( $28' \times .05 = 1.4'$ ).

Setbacks: Up to a 15% reduction in the required front, side or rear setback. For example, a 5-foot setback may be reduced by up to 9 inches ( $5' \times .15 = .75'$ ).

Separation between structures: Up to a 15% exception from the 10-foot separation requirement between structures on the same property, allowing a reduction of up to 1.5 feet, or an 8.5-foot separation.

Floor Area Ratio: Up to a 7.5% increase in the total allowable 50% FAR for lots 4,000 square feet or less, allowing up to 57.5% FAR.

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 supersede 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

1) Application. The application for the minor exception shall contain such information as required by the Planning Department.

2) Application Review. The Planning Director or designee shall review and make a determination on the application for a minor exception. At the discretion of the Planning Director, the project may be referred to the Zoning Administrator or Planning Commission for a public hearing.

3) Noticing. Not less than 21 days prior to the County taking action on an application for a minor exception, notice of the pending decision shall be posted on the County of Santa Cruz Planning Department Website and shall also be sent to owners and occupants of property adjacent to the subject parcel or across a right of way that overlap any part of the frontage of the subject parcel. The notice shall include the date after which a decision will be made on the project, the final date on which comments will be accepted, and information regarding the appeal process. The contents of the notice shall be consistent with Section 18.10.222(d).

4) Required findings. Findings shall be in accordance with findings required for variance approvals in Section 13.10.230 (c), and in accordance with the findings required in Section 18.10.230 for discretionary approvals. In addition, the following finding shall be required for minor exceptions allowing an increase in lot coverage:

A. That there is no increase in stormwater leaving the property as a result of additional impermeable area created by a minor increase lot coverage. The project as approved incorporates measures or conditions that direct runoff to the landscape, uses permeable paving material, reduce existing impermeable area, or incorporates other low impact drainage design practices to control any increase in stormwater runoff.

5) Project conditions. The project may be conditioned as needed to ensure compliance with County policies and ordinances, in accordance with Section 18.10.240.

6) Appeal. The determination on the minor exception may be appealed by any person whose interests are adversely affected. Appeals shall be heard at a public hearing before the Zoning Administrator, or by the Planning Commission if the Planning Director determines this to be in the public interest. A notice of the public hearing for the appeal shall be sent to all property owners and occupants within 300 feet of the subject property, and to local agencies that provide essential services to the subject parcel, at least 10 days prior to the hearing. A notice shall also be posted on site in accordance with Section 18.10.224. As is consistent with Section 18.10.340, any person whose interests are adversely affected by an appeal determination of the Zoning Administrator may appeal the decision to the Planning Commission, and any person whose interests are adversely affected by an appeal determination of the Planning Commission may appeal the decision to the Board of Supervisors. Appeals shall be conducted in accordance with Section 18.10.310.

### **SECTION III**

Subsection (e) 6E of Section 13.10.323 of the Santa Cruz County Code is hereby amended to read as follows:

Distance from Alleys. Detached accessory structures including garages shall not be located within three feet of any alley.

### **SECTION IV**

Section 13.10.323(e) 6F is hereby added to the Santa Cruz County Code to read as follows:

Garages within the Urban Services Line located in Required Rear and Side Yards. On residentially zoned parcels smaller than 10,000 square feet, an

attached or detached garage ("garage" as defined under 13.10.700-G but excluding carports) may be located within side and rear setback areas with up to a 50% reduction of the required setback distances to the rear and interior side property lines, provided that:

- (i) There shall be no windows, doors or other openings on garage walls that are less than five (5) feet from the side or rear property lines;
- (ii) The garage shall be located a minimum of forty (40) feet from the front property line;
- (iii) Eaves or other projections on garages with reduced setbacks shall extend no more than two additional feet closer to the rear and side yard property lines, and no closer than allowed by the California Residential Building Code (CRC).
- (iv) The garage shall have a maximum depth of thirty (30) feet.
- (v) On residential parcels 10,000 square feet or larger in size, an attached or detached garage may be located within side and rear setback areas with up to a 50% reduction of the required setback distances to the rear and interior side property lines, subject to subsections (i) through (iv) above, and provided that a minor exception is obtained in accordance with Section 13.10.235.
- (vi) The garage shall not exceed 17 feet in height or 1 story, unless a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.
- (vii) A garage may be located up to zero (0) feet from the rear or interior side property line if a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

## **SECTION V**

Section 13.10.510(d) 2, entitled Height Exceptions, is hereby amended to read as follows:

(2) Height Exceptions. Chimneys, church spires and steeples, water tanks, cooling towers, elevators, flagpoles, monuments, non-commercial radio and television antennas, fire towers, and similar structures not used for human habitation and not covering more than ten percent of the ground area covered by the structure, may be erected to a height of not more than twenty-five (25) feet above the height limit allowed in any district. Within the Urban Services Line, parapets (a low screen or barrier wall) for non-residential buildings located at least 5 feet from the edge of any exterior wall that are constructed for the purpose of screening mechanical equipment or other building features may exceed the height limit by up to 3.5 feet. Within the Urban Services Line, firewall parapets for non-residential buildings that are upward extensions of an exterior wall and are required by the Building Code for fire safety purposes may exceed the height limit by up to 3 feet. Utility and commercial poles and towers may not be subject to the height limits prescribed in the district regulations. Height limits on windpowered generators shall be established in Section 12.24. Non-commercial radio and television towers or free-standing antennas may exceed the height limits above by twenty-five (25) feet with the approval of a Level IV Use Approval. Flat plate solar collectors on existing structure shall be permitted to exceed height restrictions by four feet.

In an RM-5 to RM-9 District, for multiple dwelling projects of five or more units which are designed to contain all the required parking spaces under the dwelling structures, a maximum height of thirty-five (35) feet is permitted, provided that one foot of additional side yard beyond the ten (10) foot required minimum side yard is added for every foot of height above twenty-eight (28) feet. Solar access on neighboring sites shall not be obstructed.

In any commercial or industrial zone district located within the Urban Services Line, a building may exceed the height limit as established by the zone district by up to 5 feet, subject to review and recommendation by the Urban Designer and approval by the Zoning Administrator following a public hearing. In addition to the findings required in Chapter 18.10 for discretionary approvals, the project shall be subject to the following additional findings:

- A. The additional height complements or completes the architectural design.
- B. For properties located in the Coastal Zone, the proposed project complies with LCP policies, including policies protecting scenic corridors and public viewsheds.

## **SECTION VI**

Subsection 13.10.510(f) of the Santa Cruz County Code is hereby deleted.



## SECTION VII

Subsection 13.10.510(i) is hereby added to Section 13.10.510 to read as follows:

(i) Setback reductions for properties located within the Urban Services Line to protect the environment or public safety.

Within the Urban Services Line only, up to a 25% reduction in the required setback established by the zone district for front yards or other yards fronting on a street or vehicular right of way may be allowed, subject to review and approval by the Planning Director (Level 3 approval), for any of the following purposes:

- 1) To minimize grading on steep lots;
- 2) To protect environmentally sensitive resources such as significant trees or sensitive habitats such as riparian corridors; or
- 3) To facilitate conformance with regulations for geologic hazards (Chapter 16.10).

In addition to the findings required in Section 18.10.230 for discretionary approvals, the following additional findings shall be required:

- 1) The reduced setback would result in an environmentally superior outcome or improved public safety, either by minimizing grading, affording better protection to an environmentally sensitive habitat or resource, or resulting in greater conformance with geologic hazard regulations.
- 2) The proposed project shall not unreasonably infringe on adequate light, air, or privacy of adjacent residential property.

## SECTION VIII

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 \_\_\_\_\_, 2011 by the following vote:

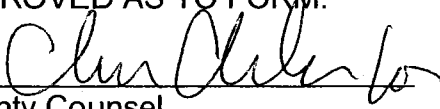
AYES:	SUPERVISORS
NOES:	SUPERVISORS
ABSENT:	SUPERVISORS
ABSTAIN:	SUPERVISORS

\_\_\_\_\_  
Chair of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

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

Copies to:           County Counsel  
                          Planning Department

### Minor Exceptions:

Summary of proposed amendments, and revisions

Provision	Description (Revisions made after review by your Commission are <u>underlined</u> )	Explanation of proposed revisions
<b>Applicability</b> (13.10.325(b))	<u>Applies in the Urban Services Line only</u> , in all zone districts except for combining zone districts, specific plans or PUD's. ( <u>Consider also in Rural Services Line</u> ).	Direction from Board that exception should apply primarily to smaller urban parcels within USL
<b>Exceptions allowed</b>	Height: <u>Up to a 5% increase</u>	In response to comments from your Commission and direction from Board, allowable height increase reduced from proposed 15% increase proposed earlier.
Setbacks	Up to a 15% reduction in the required front, side or rear setback	No change proposed
Separation between structures	Up to a 15% reduction in the required 10-foot separation	No change proposed
Floor Area Ratio	Up to a 7.5% increase in floor area ratio, <u>only for lots 4,000 square feet or less</u>	Increase in FAR allowed restricted to smaller lots, to ensure
Lot coverage	Increase in lot coverage ranging from 1.5% to 6%, depending on the lot coverage allowed in the site standards for the zone district.	No change proposed

Procedures		
Application review	Administrative review by the Planning Director, with no public hearing required unless determined by the Planning Director to be in the public interest	No change
Noticing	Notice of pending action on application mailed to adjacent neighbors, neighbors across the street, and posted on the County Website	Board directed staff to post notice of pending decision on minor decisions on website in order to increase transparency of process
Required Findings	In accordance with findings required for <u>variance approvals</u>	In the earlier version of the ordinance reviewed by your Commission, minor exceptions could have been approved to resolve practical difficulties or allow for special design needs.
Appeal Process	Any person whose interests are adversely affected may appeal. <u>Appeal heard by the Zoning Administrator or the Planning Commission at a public hearing.</u>	In response to Planning Commission comments to ensure adequate opportunity for public participation, changed from earlier recommendation that appeals would be processed administratively by the Planning Director.

## **Areas within the Rural Services Line**

### La Selva Beach

A few commercial parcels. Over 400 residential parcels, most zoned R-1-6 and R-1-9. Some multi-family parcels zoned RM-3. Parcels range in size from 4,556 square feet to 28,337 square feet, with many lots ranging from 4,700 square feet to 5,000 square feet.

### Felton

Includes more than 400 properties both residential and commercial, some within Felton Town Plan area. Most residential parcels are zoned R-1-10 and R-1-15, some within the Geologic Hazards combining district. More than 75 parcels are less than 5,000 square feet in size, and 30 of these parcels are less than 3,500 square feet.

### Ben Lomond

Over 80 parcels. Properties range in size from 3,791 square feet to over 6,000 square feet. Most parcels larger than 5,000 square feet.

### Boulder Creek (town)

Over 200 parcels, including residential parcels (R-1-15, RM-6) and commercial parcels (C-2). None within riparian corridors. Area within Boulder Creek Specific Plan. Parcels range in size from 2,832 square feet to 27,798 square feet. Many parcels in the range of 4,500 square feet to 5,200 square feet.

### Boulder Creek (off Bear Creek Road)

Over 50 residential parcels, most larger than 7,500 square feet. Zone districts include R-A and R-1-10. None within riparian corridors.

### Davenport, North of Cement Plant

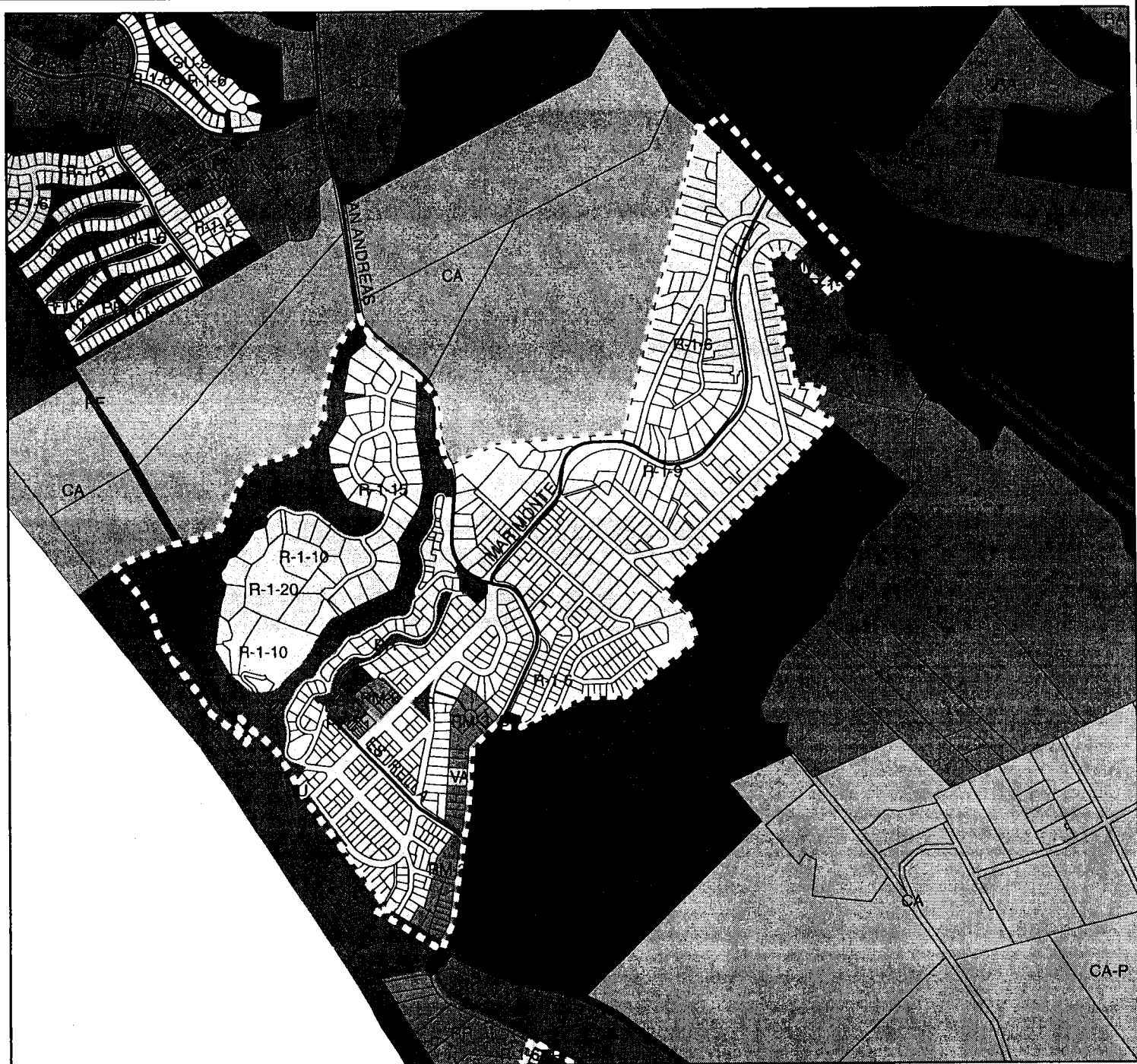
Over 30 residential parcels, zoned R-1-6, most between 7,000 and 7,500 square feet.

### Davenport, South of Cement Plant

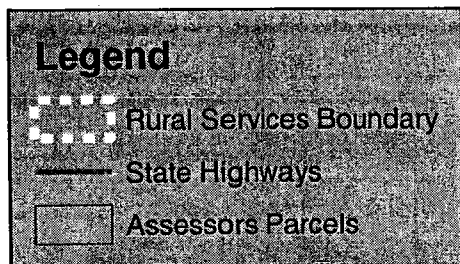
Over 75 parcels. Including residential parcels (R-1-6), commercial parcels, and public facility parcels (owned by Catholic Church). Two parcels owned by the Church border on riparian corridors.

### Note:

Other areas and subdivisions within the Rural Services Line have special site standards, including Pajaro Dunes, Sand Dollar Beach and Place De Mer in South County, Paradise Park, and Las Cumbras near Boulder Creek. Minor exceptions would not apply in these areas.

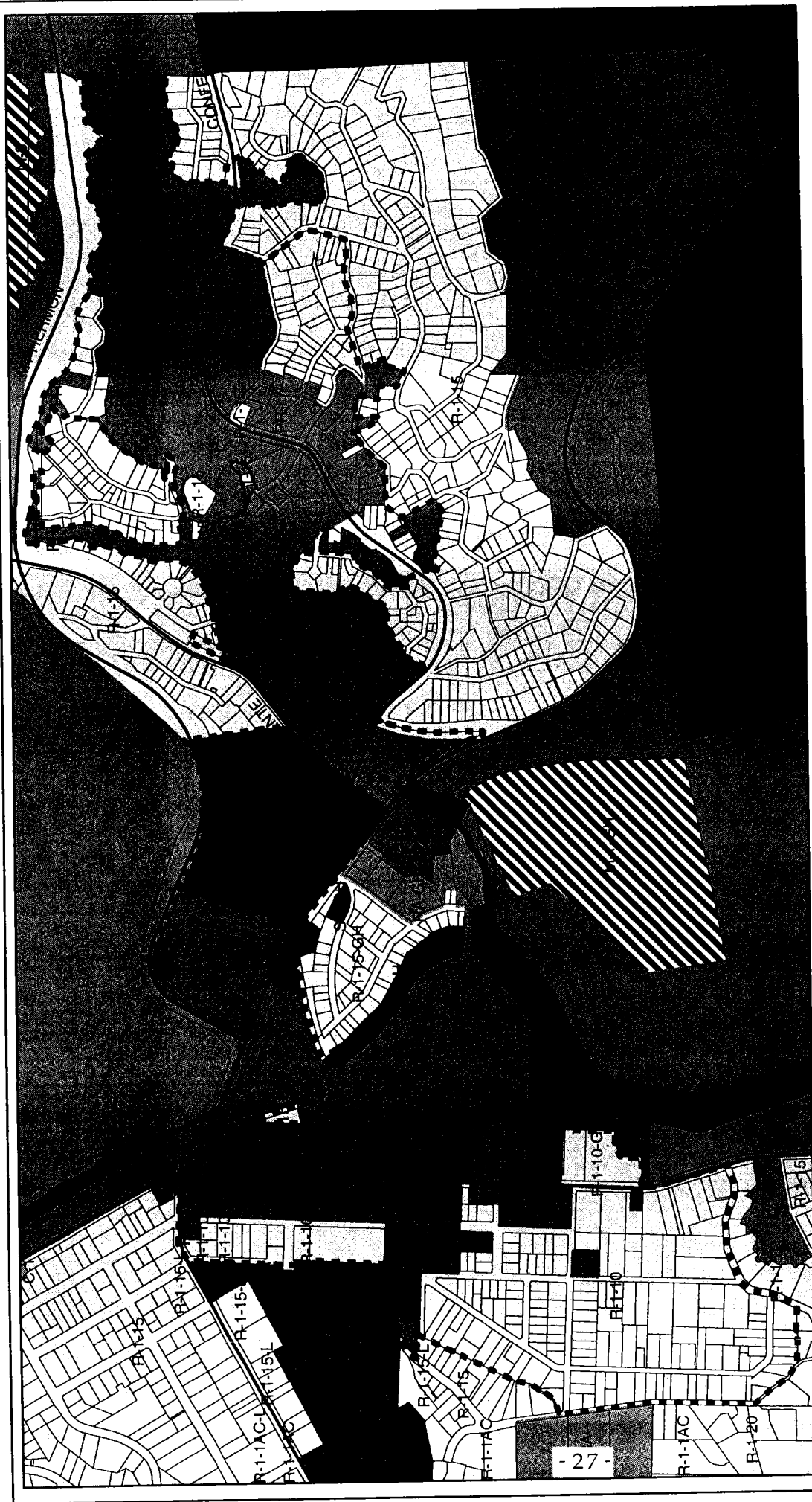


# Rural Services Boundary: La Selva Beach



Map Created by  
County of Santa Cruz  
Planning Department  
February 2011

**EXHIBIT D**



# Rural Services Boundary: Felton



Map Created by  
County of Santa Cruz  
Planning Department  
February 2011

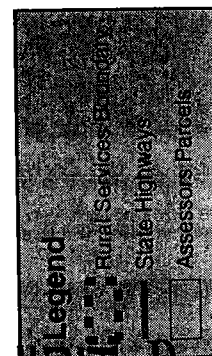
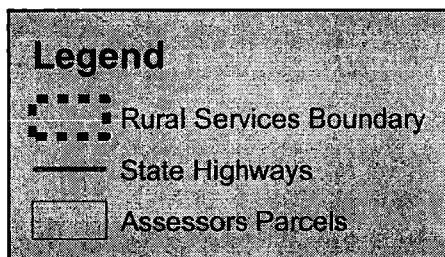


EXHIBIT D



# Rural Services Boundary: Ben Lomond



Map Created by  
County of Santa Cruz  
Planning Department  
February 2011

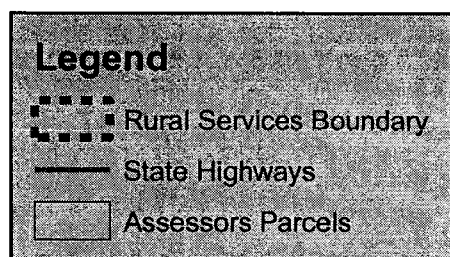
**EXHIBIT D**





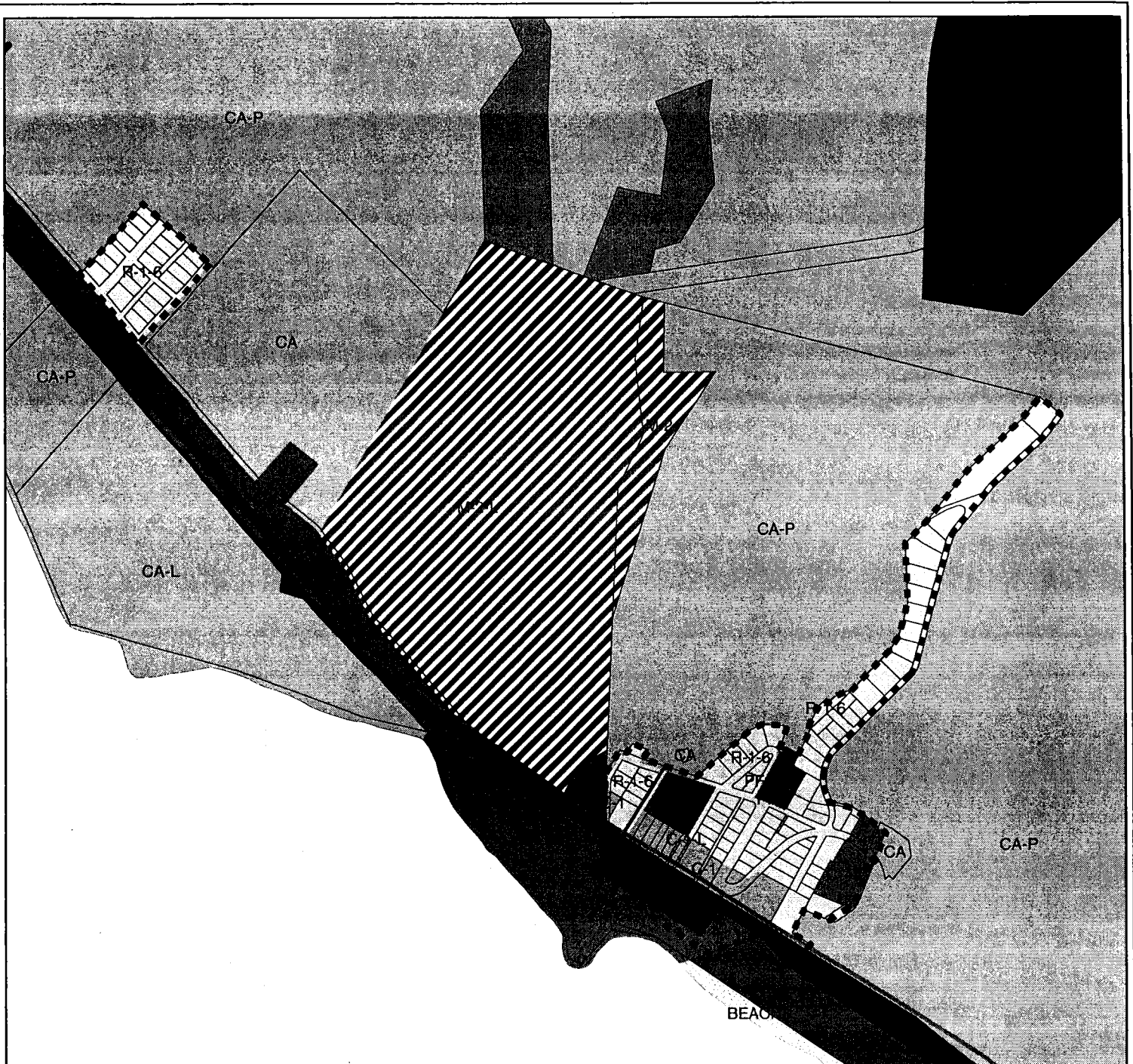


# Rural Services Boundary: Bear Creek Estates

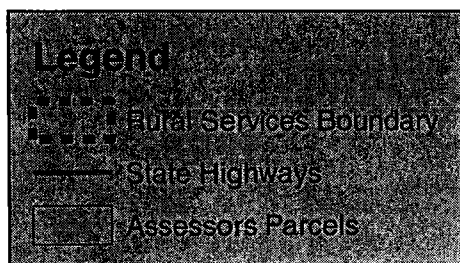


Map Created by  
County of Santa Cruz  
Planning Department  
February 2011

**EXHIBIT D**



# Rural Services Boundary: Davenport



Map Created by  
County of Santa Cruz  
Planning Department

February 2011  
**EXHIBIT D**



# COUNTY OF SANTA CRUZ

## 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

KATHY MOLLOY PREVISICH, PLANNING DIRECTOR

### NEGATIVE DECLARATION AND NOTICE OF DETERMINATION

N/A MINOR EXCEPTIONS FROM ZONING SITE STANDARDS APN(S): N/A

This project consists of 2 parts. The first part would implement provisions in state law regarding variances by amending Chapter 13.10 of the Santa Cruz County Code to allow consideration of minor exceptions from zoning site standards for height, setbacks, distance between structures, lot coverage and floor area ratio without requiring a public hearing. Part two would amend the zoning ordinance to add specific, limited exceptions to zoning site standards, consisting of the following: 1. Add setback and height exceptions for residential garages to facilitate improved residential design and siting. 2. Add height exceptions for parapets on non-residential structures to facilitate improved designs and fire safety. 3. Provide a discretionary review process to consider height exceptions for commercial or industrial structures to facilitate innovative designs. 4. Add a front setback exception for structures in all zone districts to allow for greater protection of the environment and improved public safety.

ZONE DISTRICT: All zone districts

APPLICANT/OWNER: County of Santa Cruz

PROJECT PLANNER: ANNIE MURPHY, 454-3111; EMAIL: [pln400@co.santa-cruz.ca.us](mailto:pln400@co.santa-cruz.ca.us)

**ACTION: Negative Declaration**

**REVIEW PERIOD ENDS: JANUARY 19, 2011**

This project will be considered at a public hearing by the Planning Commission. The time, date and location have not been set. When scheduling does occur, these items will be included in all public hearing notices for the project.

#### Findings:

This project, if conditioned to comply with required mitigation measures or conditions shown below, will not have significant effect on the environment. The expected environmental impacts of the project are documented in the Initial Study on this project, attached to the original of this notice on file with the Planning Department, County of Santa Cruz, 701 Ocean Street, Santa Cruz, California.

#### Required Mitigation Measures or Conditions:

XX None  
       Are Attached

Review Period Ends: January 22, 2011

Date Approved By Environmental Coordinator: January 24/2011

Matt Johnston  
MATT JOHNSTON  
Environmental Coordinator  
(831) 454-3201

If this project is approved, complete and file this notice with the Clerk of the Board:

#### NOTICE OF DETERMINATION

The Final Approval of This Project was Granted by \_\_\_\_\_

on \_\_\_\_\_ (date). No EIR was prepared under CEQA.

THE PROJECT WAS DETERMINED TO NOT HAVE SIGNIFICANT EFFECT ON THE ENVIRONMENT.

Date completed notice filed with Clerk of the Board: \_\_\_\_\_

**EXHIBIT E**

**MEMORANDUM**

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Date: February 4, 2011

To: Annie Murphy

From: Matt Johnston, Environmental Coordinator

Re: Minor Variances and Garage Ordinance Amendments

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On January 24, 2011, the Environmental Coordinator for the County of Santa Cruz determined through the environmental review process that the proposed minor amendments would not result in significant impacts to the environment, in conformance with the California Environmental Quality Act (CEQA). Since that time, the Board of Supervisors have recommended changes to the proposed amendments. The changes have been reviewed in accordance with CEQA and the have been found not to constitute a substantial revision, in that no new significant impacts are identified, and new information has been added to further clarify the ordinance. It is the determination of the Environmental Coordinator that the revised ordinance is in conformance with the CEQA process and recirculation of the initial study is not required.

**Proposed Revisions to the Ordinance Establishing a Minor Exception Process and New Site Standards for Garages**

<b>Original Provision</b>	<b>Revised Provision</b>
Minor Exceptions, specific exceptions, and new site standards for garages would apply throughout the entire County	Minor Exceptions, specific exceptions, and new site standards for garages would apply only within the Urban Services Line
Noticing of pending decisions on applications for a minor exception would be mailed to properties adjacent to the subject parcel and to properties across the street	Noticing of pending decision on applications for a minor exception would include posting on the Planning Department Website, as well as being mailed to properties adjacent to the subject parcel and to properties across the street
Appeals shall be heard at a public hearing before the Zoning Administrator or Planning Commission.	Clarify the appeals process to note that determinations on appeals may be appealed to the next higher approving body, with the Board of Supervisors as the final approving body.
The new standards allowing garages meeting certain requirements to encroach up to 50% in the required side or rear setback would be allowed by right on residential parcels of any size.	On parcels larger than 10,000 square feet, the new standards allowing for garages to encroach up to 50% in the required side or rear setback would require discretionary approval through the minor exception process.



# County of Santa Cruz

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  
[www.sccoplanning.com](http://www.sccoplanning.com)

## CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) ENVIRONMENTAL REVIEW INITIAL STUDY

Date: December 15, 2010  
Staff Planner: Annie Murphy

Application Number: n/a

### I. OVERVIEW AND ENVIRONMENTAL DETERMINATION

APPLICANT: County of Santa Cruz

APN(s): n/a

OWNER: n/a

SUPERVISORAL DISTRICT: Countywide

PROJECT LOCATION: Countywide

**SUMMARY PROJECT DESCRIPTION:** This project consists of proposed amendments to the County Zoning Ordinance (Chapter 13.10) that would streamline the permit process for the unincorporated areas of the county. The project consists of two sections:

Section I: Implement provisions in state law regarding variances by amending Chapter 13.10 of the Santa Cruz County Code to allow consideration of minor exceptions from zoning site standards for height, setbacks, distance between structures, lot coverage and floor area ratio without requiring a public hearing.

Section II: Modify the zoning ordinance to add specific, limited exceptions to zoning site standards, consisting of the following:

- Add setback and height exceptions for residential garages to facilitate improved residential design and siting.
- Add height exceptions for parapets on non-residential structures to facilitate improved designs and fire safety.
- Provide a discretionary design review process to consider height exceptions for commercial or industrial structures to facilitate innovative designs.
- Add a front setback exception for structures in all zone districts to allow for greater protection of the environment and improved public safety.

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:** All of the following potential environmental impacts are evaluated in this Initial Study. Categories that are marked have been analyzed in greater detail based on project specific information.



- |                                                                   |                                                             |
|-------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Geology/Soils                            | <input type="checkbox"/> Noise                              |
| <input type="checkbox"/> Hydrology/Water Supply/Water Quality     | <input type="checkbox"/> Air Quality                        |
| <input type="checkbox"/> Biological Resources                     | <input type="checkbox"/> Greenhouse Gas Emissions           |
| <input type="checkbox"/> Agriculture and Forestry Resources       | <input type="checkbox"/> Public Services                    |
| <input type="checkbox"/> Mineral Resources                        | <input type="checkbox"/> Recreation                         |
| <input checked="" type="checkbox"/> Visual Resources & Aesthetics | <input type="checkbox"/> Utilities & Service Systems        |
| <input type="checkbox"/> Cultural Resources                       | <input checked="" type="checkbox"/> Land Use and Planning   |
| <input type="checkbox"/> Hazards & Hazardous Materials            | <input type="checkbox"/> Population and Housing             |
| <input type="checkbox"/> Transportation/Traffic                   | <input type="checkbox"/> Mandatory Findings of Significance |

### DISCRETIONARY APPROVAL(S) BEING CONSIDERED:

- |                                                 |                                                                       |
|-------------------------------------------------|-----------------------------------------------------------------------|
| <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Coastal Development Permit                   |
| <input type="checkbox"/> Land Division          | <input type="checkbox"/> Grading Permit                               |
| <input type="checkbox"/> Rezoning               | <input type="checkbox"/> Riparian Exception                           |
| <input type="checkbox"/> Development Permit     | <input checked="" type="checkbox"/> Other: Zoning Ordinance amendment |

### NON-LOCAL APPROVALS

Other agencies that must issue permits or authorizations: N/A

### DETERMINATION: (To be completed by the lead agency)

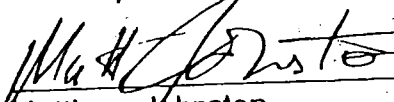
On the basis of this initial evaluation:

- ☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

EXHIBIT E



- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

  
Matthew Johnston  
Environmental Coordinator

12/21/10  
Date

EXHIBIT E

## II. BACKGROUND INFORMATION

### EXISTING SITE CONDITIONS

Parcel Size: Various

Existing Land Use: All

Vegetation: Varied

Slope in area affected by project: ☒ 0 - 30% ☒ 31 - 100%

Nearby Watercourse: Various

Distance To: Varied

### ENVIRONMENTAL RESOURCES AND CONSTRAINTS

Water Supply Watershed: Mapped

Groundwater Recharge: Mapped

Timber or Mineral: Mapped

Agricultural Resource: Mapped

Biologically Sensitive Habitat: Mapped

Fire Hazard: Mapped

Floodplain: Mapped

Erosion: Mapped

Landslide: Mapped

Liquefaction: Mapped

Fault Zone: Mapped

Scenic Corridor: Mapped

Historic: Numerous

Archaeology: Mapped

Noise Constraint: Mapped

Electric Power Lines: No Issues

Solar Access: Varied

Solar Orientation: Varied

Hazardous Materials: No Issues

Other: n/a

### SERVICES

Fire Protection: All

School District: All

Sewage Disposal: Sewer and Septic

Drainage District: All

Project Access: N/A

Water Supply: Water Districts, Private wells

### PLANNING POLICIES

Zone District: All zone districts

General Plan: All General Plan

Designations

Urban Services Line: ☒ Inside

☒ Outside

Coastal Zone: ☒ Inside

☒ Outside

Special Designation: n/a

### ENVIRONMENTAL SETTING AND SURROUNDING LAND USES:

The proposed ordinance amendments involving minor exceptions and other specific exceptions would apply to all zone districts in the unincorporated portion of the county and therefore to all of the various environments of the county. Surrounding land uses would be all of the land uses found in the unincorporated portion of the County.

### PROJECT BACKGROUND:

This project consists of two sections involving exceptions to zoning site standards. Section One would classify a subset of variances involving minor deviations from the zoning standards as "minor exceptions" and allow these exceptions to be reviewed and

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decided upon without a public hearing, in conformance with Section 65901 of the California Government Code.

In June 2010, the Board of Supervisors directed planning staff to develop ordinance amendments to establish a more reasonable and streamlined review process for considering minor deviations from site standards that are unlikely to impact neighboring properties. Planning staff brought a draft ordinance implementing a minor exception process to the Board of Supervisors in November 2010. At the public hearing, the Board reviewed the draft ordinance, heard public testimony, and directed planning staff to address CEQA issues, narrow the scope of the minor exceptions, address several other issues, and return with revised recommendations. The revised ordinance (Attachment 1) addresses the concerns raised by the Board, by requiring minor exceptions to comply with the variance findings to limit their applicability, and by further limiting the extent of deviations from site standards that would be allowed through the minor exception process.

Section Two of the project adds a number of specific and limited exceptions to the Santa Cruz County Code. The specific exception for garages was developed at the direction of the Board of Supervisors, who in 2009 directed staff to develop provisions that would allow different side and rear setbacks for garages located at the rear of residential properties. In response to public comment regarding the proposed "garages in rear setback" ordinance, provisions modifying setback provisions under certain circumstances were revised and are also addressed by this initial study. The other specific exceptions in this Section were developed in response to comments from the Board of Supervisors at the November hearing, directing Planning Staff to consider shifting certain height exceptions to the existing height exceptions portion of the County Code, and to consider other situations where more specific or limited exceptions to zoning standards would be appropriate. The goals of these more specific exceptions are to provide additional flexibility to applicants for certain types of projects, facilitate improved residential and commercial designs, and to allow for improved environmental protection and public safety.

## DETAILED PROJECT DESCRIPTION:

### Section I: Minor Exceptions

State law (Government Code Section 65901) allows local governments to define a subset of variances that may be decided upon without a public hearing. Consistent with state law, the proposed amendment to Chapter 13.10 would allow certain minor exceptions from the zoning district site standards for height, setbacks, separation between structures, lot coverage, and floor area ratio to be considered under an administrative discretionary review process without a public hearing (Attachment 1). These exceptions would apply to zoning standards only, and would not apply to or supercede limits or building setbacks required in other sections of the County Code, such as for riparian corridors, geologic hazards, sensitive habitats, or agricultural buffers. Notices on minor exceptions would be mailed to neighbors adjacent to or across the street from the subject parcel. The Planning Director could refer controversial

projects for a public hearing to ensure all issues would be addressed. The determination on minor exceptions could be appealed by the applicant or by a member of the public.

The minor exceptions amendment would modify the process by which this subset of variances are reviewed, by modifying the noticing requirements and by eliminating the requirement for public hearing, as allowed under state law. However, the amendment would not change the requirements that must be met in order for this subset of variances to be approved, including all environmental regulations. Therefore, the applicability of minor exceptions would be limited to those parcels that could qualify for a variance. The same state-mandated findings that apply to regular variances would be required for minor exceptions, including that "special circumstances" apply to the property, such as size, shape, topography, location or surroundings, such that the strict application of site standards would deprive the property of privileges enjoyed by other properties in the vicinity and under the same zoning classification. Additionally, the granting of a minor exception could not result in a special privilege for the property owner. Therefore, the minor exceptions amendment amounts to a procedural change only for processing certain variances that can already be applied for under the existing zoning ordinance.

## Section II: Specific Exceptions

These amendments would add a number of specific, limited exceptions to Chapter 13.10 of the Santa Cruz County Code. The goals of these additional exceptions are to bring additional flexibility to the zoning ordinance in limited circumstances, facilitate better design and siting, and allow for greater protection of the environment and public safety.

### II a: Garages within Required Rear and Side Yards.

Consistent with other sections of the zoning ordinance that encourage reduced prominence of garages, the exceptions for garages would facilitate the placement of garages toward the rear of the parcel by allowing reductions in the required rear and side yards. One exception would allow reductions up to 50% of the required side and rear yards for garages meeting certain requirements, including a set back of at least 40 feet from the front property line. Discretionary review would not be required.

To provide greater flexibility, additional exceptions would allow garages to exceed 17 feet in height or one story, or to have zero side or rear setbacks, subject to administrative discretionary review and public notice. This category of garage exceptions would require discretionary review, including neighborhood noticing, and could be approved by planning staff only if it could be found that the garage would not be detrimental to adjacent residences.

### II b: Height exception for parapets

Under Section 13.10.510 of the Santa Cruz County Code, certain building features such as cooling towers or non-commercial television or radio antennas may exceed the height limit by up to 25 feet. However, there is currently no exception allowed for screening of mechanical features. To facilitate improved designs of commercial buildings, this exception would allow parapets (a low screen or barrier wall) used for screening purposes to exceed the height limit by up to 3.5 feet. To promote fire safety,

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the exception would also allow parapets required under the building code for fire safety purposes to exceed the height limit by up to 3 feet.

II c: Height Exception for non-residential structures

To facilitate innovative design for non-residential buildings, such as green buildings that require additional height for special ventilation systems, and to be consistent with the existing height exception process available for residential buildings, this exception would allow commercial or industrial buildings to exceed the height limit by up to 5 feet, subject to discretionary approval with design review and a public hearing.

II d: Front setback exception for protection of the environment and public safety

The proposed exception would allow a 25% reduction in the required front setbacks (which are typically 20 feet but can vary from 10 to 30 feet depending on the zone district and parcel size) in circumstances where the setback reduction would afford better protection to the environment or public safety than would be possible without the exception. The exception would be subject to administrative discretionary review, to allow planning staff to verify that the exception would provide greater protection to the environment or public safety. Public notice would not be required, since a reduction in front setback is unlikely to impact neighboring properties. This exception is similar in scope to an existing regulation allowing residential front yard averaging with front setbacks as small as 10 feet without requiring discretionary review or noticing.

By allowing the front zoning setback to be reduced, planning staff could allow or require that the project be modified to provide greater protection to public safety or the environment. As an example, the Santa Cruz County Code requires structures to be set back a certain distance from riparian corridors to protect the riparian area and watershed. However, under the minor riparian exception provision in Chapter 16.30, additions less than 500 square feet within a previously disturbed area may under certain circumstances be located within the required riparian buffer area. Under the proposed front setback exception, planning staff could require an owner of a parcel with a riparian corridor at the rear who is applying to construct an addition within the riparian buffer area to locate the proposed addition partially within the front setback area, affording greater protection to the riparian corridor. Any use of this provision would not increase the allowable lot coverage or floor area ratio, meaning that a larger structure would not result.

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### III. ENVIRONMENTAL REVIEW CHECKLIST

**Note:** The "General Discussions" below analyze potential impacts for the entire project. "Specific Discussions" provide a more in-depth analysis of potential impacts for the specific ordinance amendment referenced.

#### A. GEOLOGY AND SOILS

Would the project:

1. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

A. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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B. Strong seismic ground shaking?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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C. Seismic-related ground failure, including liquefaction?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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D. Landslides?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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1A- 1D above:

#### General Discussion:

The proposed amendments could affect parcels county-wide, but would not result in any change in the seismic risk to residents or structures. All of Santa Cruz County is subject to some hazard from earthquakes. Any new development that would result from the proposed policy change will be subject to County Code Chapter 16.10 (Geologic Hazards Ordinance) and would require geologic/geotechnical investigations to minimize potential adverse impacts if it could potentially result in a geologically-related hazard. The proposed project does not constitute a significant additional seismic or landslide risk to County residents or structures.

**Specific Discussion:** Amendment II d: Front setback exception for protection of the

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environment and public safety:

This amendment has the potential to reduce the exposure of people or structures to seismic risks, to the extent that it would allow planning staff to require a project be moved closer to the front property and further away from a fault, landslide area, or other potential geologic hazard.

2. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

☐ ☐ ☒ ☐

**General Discussion:** Parcels with unstable soils exist throughout Santa Cruz County. The project would not, in and of itself, result in any change in the risks related to unstable soils for County residents or structures. Any new residential development that would result from the proposed policy change will be subject to County Code Chapter 16.10 (Geologic Hazards Ordinance) and would require geologic/geotechnical investigations to minimize potential adverse impacts if the development could potentially result in a geologically-related hazard. Therefore, the proposed amendments do not constitute a significant landslide risk to County residents or structures.

**Specific Discussion:** Amendment II d: Front setback exception for protection of the environment and public safety:

This amendment has the potential to reduce the exposure of people or structures to unstable soils, because it would allow planning staff to require a project be moved closer to the front property to avoid a landslide area, unstable soils, or other potential geologic hazard.

3. Develop land with a slope exceeding 30%?

☐ ☐ ☒ ☐

**General Discussion:** Any new development resulting from the proposed ordinance amendments would be required to meet all requirements of the General Plan, County Code Chapter 16.10, and California Building Code relating to development on slopes exceeding 30%. As local policies and regulations essentially prohibit development on slopes exceeding 30%, no adverse impact is anticipated from the adoption and enforcement of the proposed ordinance.

4. Result in substantial soil erosion or the loss of topsoil?

☐ ☐ ☒ ☐

**General Discussion:** To the extent that any new development results from the proposed ordinance amendments, standard erosion controls would be required as discussed below as a condition for projects with erosion control potential. Therefore,

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there would be a less than significant impact for substantial soil erosion or loss of topsoil.

### **Specific Discussion: Amendment I: Minor Exceptions**

Although the minor exceptions amendment would change the way this subset of variances with minor deviations from site standards are processed, the same requirements for approving variances would continue to apply. Required findings include that special circumstances apply to the property, and that the granting of a variance would not result in a special privilege for the property owner. Since the code amendment would not change the number or type of parcels that could potentially qualify for a variance, this amendment is not expected to significantly increase the amount of development.

It is conceivable however, that the reduced processing time and costs for this subset of variances would lead some property owners to apply for a variance, and that the number of variances approved could potentially increase initially due to a potential increase in number of applications received. However, any additional development resulting from this amendment would be subject to all policies and regulations for controlling erosion. Additionally, National Pollutant Discharge Elimination System (NPDES) regulations will be implemented in the County in 2011, further controlling runoff resulting from new development. Therefore, the potential for loss of topsoil or substantial soil erosion is less than significant.

### **Specific Discussions:**

#### **Amendment II a: Garages within Required Rear and Side Yards**

This amendment would allow residential garages to encroach into required rear and side yards.

Although the amendment is expected to provide greater flexibility in the location of garages, it is not anticipated to result in a significant number of new garages. Lot coverage is generally the limiting factor in determining whether a garage can be constructed on a parcel. Since this proposed amendment would not authorize an increase in lot coverage, approval of the amendment is not anticipated to result in a large number of parcels qualifying for garages that did not do so previously.

It is conceivable that a few lots that currently cannot accommodate a garage could do so under the proposed amendment, due to allowed setback reductions. However, any new garages resulting from this amendment would be subject to the erosion control policies cited in the discussion section above. Additionally, National Pollutant Discharge Elimination System (NPDES) regulations will be implemented in the County in 2011, further controlling runoff resulting from new development. Therefore, this amendment is anticipated to result in a less than significant loss of topsoil or potential for substantial soil erosion.

**Amendment II d: Front setback exception for protection of the environment and public safety:**

This amendment allows planning staff to require or allow a reduction in the front zoning



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setback for any proposed project in order to minimize grading on the parcel. Therefore, this amendment could potentially reduce soil erosion and topsoil loss in the County.

5. Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?

☐ ☐ ☒ ☐

**General Discussion:** Expansive soils have the potential for shrinking and swelling with changes in moisture content, which can cause damage to overlying structures. The amount and type of clay in the soil influences the changes. The problems resulting from expansive soils can be controlled by proper engineering and construction practices. The presence or absence of expansive soils is therefore not considered a critical factor in overall land planning.

Any new construction resulting from this amendment would be subject to all requirements of the General Plan, County Code Chapter 16.10, and California Building Code relating to soil safety issues. Therefore, no significant impact is anticipated from the adoption and enforcement of the proposed ordinance.

6. Place sewage disposal systems in areas dependent upon soils incapable of adequately supporting the use of septic tanks, leach fields, or alternative waste water disposal systems where sewers are not available?

☐ ☐ ☒ ☐

**General Discussion:** The proposed project would not result in any changes to County regulations and requirements for new or existing septic systems. Any development resulting from the proposed ordinance amendments would be subject to Environmental Health review and permitting.

No additional dwelling units are anticipated from the adoption and enforcement of the proposed ordinance, since these amendments do not authorize a change in density, or affect policies that determine whether a parcel may be developed. Therefore, these proposed amendments are not expected to generate the need for any new sewage disposal systems, and no significant impact is anticipated from the adoption and enforcement of the proposed ordinance.

7. Result in coastal cliff erosion?

☐ ☐ ☒ ☐

**General Discussion:** Any future development resulting from the proposed amendments would be required to comply with coastal protection policies including those regulations in Chapter 16.10 prohibiting erosion to coastal cliffs and bluffs. Therefore, no significant impact is anticipated from the adoption and enforcement of the proposed ordinance.

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**Specific Discussion:** Amendment II d: Front setback exception for protection of the environment and public safety:

This amendment allows planning staff to require or allow development to be moved closer to the front of the property in order to minimize grading on the parcel. As coastal cliffs typically occur at the rear of a property, this amendment could provide additional protection to coastal bluffs and facilitate conformance with regulations protecting coastal bluffs.

## B. HYDROLOGY, WATER SUPPLY, AND WATER QUALITY

Would the project:

- |                                                                                                                                                                          |                          |                          |                                     |                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|
| 1. Place development within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Place within a 100-year flood hazard area structures that would impede or redirect flood flows?                                                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Be inundated by a seiche, tsunami, or mudflow?                                                                                                                        | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

**General Discussion (B1- B3 above):** The proposed project would not result in any change in flooding or inundation risk to residents or structures. Any new development that would result from the proposed ordinance amendments will be subject to County Code Chapter 16.10 (Geologic Hazards Ordinance). The proposed project may affect multiple parcels Countywide but would not, in and of itself, result in a significant additional flooding/inundation risk to County residents or structures.

- |                                                                                                                                                                                                                                                                                                                                                                                               |                          |                          |                          |                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 4. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|

**General Discussion:** No increase in residential density is anticipated, nor would these amendments change regulations determining whether a particular parcel may be developed. Therefore, the proposed amendments are not anticipated to lead to a growth in population, and would not result in a significant depletion of groundwater

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supplies or interference with groundwater recharge.

5. Substantially degrade a public or private water supply? (Including the contribution of urban contaminants, nutrient enrichments, or other agricultural chemicals or seawater intrusion).

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**General Discussion:** The proposed project would not affect the County's regulations regarding water quality protection, and thus could result in only minimal, if any, additional water quality degradation.

6. Degrade septic system functioning?

☐ ☐ ☐ ☒

**General Discussion:** No degradation of septic systems functions could result from the proposed ordinance amendments, as all applicable requirements of the County of Santa Cruz EHS will remain in effect. The proposed project is not expected to generate any increased demand on existing septic systems, and would not result in the installation of any additional septic systems that do not comply with the County of Santa Cruz EHS requirements for individual septic systems or alternative systems.

7. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding, on- or off-site?

☐ ☐ ☒ ☐

**General Discussion:** The proposed amendments would not affect the County's regulations regarding drainage or erosion control, and all future development would be subject to these regulations. Therefore, the project would result in only minimal, if any, additional drainage or erosion-related impacts.

#### Specific Discussion: Amendment 1: Minor Exceptions

The minor exceptions amendment would allow property owners to apply for minor increases in lot coverage, subject to discretionary review and variance findings, and consistency with policies in the General Plan regulating drainage and erosion control. Since the code amendment would continue to require variance findings and would not change the number or type of parcels that could potentially qualify for a variance, this amendment is anticipated to result in minimal new development, and no significant change in drainage patterns.

To the extent that more applications for variances requesting an increase in lot coverage are received due to reduced processing time and costs, there is a potential

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Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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for a slight increase in the number of variances for minor increases in lot coverage that could be approved. This could in turn result in an increase in impervious surface on some parcels, which could in turn result in a small increase in stormwater runoff. Therefore, the proposed ordinance amendment includes the following mandatory finding for any minor exception involving an increase in lot coverage:

That there is no increase in stormwater leaving the property as a result of additional impermeable area allowed by a minor exception to increase lot coverage. Projects shall be conditioned to direct runoff to the landscape, use permeable paving material, reduce existing impermeable area, or incorporate other low impact drainage design practices to control stormwater runoff.

The above finding ensures that there are no significant increases in stormwater runoff for parcels with a minor increase in lot coverage.

8. Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems, or provide substantial additional sources of polluted runoff?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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**General Discussion:** The proposed project would not affect the County's regulations regarding drainage or erosion control, under which all development is now required to restrict project-related runoff to pre-project or otherwise negligible levels.

**Specific Discussion:** Amendment 1: Minor Exceptions

See discussion for minor exceptions under 7 above.

9. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**General Discussion:** The proposed ordinance would not increase the number of existing structures currently subject to an increased risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam. Any new structures resulting from the proposed ordinance must comply with all required flood hazard requirements of County Code. The regulations in the County Code protect people and structures from significant risks related to flooding. No adverse impacts are anticipated.

10. Otherwise substantially degrade water quality?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**General Discussion:** Any future development resulting from the proposed amendments would be required to comply with regulations in Chapter 16.22 (Erosion Control) controlling particulate contamination, as well as controlling runoff from

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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projects. Therefore, there is no potential for a substantial degradation of water quality as a result of the adoption of the proposed ordinance.

Additionally, any future development resulting from the proposed amendments that requires a discretionary approval would be subject to the County's environmental review process; and therefore, future residential development would be evaluated on an individual basis for conformance with water quality standards or waste discharge requirements.

### C. BIOLOGICAL RESOURCES

Would the project:

1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game, or U.S. Fish and Wildlife Service?

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**General Discussion:** Any future development resulting from the proposed amendments would be required to comply with regulations in Chapter 16.32 (Sensitive Habitat Protection) and Chapter 16.30 (Riparian Corridor and Wetlands Protection) protecting sensitive biotic communities. Therefore, there is no potential for a substantial adverse effect from the adoption and enforcement of the proposed ordinance.

#### Specific Discussions:

##### Amendment I: Minor Exceptions

The exceptions allowing for increases in lot coverage or reductions in required setbacks apply to zoning standards only. Therefore, special lot coverage limitations protecting sensitive habitats in Chapter 16.32 of the County Code, or special setback requirements in Chapter 16.30 protecting riparian corridors, would continue to remain in effect and could not be altered through the minor exception process.

Amendment II d: Front setback exception for protection of the environment and public safety:

This amendment has the potential to provide additional protection to the habitat of special status species, in that it would allow planning staff to require a project be moved closer to the front property and further away from any sensitive habitat.

2. Have a substantial adverse effect on any riparian habitat or sensitive natural community identified in local or regional plans, policies, regulations

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No Impact

(e.g., wetland, native grassland, special forests, intertidal zone, etc.) or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

**General Discussion:** Any structure proposed to be constructed would be subject to all requirements of County Code Chapter 16.30 and 16.32, Fish and Game, and USFWS regarding any riparian habitat or sensitive natural community. Therefore, there is no potential for a substantial adverse effect from the adoption and enforcement of the proposed ordinance.

**Specific Discussions:** See C-1 above.

3. Interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native or migratory wildlife nursery sites?

☐☐☐☒

**General Discussion:** Any new development under the proposed amendments would be subject to all requirements of County General Plan and County Code Chapter 16.30 and 16.32, and CDFG, and USFWS regulations regarding wildlife movement and habitat. Therefore, there is no potential for a substantial adverse effect from the adoption and enforcement of the proposed ordinance.

**Specific Discussions:** See C-1 above.

4. Produce nighttime lighting that would substantially illuminate wildlife habitats?

☐☐☒☐

**General Discussion:** Any new development under the proposed amendments would be subject to all requirements of County Code, and Fish and Game, and USFWS regulations regarding nighttime lighting and wildlife habitats. No adverse impacts are anticipated.

**Specific Discussions:** See C-1 above.

5. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling,

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hydrological interruption, or other means?

**General Discussion:** Any new development under the proposed amendments would be subject to all requirements of County Code Chapter 16.30, Riparian Corridor and Wetland Protection, the General Plan, as well as CDFG, USFWS, and the U.S. Army Corps of Engineers regarding wetland impacts as applicable. Therefore, there is no potential for a substantial adverse effect from the adoption and enforcement of the proposed ordinance.

**Specific Discussions:** See C-1 above.

6. Conflict with any local policies or ordinances protecting biological resources (such as the Sensitive Habitat Ordinance, Riparian and Wetland Protection Ordinance, and the Significant Tree Protection Ordinance)?

☐ ☐ ☐ ☒

**General Discussion:** Any new development under the proposed amendments would be subject to all requirements of the General Plan and County Code regarding protection of biological resources. Local regulations protecting biological resources include Chapter 16.10, Chapter 16.30, Chapter 16.32, Chapter 16.34. The County of Santa Cruz General Plan has been developed with resource protection policies and objectives. The following General Plan objectives are applicable to sensitive species and their habitats: Objective 5.1, Biological Diversity; Objective 5.2, Riparian Corridors and Wetlands; Objective 5.3, Aquatic and Marine Habitats; and Objective 5.4, Monterey Bay and Coastal Water Quality and their associated policies.

**Specific Discussion:** Amendment II d: Front setback exception for protection of the environment and public safety:

This amendment has the potential to facilitate the implementation of local policies and ordinances protecting biological resources, as it would allow planning staff to require a project be moved closer to the front property and to provide additional protection to any sensitive environmental resources that exist at the rear of the property.

7. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

☐ ☐ ☐ ☒

**General Discussion:** The proposed amendments would not conflict with the provisions of any adopted Habitat Conservation Plan Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. Additionally, the amendments do not allow exceptions from any development standards required by any local, regional or state conservation plan. Therefore, no adverse impacts are

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anticipated.

#### D. AGRICULTURE AND FOREST RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

☐ ☐ ☐ ☒

**General Discussion:** The proposed amendments do not alter existing local regulations in Chapter 16.50 of the Santa Cruz County Code prohibiting the conversion of prime agricultural land to non-agricultural use. No do they authorize uses that are not already allowed on agriculturally zoned parcels. Therefore, no adverse impact is anticipated.

#### **Specific Discussion: Amendment I: Minor Exceptions**

The exceptions allowing for reductions in required setbacks apply to only to the specific zoning standards identified in the Ordinance. Agricultural Buffer requirements in Chapter 16.50 of the Santa Cruz County Code, requiring structures on property adjacent to agricultural land be set back from the agricultural land to protect the agricultural use of the property, would continue to be required. The proposed amendment would not allow an exception from the agricultural buffer requirement. Furthermore, an application for a setback exception for a residence on agricultural land would be discretionary. Under existing regulations in Chapter 13.10 and 16.50, a setback reduction could be approved only if it would not negatively impact the agricultural use of the land, thereby further protecting the agricultural use of the property.

**Specific Discussion: Amendment II d: Front setback exception for protection of the environment and public safety:**

This amendment has the potential to provide additional protection to agricultural land, in that it would allow planning staff to allow or require a project be moved closer to the front of the property to facilitate the implementation of existing agricultural buffer

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Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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regulations.

2. Conflict with existing zoning for agricultural use, or a Williamson Act contract?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**General Discussion:** The proposed amendments do alter any specific Williamson Act contract, nor do they allow for the alteration of any existing Williamson Act contract, or alter existing regulations affecting Williamson Act contracts. Therefore, there is no significant impact anticipated.

3. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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**General Discussion:** The proposed project may affect multiple parcels countywide, including parcels in or adjacent to timber harvest zones. However, the project would not affect access to the resource or access to harvest the resource in the future. The timber resource may only be harvested in accordance with California Department of Forestry timber harvest rules and regulations. Furthermore, the project would not cause the rezoning of parcels zoned as timber production. No significant impact is anticipated.

4. Result in the loss of forest land or conversion of forest land to non-forest use?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**General Discussion:** The proposed project may affect multiple parcels Countywide, potentially including parcels in or adjacent to timber harvest zones. However, the project would not lead to the conversion of forest land to non-forest land, as local regulations protecting forest land would continue to apply. No adverse impact is anticipated.

5. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**General Discussion:** The proposed amendments do not involve other changes to the environment that could result in the conversion of farmland or forest land. The

EXHIBIT E

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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proposed amendment would not allow structures on non-agricultural properties to be located closer to commercial agricultural land, since existing agricultural buffer requirements in Chapter 16.50 of the County Code require that residential structures on properties adjacent to commercial agricultural land maintain a specified distance from the agricultural property. This buffer requirement protecting agricultural land would continue to apply and could not be altered through the minor exception process. Therefore, no impacts are anticipated.

### Specific Discussion: Amendment I: Minor Exceptions

Any minor exceptions for increases in lot coverage or reductions in required setbacks on or adjacent to forest land would require discretionary review, ensuring that the proposed exception would not conflict with regulations protecting land in timber production or agricultural production.

## E. MINERAL RESOURCES

Would the project:

1. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

☐ ☐ ☐ ☒

**General Discussion:** The proposed project may affect multiple parcels Countywide, potentially including parcels in or adjacent to parcels containing mineral resources. However, any new development under the proposed amendments would be subject to all requirements the Santa Cruz County Code regulating mineral resources. No adverse impact is anticipated.

2. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

☐ ☐ ☐ ☒

**General Discussion:** The proposed project may affect multiple parcels Countywide, potentially including parcels in or adjacent to parcels containing mineral resources. However, any new development under the proposed amendments would be subject to all requirements of County Code Chapter 16.54 regulating mineral resources. No impact is anticipated.

## F. VISUAL RESOURCES AND AESTHETICS

Would the project:

1. Have an adverse effect on a scenic vista?

☐ ☐ ☒ ☐

**General Discussion:** The project would not directly impact any public scenic resources, as designated in the County's General Plan (1994), or obstruct any public

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Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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views of these visual resources. All existing County policies protecting scenic resources continue to apply. No significant impact is anticipated.

### Specific Discussions:

#### I a: Minor exceptions

Any minor exception application for an increase in height would continue to be subject to the same variance findings requiring special circumstances on the property, limiting the applicability of minor exceptions for height to the same properties that currently could qualify. Additionally, these minor exceptions would be subject to discretionary review, requiring conformance with all regulations protecting scenic resources, including public viewsheds, scenic corridors, scenic highways, or ridgelines. No significant impact is anticipated.

#### II b: Height exception for parapets on non-residential buildings

Under the proposed exception, parapets used to screen features such as cooling towers that are allowed to exceed the height limit would also be allowed to exceed the height limit by up to 3.5 feet. Such parapets would be required to be set back at least 5 feet from the edge of the building, minimizing their visibility. As the parapets would be allowed to screen features that are already allowed to exceed the height limit, this exception is expected to improve public views by screening what might otherwise be unsightly features on non-residential buildings. Furthermore, parapets related to new construction would require discretionary review, ensuring that there is no negative impact on the public viewshed or scenic vista. No significant impact is anticipated.

Under the proposed exception, parapets required under the building code for non-residential buildings for fire safety purposes would be allowed to exceed the height limit by up to 3 feet. Furthermore, parapets related to new construction would require discretionary review, ensuring that there is no negative impact on the public viewshed or scenic vista. No significant impact is anticipated.

#### II c: Height exception for non-residential structures

Exceptions for non-residential structures to exceed the height limit by up to 5 feet would be subject to a public hearing and to design review requirements in Chapter 13.11, requiring conformance with all regulations protecting scenic resources, including public viewsheds, scenic corridors, scenic highways, or ridgelines. No significant impact is anticipated.

2. Substantially damage scenic resources, within a designated scenic corridor or public view shed area including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

☐☐☒☐

See Section F-1 above. No significant impact is anticipated.

EXHIBIT 4

- |                                                                                                                                                                                                                       | Potentially<br>Significant<br>Impact | Less than<br>Significant<br>with<br>Mitigation<br>Incorporated | Less than<br>Significant<br>Impact  | No Impact                |
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| 3. Substantially degrade the existing visual character or quality of the site and its surroundings, including substantial change in topography or ground surface relief features, and/or development on a ridge line? | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

See Section F-1 above. No significant impact is anticipated.

- |                                                                                                                       |                          |                          |                          |                                     |
|-----------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 4. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|-----------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|

See Section F-1 above. No adverse impact is anticipated.

## G. CULTURAL RESOURCES

Would the project:

- |                                                                                                                                   |                          |                          |                          |                                     |
|-----------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 1. Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|-----------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|

**General Discussion:** To the extent that any new development results from the proposed ordinance amendments, regulations in Chapter 16.42 protecting historical resources would continue to apply. Therefore, no substantial adverse change to historical resources is anticipated.

- |                                                                                                                                      |                          |                          |                          |                                     |
|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 2. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|

**General Discussion:** To the extent that any new development results from the proposed ordinance amendments, regulations in Chapter 16.40 protecting archaeological resources would continue to apply. Specifically, Pursuant to County Code Section 16.40.040, if at any time in the preparation for or process of excavating or otherwise disturbing the ground, any human remains of any age, or any artifact or other evidence of a Native American cultural site which reasonably appears to exceed 100 years of age are discovered, the responsible persons shall immediately cease and desist from all further site excavation and comply with the notification procedures given in County Code Chapter 16.40.040.

Therefore, no substantial adverse change to archaeological resources is anticipated.

- |                                                                                      |                          |                          |                          |                                     |
|--------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 3. Disturb any human remains, including those interred outside of formal cemeteries? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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See Section G-2 above.

No substantial adverse change to archaeological resources is anticipated.

4. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

☐ ☐ ☒ ☐

Any development occurring as a result of the proposed amendments would be required to comply with local regulations in Chapter 16.44 of the County Code protecting paleontological resources.

A less than significant impact to paleontological resources is anticipated.

#### H. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

1. Create a significant hazard to the public or the environment as a result of the routine transport, use or disposal of hazardous materials?

☐ ☐ ☐ ☒

**General Discussion:** To the extent that any new development results from the proposed ordinance amendments, regulations in the Santa Cruz County Code and state regulations for hazardous materials would continue to apply. These regulations protect the public and environment from significant hazards related to hazardous materials. Therefore, no impact is anticipated.

2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

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See H-1 above. No impact is anticipated.

3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

☐ ☐ ☒ ☐

See H-1 above. No impact is anticipated.

4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government

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EXHIBIT E

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Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

See H-1 above. No impact is anticipated.

5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

☐☐☒☐

**General Discussion:** One municipal airport is located in Santa Cruz county within the City of Watsonville at the south end of the county. To the extent that any new development results from the proposed ordinance amendments, regulations in the Santa Cruz County Code regulating development near public and private airports would continue to apply. The following General Plan policies are applicable to airport safety: Policy 3.18.1, Prevention of Airspace Obstructions; Policy 3.18.2, Creation of New Parcels in the Runway Protection Zone Area; Policy 3.18.3, Land Use Limitation in Runway Protection (Clear or A) Zones; Policy 3.18.4, Land Use Limitation in Airport Approach (B) Zones; and Policy 3.18.5, Deed Recordation Acknowledging Airport Hazard. Additional regulations in Chapter 13.12 of the Santa Cruz County Code regulate development near airports. These regulations sufficiently protect the public from safety hazards near airports. No impact is anticipated.

6. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

☐☐☐☒

**General Discussion:** See H-5 above. No impacts are anticipated.

7. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

☐☐☐☒

**General Discussion:** To the extent that any new development results from the proposed ordinance amendments, the existing emergency response plan would continue to apply and would be unaffected by the proposed amendments. A less than significant impact is anticipated.

8. Expose people to electro-magnetic fields associated with electrical

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Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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transmission lines?

**General Discussion:** The proposed amendments would not affect the County's regulations regarding electro-magnetic fields. Any new development occurring as a result of the proposed amendments must be consistent with the goals, policies, and standards established within the General Plan and Santa Cruz County Code that are intended to protect the safety of the community (e.g., Public Safety and Noise). The following General Plan policies are applicable to electro-magnetic fields: Policy 6.8.1, Prudent Avoidance; Policy 6.8.2, Measuring Ambient Magnetic Fields; and Policy 6.8.3, Development Mitigation Measures. Adherence to such requirements would ensure that potential impacts associated with this issue are less-than-significant.

9. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

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**General Discussion:** To the extent that any new development results from the proposed ordinance amendments, all projects would be required to incorporate all applicable fire safety code requirements and includes fire protection devices as required by the local fire agency, and comply with building code and fire code requirements. A less than significant impact is anticipated.

## I. TRANSPORTATION/TRAFFIC

Would the project:

1. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

☐ ☐ ☐ ☒

**General Discussion:** The proposed amendments do conflict with any plan, ordinance or policy relating to the circulation system, do not authorize increases in density, and are not anticipated to lead to population growth in the area. Therefore, no impacts on the circulation system within the county are anticipated.

2. Result in a change in air traffic

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Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

**Discussion:** The proposed amendments are not expected to lead to an increase in air traffic or affect the location of air traffic. Therefore, no impacts are anticipated.

3. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

☐ ☐ ☐ ☒

**General Discussion:** The proposed amendments do not affect regulations for allowed uses. Any future development occurring as a result of the proposed amendments would be required to meet County regulations for egress, sight distance, and other regulations relating to potential traffic hazards. No impacts are anticipated.

4. Result in inadequate emergency access?

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**General Discussion:** Any future development occurring as a result of the proposed amendments would be required to meet County standards for road access and be approved by the local fire agency or California Department of Forestry, as appropriate. Therefore, no impact is anticipated.

5. Cause an increase in parking demand which cannot be accommodated by existing parking facilities?

☐ ☐ ☐ ☒

**General Discussion:** The proposed amendments do not authorize increases in density, and are not anticipated to lead to population growth in the area. The proposed minor exception amendment does not provide for exceptions to the parking requirements. Any project that results in an increased parking requirement would be required to provide the parking spaces required by the County Code before it would be approved by the County. Therefore, no impact is anticipated.

6. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

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**General Discussion:** The proposed amendments would not affect current regulations to prevent potential hazards to motorists, bicyclists, and/or pedestrians. No impact is anticipated.

EXHIBIT E



- |                                                                                                                                                                                                                                       | Potentially<br>Significant<br>Impact | Less than<br>Significant<br>with<br>Mitigation<br>Incorporated | Less than<br>Significant<br>Impact | No Impact                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|----------------------------------------------------------------|------------------------------------|-------------------------------------|
| 7. Exceed, either individually (the project alone) or cumulatively (the project combined with other development), a level of service standard established by the County General Plan for designated intersections, roads or highways? | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |

**General Discussion:** The proposed amendments do not authorize increases in density, and are not anticipated to lead to population growth in the area. Therefore, the proposed amendments are not anticipated generate additional traffic or to affect the existing levels of service on County roads.

## J. NOISE

Would the project result in:

- |                                                                                                                                |                          |                          |                          |                                     |
|--------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 1. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|

**General Discussion:** Any development occurring as a result of the proposed ordinance amendments could create an incremental increase in the existing noise environment. However, this increase would be small, and would be similar in character to noise generated by the surrounding existing uses. All existing and any proposed development is required by the General Plan to limit outdoor noise levels to 60 dB L<sub>dn</sub> (day/night average noise level), and indoor noise levels to 45 dB L<sub>dn</sub>. No substantial permanent increase in ambient noise levels is anticipated.

- |                                                                                                         |                          |                          |                                     |                          |
|---------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|
| 2. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|

**General Discussion:** See J-1 above. A less than significant impact is anticipated.

- |                                                                                                                                                                               |                          |                          |                                     |                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|
| 3. Exposure of persons to or generation of noise levels in excess of standards established in the General Plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|

**General Discussion:** See J-1 above. No significant impact is anticipated.

- |                                                                                                                                            |                          |                          |                                     |                          |
|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|
| 4. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|

**General Discussion:** Any construction occurring as a result of the proposed ordinance

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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amendments could increase slightly the ambient noise levels for adjoining areas. Construction would be temporary, however, and no significant impacts are anticipated.

5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

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**General Discussion:** As these amendments would affect parcels countywide, some development could occur within two miles of a public airport. Any construction noise occurring as a result of the proposed amendments would be minor and temporary, however, and would be required to comply with noise limits established by the General Plan (see J-1 above). Excessive noise levels are not anticipated.

6. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

☐ ☐ ☒ ☐

**General Discussion:** See discussion under J-5 above. Excessive noise levels are not anticipated.

## K. AIR QUALITY

Where available, the significance criteria established by the Monterey Bay Unified Air Pollution Control District (MBUAPCD) may be relied upon to make the following determinations. Would the project:

1. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

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**General Discussion:** The North Central Coast Air Basin does not meet state standards for ozone and particulate matter (PM<sub>10</sub>). Therefore, the regional pollutants of concern that would be emitted by the project are ozone precursors (Volatile Organic Compounds [VOCs] and nitrogen oxides [NO<sub>x</sub>]), and dust.

These amendments do not authorize any increase residential density, and are not expected to lead to a growth in population, so these amendments would not lead to a more residents or additional traffic. Therefore, there is no indication that new emissions of VOCs or NO<sub>x</sub> would exceed MBUAPCD thresholds for these pollutants and therefore there would not be a significant contribution to an existing air quality violation.

New construction that may occur as a result of the proposed amendments may result in a short-term, localized decrease in air quality due to generation of dust. However,

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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standard dust control best management practices, such as periodic watering, are required for projects during construction to reduce impacts to a less than significant level.

2. Conflict with or obstruct implementation of the applicable air quality plan?

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**General Discussion:** The project would not conflict with or obstruct implementation of the regional air quality plan. See K-1 above.

3. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

☐ ☐ ☒ ☐

**General Discussion:** See K-1 above. Less than significant impact.

4. Expose sensitive receptors to substantial pollutant concentrations?

☐ ☐ ☒ ☐

**General Discussion:** See K-1 above. Less than significant impact.

5. Create objectionable odors affecting a substantial number of people?

☐ ☐ ☒ ☐

**General Discussion:** See K-1 above. Less than significant impact.

## L. GREENHOUSE GAS EMISSIONS

Would the project:

1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

☐ ☐ ☒ ☐

**General Discussion:** Any development occurring as a result of the proposed amendments, like all development, would be responsible for an incremental increase in green house gas emissions by usage of fossil fuels during the site grading and construction. At this time, Santa Cruz County is in the process of developing a Climate Action Plan (CAP) intended to establish specific emission reduction goals and necessary actions to reduce greenhouse gas levels to pre-1990 levels as required under AB 32 legislation. Until the CAP is completed, there are no specific standards or criteria to apply to this project. All project construction equipment would be required to comply with the Regional Air Quality Control Board emissions requirements for

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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construction equipment. As a result, impacts associated with the temporary increase in green house gas emissions are expected to be less than significant.

2. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

☐ ☐ ☐ ☒

**General Discussion:** See the discussion under L-1 above. No impacts are anticipated.

## M. PUBLIC SERVICES

Would the project:

1. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

- a. Fire protection?

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**General Discussion:** The proposed amendments would not affect the provision of new or physically altered governmental facilities, and are not expected to lead to a growth in population or result in any other physical changes that would significantly impact the demand for public services such as fire protection, police protection, schools, parks, or other public facilities including roads. These amendments would not allow lots that are currently unbuildable to be developed, as all local regulations preventing certain lots from being developed (including lots less than 1 acre that are not served by a public sewer system, lots where the entire area exceeds 30% slope, or lots within certain sensitive habitats) would continue to apply and would not be affected by the proposed amendments. Moreover, any development occurring as a result of the proposed amendments would be required to meet all of the standards and requirements identified by the local fire agency or California Department of Forestry, as applicable, and pay all school, park, and transportation fees that would be used to offset the incremental increase in demand for school and recreational facilities and public roads. Therefore, a less than significant impact is anticipated.

- b. Police protection?

☐ ☐ ☒ ☐

See discussion under M-1 above.

- c. Schools?

☐ ☐ ☒ ☐

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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See discussion under M-1 above

- d. Parks or other recreational activities?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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See discussion under M-1 above

- e. Other public facilities; including the maintenance of roads?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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See discussion under M-1 above

**N. RECREATION**

Would the project:

1. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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**General Discussion:** The proposed amendments are not expected to lead to a growth in population or result in any other physical changes that would significantly impact the demand for neighborhood or regional parks. Therefore, a less than significant impact is anticipated.

2. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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**General Discussion:** See discussion under N-1 above.

**O. UTILITIES AND SERVICE SYSTEMS**

Would the project:

1. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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**General Discussion:** The proposed amendments would not affect the County's regulations regarding stormwater drainage, and all future development would be subject to these regulations. Therefore, the project would result in only minimal, if any, additional drainage or erosion-related impacts.

**Specific Discussion:** Amendment 1: Minor Exceptions

The minor exceptions amendment would allow property owners to apply for minor

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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increases in lot coverage, subject to discretionary review and variance findings. Since the code amendment would continue to require variance findings and would not change the number or type of parcels that could potentially qualify for a variance, this amendment is anticipated to result in minimal new development, and no significant change in drainage patterns.

To the extent that more applications for variances requesting an increase in lot coverage are received due to reduced processing time and costs, there is a potential for a slight increase in the number of variances for minor increases in lot coverage that could be approved. This could in turn result in an increase in impervious surface on some parcels, which could in turn result in a small increase in stormwater runoff. Therefore, the proposed ordinance amendment includes the following mandatory finding for any minor exception involving an increase in lot coverage:

That there is no increase in stormwater leaving the property as a result of additional impermeable area allowed by a minor exception to increase lot coverage. Projects shall be conditioned to direct runoff to the landscape, use permeable paving material, reduce existing impermeable area, or incorporate other low impact drainage design practices to control stormwater runoff.

The above finding ensures that there are no significant increases in stormwater runoff for parcels with a minor increase in lot coverage.

2. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

☐ ☐ ☒ ☐

**General Discussion:** These amendments do not authorize any increase residential density, and are not expected to lead to a growth in population, so these amendments would not in themselves result in a significant increase in the demand for wastewater treatment facilities or lead to the need for the construction of new wastewater treatment facilities.

3. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

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**General Discussion:** These amendments do not authorize any increase residential density, and are not expected to lead to a growth in population, so these amendments would not in themselves result in projects exceeding the wastewater treatment requirements of the Regional Water Quality Control Board.

4. Have sufficient water supplies

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Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

**General Discussion:** These amendments do not authorize any increase residential density, and are not expected to lead to a growth in population, so these amendments would not lead to the requirement for new or expanded entitlements for water supplies.

5. Result in determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

☐ ☐ ☒ ☐

**General Discussion:** Any development project resulting from the proposed ordinance amendments would be subject to existing requirements regarding service from the relevant wastewater treatment provider. No significant impact is anticipated.

6. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

☐ ☐ ☒ ☐

**General Discussion:** The proposed ordinance amendments would not lead to the construction of additional dwelling units, and would therefore not result in an increase in solid waste. No impact is anticipated.

7. Comply with federal, state, and local statutes and regulations related to solid waste?

☐ ☐ ☐ ☒

**General Discussion:** Any individual development project resulting from the proposed ordinance amendments would be subject to all federal, local and state requirements regarding solid waste. No impact is anticipated.

## P. LAND USE AND PLANNING

Would the project:

1. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or

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Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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mitigating an environmental effect?

**General Discussion:** The proposed amendments do not conflict with any regulations or policies adopted for the purpose of avoiding or mitigating an environmental effect.

**Specific Discussion:** Amendment II d: Front setback exception for protection of the environment and public safety:

This amendment has the potential facilitate the implementation of policies and regulations adopted for the purpose of avoiding environmental effects, by allowing the required front zoning setback to be reduced in order to protect sensitive environmental resources.

2. Conflict with any applicable habitat conservation plan or natural community conservation plan?

☐ ☐ ☐ ☒

**General Discussion:** The proposed amendments do not conflict with any adopted conservation plans, and do not authorize any exceptions from standards contained within any habitat or community conservation plans.

**Specific Discussion:** Amendment II d: Front setback exception for protection of the environment and public safety:

This amendment has the potential facilitate the implementation of policies and regulations adopted for the purpose of avoiding environmental effects, by allowing the required front zoning setback to be reduced in order to protect sensitive environmental resources.

3. Physically divide an established community?

☐ ☐ ☐ ☒

**General Discussion:** The proposed amendments do not include any element that would physically divide an established community. No impact is anticipated.

## Q. POPULATION AND HOUSING

Would the project:

1. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

☐ ☐ ☐ ☒

**General Discussion:** The proposed project would not induce substantial population growth in an area because the project does not propose any physical or regulatory change that would remove a restriction to or encourage population growth in an area including, but limited to the following: new or extended infrastructure or public facilities; new commercial or industrial facilities; large-scale residential development; accelerated

EXHIBIT E



Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
--------------------------------------	----------------------------------------------------------------	------------------------------------	-----------

conversion of homes to commercial or multi-family use; or regulatory changes including General Plan amendments, specific plan amendments, sewer or water annexations; or LAFCO annexation actions.

These amendments taken together would not allow lots that are currently unbuildable to be developed, as all local regulations preventing certain lots from being developed (including lots less than 1 acre that are not served by a public sewer system, lots where the entire area exceeds 30% slope, or lots within certain sensitive habitats) would continue to apply and would not be affected by the proposed amendments.

2. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

☐ ☐ ☐ ☒

**General Discussion:** The proposed amendments would not lead to the displacement of any existing housing. No impact is anticipated.

3. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

☐ ☐ ☐ ☒

**General Discussion:** The proposed amendments would not lead to the displacement of any existing housing. No impact is anticipated.

EXHIBIT A

## R. MANDATORY FINDINGS OF SIGNIFICANCE

1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Potentially Significant Impact	Less than Significant with Mitigation	Less than Significant Impact	No Impact
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion:** The potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory were considered in the response to each question in Section III of this Initial Study. There is no substantial evidence that significant negative impacts associated with this project would result (see Section C). In fact, Amendment II d, Front setback exception for protection of the environment and public safety, has the potential to facilitate environmental protection by allowing projects to encroach into the front setback for the purpose of protecting sensitive environmental resources. Therefore, this project has been determined not to meet this Mandatory Finding of Significance.

2. Does the project have impacts that are individually limited, but cumulatively considerable? ("cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Potentially Significant Impact	Less than Significant with Mitigation	Less than Significant Impact	No Impact
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Discussion:** This project consists of several different amendments relating to exceptions from zoning site standards. These are analyzed together within one initial study to determine any potential for cumulative impacts. The different amendments, including minor exceptions and specific exceptions, could potentially lead to new development including a slight increase in the number of garages constructed, or a slight increase in the number of variances applied for and potentially approved for minor exceptions from site standards. However, these increases would not be cumulatively considerable for the following reasons.

Minor exceptions (Section I) would require the same findings that are required for variance approvals, limiting the applicability of minor exceptions to those properties that currently would be eligible for a variance. Therefore, any increase in development resulting from the minor exception amendment would be temporary only. Furthermore, any minor exception allowing an increase in lot coverage with a corresponding increase in impervious surface would require measures to prevent additional stormwater runoff from the site, ensuring that there are no cumulative impacts for stormwater runoff.

Regarding specific exceptions (Section II), these different amendments would not result in impacts that are cumulatively considerable county-wide, since any additional development resulting from these amendments would be minor and would continue to be subject to local regulations protecting the environment.

These amendments taken together would not allow lots that are currently unbuildable to be developed, as all local regulations preventing certain lots from being developed (including lots less than 1 acre that are not served by a public sewer system, lots where the entire area exceeds 30% slope, or lots within certain sensitive habitats) would continue to apply and would not be affected by the proposed amendments. Therefore, no population growth is anticipated as a result of the adoption of the proposed amendments.

There are no other projects identified currently in the environmental review stage that would lead to cumulatively considerable impacts when considered with the project currently under review.

Additionally, Amendment II d allows the front zoning setback to be reduced in order to protect sensitive environmental resources on the site, with a potentially beneficial cumulative impact that could lead to better protection of the environment for various projects throughout the county. Therefore, this project has been determined not to meet this Mandatory Finding of Significance.

- |                                                                                                                                             | Potentially<br>Significant<br>Impact | Less than<br>Significant<br>with<br>Mitigation | Less than<br>Significant<br>Impact | No<br>Impact                        |
|---------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|------------------------------------------------|------------------------------------|-------------------------------------|
| 3. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/>             | <input type="checkbox"/>                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |

EXHIBIT E

**Discussion:** There is no substantial evidence that there are adverse effects to human beings associated with this project. Therefore, this project has been determined not to meet this Mandatory Finding of Significance.

**IV. TECHNICAL REVIEW CHECKLIST**

	<u>REQUIRED</u>	<u>DATE COMPLETED</u>
Agricultural Policy Advisory Commission (APAC) Review	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	_____
Archaeological Review	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	_____
Biotic Report/Assessment	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	_____
Geologic Hazards Assessment (GHA)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	_____
Geologic Report	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	_____
Geotechnical (Soils) Report	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	_____
Riparian Pre-Site	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	_____
Septic Lot Check	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	_____
Other:	Yes <input type="checkbox"/> No <input type="checkbox"/>	_____

EXHIBIT E

**V. REFERENCES USED IN THE COMPLETION OF THIS ENVIRONMENTAL  
REVIEW INITIAL STUDY**

County of Santa Cruz 1994.

*1994 General Plan and Local Coastal Program for the County of Santa Cruz, California.* Adopted by the Board of Supervisors on May 24, 1994, and certified by the California Coastal Commission on December 15, 1994.

**VI. ATTACHMENTS**

1. *Proposed Ordinance amending Chapter 13.10 of the Santa Cruz County Code.*

EXHIBIT E

Response to letters from SLVWD, the Sierra Club and the Rural Bonny Doon Association regarding environmental review:

**SLVWD Letter:**

Comment:

The proposed amendments could potentially allow parcels that currently may not be developed to be developed, such as parcels entirely on slopes exceeding 30%, by allowing reductions in setbacks. This has the potential to increase population growth, thereby increasing water demand, impervious surfaces, and non-point source water pollution.

Response:

The proposed minor exceptions, and the specific exception allowing for reductions in front setbacks to allow for greater protection of environmental resources on site, would not allow parcels that are currently not developable to be developed. Additionally, a specific finding is required that no additional stormwater runoff would result from any increases in lot coverage.

In the example given, parcels entirely on slopes exceeding 30%, the erosion control ordinance in Section 16.22.050(c) states that driveways and access ways should not cross slopes greater than 30% and that cuts and fills should not exceed 10 feet, but states that Variances can be granted if no other alternative exists. Therefore, lots with 30% slopes are not generally undevelopable.

It is possible that there may be a few parcels in which the proposed front setback exception allowing a 25% reduction in the front setback in order to reduce grading on the site could entirely avoid grading on 30% slopes, thereby avoiding the need for a variance. Although this would not make an undevelopable lot developable, it would allow the property to be developed in a manner which affords better protection to the environment with the potential for less runoff and erosion. Therefore, the proposed exception allowing a reduced front setback to provide better environmental protection is anticipated to result in less environmental impacts overall.

Parcels that may not be developed because they are not large enough to accommodate a septic system under existing regulations in Chapter 7.38 would remain undevelopable with the proposed minor exception regulations, because the proposed exceptions do not provide an exception to these requirements.

**Sierra Club Letter**

Comment: Concerned that decisions that are made in the Planning Department do not adequately protect the environment.

Response: Although these comments do not directly pertain to the ordinance being proposed, staff is proposing to increase transparency regarding applications for minor exceptions, by posting the same notices on the web that would be mailed to neighbors

Exhibit F

adjacent to a proposed project involving a minor exception. In this way, the Sierra Club and other interested parties could review all proposed minor exceptions, and express any concerns regarding the proposed exceptions to the Planning Department.

Comment: Parcels that are undevelopable would become developable under the proposed minor exceptions, or under the proposed specific exception to allow a 25% reduction in the front setback to provide better protection to the environment.

Response: This issue addressed in the response to the letter from the SLV Water District.

Comment:

The Initial Study does not distinguish between urban and rural properties, developed versus undeveloped parcels with sensitive habitats, in considering potential impacts.

Response:

Section C of the Initial Study evaluates potential impacts to Biological Resources, and sections throughout the Initial Study (A-3, M-1, and Q) address the potential for development of undevelopable parcels. The initial study did not analyze urban and rural lots separately, because the initial study determined that there would not be a significant increase in development as a result of the proposed amendments.

#### **Rural Bonny Doon Association Letter**

Comment:

"The ordinance as now written would encourage the owner of a marginally suitable or even unsuitable lot, situated next to a more geographically favored lot, seeking to secure the same enjoyment of property as their neighbor, to apply for a minor exception to substantially enlarge the buildable portion of their property by expanding into the large setbacks which give Bonny Doon its rural character."

Response:

As revised, the proposed minor exceptions would not apply to property within Bonny Doon, since Bonny Doon is located outside of the Urban and Rural Service Lines. Additionally, the same requirements for approving variances (findings) would also be required for approving minor exceptions. In other words, unless there are particular physical circumstances related to the property, such that a hardship would result from the application of existing site standards, such a proposal would not be approved under the minor exception process.

Concern:

Potential for cumulative impacts of various projects involving streamlining.

Response: The proposal for regulatory reform includes various components. However, each of these components is a separate project that is related to other components only to the extent that it shares the larger theme of regulatory reform. These components are being reviewed separately, as is consistent with CEQA provisions allowing related



projects to be considered separately if the project is not dependent on another project to move forward. Staff considered other projects as part of the environmental review if the project is at a stage where there is a clear proposal available, such that potential impacts could be reasonably foreseeable. For this project, proposed standards for garages are considered together with proposed exceptions, to evaluate the potential for any cumulative impacts.



# COUNTY OF SANTA CRUZ

## 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

January 10, 2011

**AGENDA DATE: January 25, 2011**

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

**Subject: Continued Public Hearing to Consider Ordinance Amendments Regarding Minor Exceptions to Certain Zoning Standards, and Consider New Site Standards for Garages**

Members of the Board:

As you may recall, in November of last year Planning staff brought to your Board a proposed "Minor Exceptions" ordinance to provide a more streamlined discretionary review process for considering minor deviations from certain zoning site standards. And in December of last year, staff introduced to your Board proposed code changes enabling the placement of residential garages in rear yards, by establishing reduced side and rear setbacks for residential garages and by allowing consideration of additional setback exceptions. As directed, staff is returning today with revisions both to the minor exception amendments and to the garage amendments. These related amendments, combined into one ordinance, have been revised to address the concerns of your Board. Staff has completed environmental review of the proposed ordinance, and has identified no significant impacts. As directed by your Board, staff will proceed to the Planning Commission for review of the proposed ordinance, and will then return to your Board for final adoption.

### **Summary of Project to Date**

#### Minor Exceptions Amendments

The proposed minor exception amendments implement a concept approved by your Board in June of last year to allow for consideration of minor exceptions from zoning site standards to provide a more streamlined planning process. The ordinance presented to your Board in November after recommendation by the Planning Commission would have allowed for the consideration of limited minor exceptions from zoning standards for height, setbacks, lot coverage and floor area, subject to discretionary review and certain findings (Attachment 5). The findings in the ordinance as originally proposed included a requirement that special circumstances apply to the property, such that practical difficulties would result from the strict application of zoning standards, or a superior design could be achieved with a minor exception.

#### Garages within Required Rear and Side Yards Amendments

The proposed amendments for garages would facilitate the placement of residential garages in the rear of residential properties, to provide more flexibility in site design, more community friendly front yards, and facilitate reduced parking along residential streets. These amendments were developed at the direction of your Board during the public hearing in February 2010 regarding Pleasure Point. As approved by your Board, the Pleasure Point Combining District includes reduced side and rear setback

requirements for residential garages to enable the placement of garages in rear yards. The proposed Garage amendments would provide throughout the County similar reductions for interior side and rear setback standards for garages, and would also allow for additional setback encroachments subject to discretionary review and additional findings. This ordinance was presented to the Planning Commission in October of last year, which recommended approval of the ordinance to your Board (Attachment 7). At the public hearing before your Board on December 7, 2010 staff recommended that your Board continue the public hearing on the item to January 25, 2011, to allow staff additional time to refine the proposed ordinance amendments and address your Board's related concerns regarding the proposed minor exceptions ordinance. The details of this ordinance, including revisions developed subsequent to review and recommendation by the Planning Commission, are discussed in the "Revised Ordinance" section below.

#### Responses to the Proposed Amendments

At the hearing in November on the proposed minor exception ordinance, after hearing public comments on the proposed ordinance, your Board continued to express general support for the minor exception process. However, your Board commented that the minor exception standards did not provide specific guidelines for when a minor exception could be approved, and was concerned that the standards for minor exceptions could in effect become the new de facto site standards. Your Board also questioned whether the minor exception was appropriate for rural areas and for new construction. One board member suggested public hearings for appeals of minor exceptions.

Several Board members expressed concerns regarding potential environmental issues resulting from the proposed minor exceptions, questioning whether there might be significant cumulative environmental impacts when the proposed exceptions are considered together. These concerns regarding environmental review could, by extension, also apply to the proposed amendments relating to garages.

At the Board hearing in November and in written comments before the hearing, the Sierra Club and several members of the public recommended environmental review for the minor exceptions amendments. Additionally, a letter submitted to the Board raised the issue of whether the proposed minor exceptions should be considered a variance under State law, and on that basis questioned whether allowing consideration of design issues or project siting for approval of minor exceptions was consistent with state law.

#### **Additional Review Completed**

In response to your Board's concerns regarding potential environmental impacts, Staff has completed an Initial Study for the proposed amendments, including the amendments for minor exceptions and garages (Attachment 3). Staff did not identify any significant environmental impacts, and has made a preliminary determination of a Negative Declaration for the proposed amendments. The environmental review is discussed in detail later in this letter.

As directed by your Board, staff has undertaken a more thorough review of exceptions provided in other cities and counties in California (Attachment 4). Staff has identified 24 cities and 6 counties, including 5 counties in the Coastal Zone, that allow for exceptions to site standards. The type and extent of exceptions vary widely. Some communities treat exceptions as minor variances, and require variance findings, whereas other communities do not require such findings.

#### **Revised Ordinance**

The proposed Minor Exceptions amendments have been revised to address the concerns of your Board, limiting both the scope and applicability of minor exceptions, while continuing to provide a more streamlined review process (Attachment 1). An annotated version of the proposed ordinance is

attached, with text boxes explaining proposed revisions to the earlier ordinances (Attachment 2). The revised ordinance also includes new limited height exceptions to facilitate improved designs for nonresidential buildings, responding to direction from your Board to consider exceptions to address specific land use issues. Additionally, the ordinance provides an exception to facilitate improved environmental protection and public safety, by allowing staff to consider reductions in the front setback in order to require a project be located further from an environmentally sensitive resource. The proposed amendments providing reduced side and rear setback standards for garages have been revised to ensure that garages do not impact neighboring parcels and are located away from the front of the parcel. The most significant changes to the proposed ordinance are discussed below.

#### Proposed changes to Minor Exceptions amendments (Section II of Attachment 2)

##### *Require variance findings for approval of minor exceptions*

The primary change proposed for minor exceptions is to require compliance with the variance findings in Section 13.10.230 of the County Code in order for a minor exception to be approved (see Attachment 8). These findings include the requirement that special circumstances apply to the property, such that the strict application of site standards prevents the same enjoyment of property enjoyed by other nearby properties in the same zone district, and that the granting of a variance would not result in the granting of a "special privilege". Minor exceptions would in effect be treated as a subset of variances, allowing for administrative review and approval by the Planning Director of projects with minor exceptions from site standards, but otherwise treating such exceptions as variances with the same approval criteria.

The effect of the proposed changes would be to provide a more streamlined review process for variances involving minor exceptions from site standards, reducing the time and cost required by applicants to have their application processed. Requiring variance findings for minor exceptions would prevent exceptions from becoming the new norm – a primary concern of your Board - since only those properties with special circumstances that also meet the other strict findings required for variances could qualify. The change would also address concerns regarding appropriateness of minor exceptions in rural areas or for new structures, since it would not add to the number of properties that could currently qualify for such exceptions through the variance process. Additionally, this change would address concerns regarding consistency with requirements for variances in state law, which authorizes local governments to specify types of variances to be processed administratively (Government Code Section 65901).

##### *Limiting the scope of minor exceptions*

To ensure that minor exceptions for height will not impact neighboring properties, staff has revised the ordinance to allow only a 5% increase in the allowed height, reduced from a 10% increase in height proposed earlier. Increases in FAR that could be approved as minor exceptions would be allowed only on lots 4,000 square feet or less, whereas the earlier proposal would have allowed FAR increases on lots up to 8,000 square feet.

##### *Public hearing required for appeals of minor exceptions*

The revised ordinance would require public hearings for appeals of minor exceptions (see Section (c)(6)). This change addresses the concerns of your Board that any appeal of a minor exception determination may concern the larger neighborhood and should allow for consideration of all public comments.

#### Garages within Required Rear and Side Yards Amendments (Sections III and IV of Attachment 2)

As noted earlier, the purpose of these amendments is to implement direction from your Board to facilitate the placement of residential garages in the rear of residential parcels, in order to provide more flexibility in site designs, more community friendly front yards, and facilitate reduced parking along residential streets. New ordinance language is proposed under County Code 13.10.323(e), the section

that covers "Site and Structural Dimension Exceptions Relating to Structures". Under subsection # 6, "Accessory Structures", "(F) Garages within Required Rear and Side Yards" would be added to allow garages to be located within side and rear setback areas with up to a 50% reduction of the required interior side and rear setbacks.

Garages encroaching into the side and/or rear setback would be required to meet a number of criteria, to ensure protection of neighboring parcels. On a parcel with a side setback adjacent to street frontage, there is the potential for a garage within a street-facing setback to adversely affect sight lines or neighborhood character; thus the proposed ordinance would specify that only interior side setback reductions would be allowed by right. Impacts to neighboring properties would be addressed through the provision that no windows, doors or other openings would be allowed on garage walls that face adjacent property lines if sited within the required setback areas. To ensure that a garage extending into a side or rear setback is located toward the rear of the lot, the ordinance would require the garage be set back a minimum of 40 feet from the front property line. Additionally, a garage located wholly or partially within the rear and side setbacks would be limited to one story and a maximum height of 17 feet, unless a Level IV exception to this standard was approved. Eaves or other projections would not be allowed to encroach beyond two feet from the side and rear property lines, consistent with the California Building Code.

The proposed ordinance would allow for additional side and rear setback reductions for garages to be considered with a Level IV discretionary approval where the applicable finding could be made, to provide additional flexibility in special situations.

The ordinance as submitted to your Board includes several changes made subsequent to review and recommendation by the Planning Commission. These revisions include excluding carports from the proposed setback exception since carports are sometimes later enclosed and illegally converted to dwelling units; requiring garages that encroach into the side or rear setbacks to be setback a minimum of 40 feet from the front property line to ensure that the garages are located towards the rear of the property; and changing the minimum setback from the interior side or rear property lines from three feet to 50% of the required setback to avoid extreme setback reductions on large parcels with larger required setbacks.

#### Other Specific Exceptions (Sections V and VII of Attachment 2)

##### *Height exception for parapets on non-residential buildings*

Under Section 13.10.510 of the Santa Cruz County Code, certain building features such as cooling towers or non-commercial television or radio antennas may exceed the height limit by up to 25 feet. However, there is currently no exception allowed for screening such mechanical features. To facilitate improved designs of commercial buildings, this exception would allow parapets (a low screen or barrier wall) used for screening purposes to exceed the height limit by up to 3.5 feet (Section V). To promote fire safety, the exception would also allow parapets required under the building code for fire safety purposes to exceed the height limit by up to 3 feet.

##### *Height exception for non-residential structures, subject to design review and a public hearing*

To facilitate innovative design for non-residential buildings, such as green buildings that require additional height for special ventilation systems, and to be consistent with the existing height exception for residential buildings, this exception would allow commercial or industrial buildings to exceed the height limit by up to 5 feet, subject to discretionary approval with Design Review (Chapter 13.11 of the Santa Cruz County Code) and a public hearing (See Section V). The design review process in Chapter 13.11 requires protection of the public viewshed. The ordinance includes an additional finding for projects in the coastal zone, requiring compliance with Local Coastal Program policies protecting viewsheds and scenic corridors.

*Front setback exception to protect the environment and public safety*

The proposed exception would allow a 25% reduction in the required front setbacks (which are typically 20 feet but can vary from 10 to 30 feet depending on the zone district and parcel size) in circumstances where the setback reduction would afford additional protection to the environment or public safety. The exception would be subject to administrative discretionary review by the Planning Director or designee, allowing planning staff to verify that the exception would provide greater protection to the environment or public safety. Public notice would not be required, since a reduction in front setback is unlikely to impact neighboring properties. This exception is similar in scope to an existing regulation allowing residential front yard front yard averaging with front setbacks as small as 10 feet.

As an example, the Santa Cruz County Code requires structures to be set back a certain distance from riparian corridors to protect the riparian area and watershed. However, under the minor riparian exception provision in Chapter 16.30, additions less than 500 square feet within a previously disturbed area may under certain circumstances be located within the required riparian buffer area. Under the proposed exception, planning staff could require a property owner who is applying to construct an addition partially within a riparian buffer area at the rear of the parcel to locate the proposed addition partially within the front setback area and further away from the riparian area, affording greater protection to the riparian corridor.

**Environmental Review**

An Initial Study has been prepared for the project, which is currently under review until January 22, 2011 (Attachment 2). To date, no comments have been received. Staff will submit any comments received to your Board prior to the Public Hearing on January 25<sup>th</sup>, 2011. Staff did not identify any significant impacts that would result from the proposed amendments and has made a preliminary determination of a Negative Declaration for the project.

The Initial Study focused particular attention on evaluating the potential for cumulative impacts. There is no potential for significant cumulative impacts, since any increases in overall development are projected to be very minor, and any new development would be subject to all existing standards protecting the environment, including standards requiring setbacks from riparian corridors, coastal bluffs, and other sensitive areas.

There are many efforts being undertaken by the Planning Department under the larger program of regulatory reform, including updating regulations for commercial uses, updating regulations for nonconforming structures and nonconforming commercial uses, and the minor exception amendments that are the subject of this letter. Although each of these projects includes some aspect of streamlining, each of these efforts is a separate project, at different stages of the planning process and not a component of one large regulatory project.

**Local Coastal Program Consistency**

The proposed amendments 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 amendments would allow for only minor deviations from standards for FAR, lot coverage, setbacks, and height, and would be approved only for parcels for which variance findings can be made, including that special circumstances apply to the parcel. This minor exceptions amendments would result in a change in the planning process only, by eliminating the requirement for a public hearing for certain types of variances referred to as minor exceptions, and is expected to result in little if any additional development. 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.

EXHIBIT G - 4

The proposed height exceptions are similar to other height exceptions that exist 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 increased over the permitted 28 foot height limit, subject to a Level III or IV discretionary review. This existing amendment would be extended to nonresidential buildings. Additional findings would be required to ensure no impacts to public viewsheds in the Coastal Zone.

The proposed amendments to allow garages within interior side and rear setbacks is only applicable to one-story non-habitable garages, and will allow more flexible options for the placement of these structures in a manner that could serve to further protect public viewsheds. Those projects whose location or use currently triggers coastal permits would continue to do so.

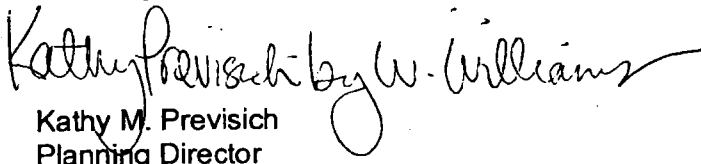
### Conclusions and Recommendations


The revised ordinance provides a streamlined review process for minor exceptions from site standards while limiting minor exceptions to those properties with special circumstances, provides additional limited exceptions for height to allow for improved designs for nonresidential buildings, and provides a front setback exception to allow for better protection of environmental resources and public safety. The ordinance also proposes new side and rear setback standards for residential garages to enable the placement of garages in the rear of parcels, providing more flexibility in site design, more community friendly front yards, and facilitating reduced parking along residential streets. As indicated in the attached Initial Study, staff did not identify any significant environmental impacts for the proposed amendments.

It is therefore RECOMMENDED that your Board take the following actions:

1. Continue the public hearing on the proposed ordinance amendments to Chapter 13.10 of the County Code (Attachment 1);
2. Direct Planning Staff to refer the attached ordinance, incorporating any changes recommended by your Board, to the Planning Commission for report and recommendation; and
3. After review by the Planning Commission, continue the public hearing for final action on the proposed ordinance, including certification of environmental review documents.

Sincerely,

  
Kathy M. Previsich  
Planning Director

  
SUSAN A. MAURIELLO  
County Administrative Officer

### Attachments:

- 1: Ordinance (clean version) amending Chapter 13.10 of the Santa Cruz County Code
- 2: Annotated Ordinance (Strike-through version) amending Chapter 13.10 of the Santa Cruz County Code
- 3: CEQA Initial Study
- 4: Table: Exceptions in Other Cities and Counties
- 5: Minor Exception Board Letter dated November 3, 2010
- 6: Garages and Carports Board Letter dated November 19, 2010

EXHIBIT G

Minor Exceptions  
Board of Supervisors Agenda – January 25, 2011  
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7. Garages and Carports Planning Commission Report dated October 12, 2010
8. County Code Section 13.10.230(c), "Variance Approvals, Findings."

cc: County Counsel  
Coastal Commission  
Department of Public Works

EXHIBIT G -



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

**ORDINANCE AMENDING CHAPTER 13.10 OF THE SANTA CRUZ COUNTY  
CODE TO ALLOW FOR EXCEPTIONS FROM CERTAIN ZONING SITE  
STANDARDS AND ALLOW GARAGES WITHIN REQUIRED SIDE AND REAR  
YARDS**

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

**SECTION I**

Subsection 13.10.230 (c)(1) of the Santa Cruz County Code is hereby amended to read as follows:

1. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

**SECTION II**

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 a streamlined discretionary review process to allow consideration of minor variations from the zoning district site standards established for height, setbacks, separation between structures on the same property, lot coverage and floor area ratio.

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) and 13.10.323(e)6(c)); 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 shall be limited to the following exceptions from site standards:

Height: Up to a 5% increase in the allowed height. For example, a 28-foot height limit could be increased by up to 16.8 inches ( $28' \times .05 = 1.4'$ ).

Setbacks: Up to a 15% reduction in the required front, side or rear setback. For example, a 5-foot setback may be reduced by up to 9 inches ( $5' \times .15 = .75'$ ).

Separation between structures: Up to a 15% exception from the 10-foot separation requirement between structures on the same property, allowing a reduction of up to 1.5 feet, or an 8.5-foot separation.

Floor Area Ratio: Up to a 7.5% increase in the total allowable 50% FAR for lots 4,000 square feet or less, allowing up to 57.5% FAR.

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 supersede 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

1) Application. The application for the minor exception shall contain such information as required by the Planning Department.

2) Application Review. The Planning Director or designee shall review and make a determination on the application for a minor exception. At the discretion of the Planning Director, the project may be referred to the Zoning Administrator or Planning Commission for a public hearing.

3) Noticing. Not less than 21 days prior to the County taking action on an application for a minor exception, a mailed notice shall be sent to owners and occupants of property adjacent to the subject parcel or across a right of way that overlap any part of the frontage of the subject parcel, notifying them of the date after which a decision will be made on the project, the final date on which comments will be accepted, and the appeal process. The contents of the notice shall be consistent with Section 18.10.222(d).

4) Required findings. Findings shall be in accordance with findings required for variance approvals in Section 13.10.230 (c), and in accordance with the findings required in Section 18.10.230 for discretionary approvals. In addition, the following finding shall be required for minor exceptions allowing an increase in lot coverage:

A. That there is no increase in stormwater leaving the property as a result of additional impermeable area allowed by a minor exception to increase lot coverage. Projects shall be conditioned to direct runoff to the landscape, use permeable paving material, reduce existing impermeable

**EXHIBIT G**

area, or incorporate other low impact drainage design practices to control stormwater runoff.

5) Project conditions. The project may be conditioned as needed to ensure compliance with County policies and ordinances, in accordance with Section 18.10.240.

6) Appeal. The determination on the minor exception may be appealed by any person whose interests are adversely affected. Appeals shall be heard at a public hearing before the Zoning Administrator, or by the Planning Commission if the Planning Director determines this to be in the public interest. A notice of the public hearing for the appeal shall be sent to all property owners and occupants within 300 feet of the subject property, and to local agencies that provide essential services to the subject parcel, at least 10 days prior to the hearing. A notice shall also be posted on site in accordance with Section 18.10.224. Appeals shall be conducted in accordance with Section 18.10.310.

### **SECTION III**

Subsection (e)6E of Section 13.10.323 of the Santa Cruz County Code is hereby amended to read as follows:

Distance from Alleys. Detached accessory structures including garages shall not be located within three feet of any alley.

### **SECTION IV**

Section 13.10.323(e)6F is hereby added to the Santa Cruz County Code to read as follows:

Garages within Required Rear and Side Yards. An attached or detached garage ("garage" as defined under 13.10.700-G) may be located within side and rear setback areas with up to a 50% reduction of the required setback distances to the rear and interior side property lines, provided that:

- (i) There shall be no windows, doors or other openings on garage walls that are less than five (5) feet from the side or rear property lines;
- (ii) The garage shall be located a minimum of forty (40) feet from the front property line;
- (ii) Eaves or other projections on garages with reduced setbacks shall extend no more than two additional feet closer to the rear and side yard property lines, and no closer than allowed by the California Residential Building Code (CRC).

**EXHIBIT G-4**

- (iii) The garage shall have a maximum depth of thirty (30) feet.
- (iv) The garage shall not exceed 17 feet in height or 1 story, unless a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.
- (v) A garage may be located up to zero (0) feet from the rear or interior side property line if a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

## SECTION V

Section 13.10.510(d)2, entitled Height Exceptions, is hereby amended to read as follows:

(2) Height Exceptions. Chimneys, church spires and steeples, water tanks, cooling towers, elevators, flagpoles, monuments, non-commercial radio and television antennas, fire towers, and similar structures not used for human habitation and not covering more than ten percent of the ground area covered by the structure, may be erected to a height of not more than twenty-five (25) feet above the height limit allowed in any district. Parapets (a low screen or barrier wall) for non-residential buildings located at least 5 feet from the edge of any exterior wall that are constructed for the purpose of screening mechanical equipment or other building features may exceed the height limit by up to 3.5 feet. Firewall parapets for non-residential buildings that are upward extensions of an exterior wall and are required by the Building Code for fire safety purposes may exceed the height limit by up to 3 feet. Utility and commercial poles and towers may not be subject to the height limits prescribed in the district regulations. Height limits on windpowered generators shall be established in Section 12.24. Non-commercial radio and television towers or free-standing antennas may exceed the height limits above by twenty-five (25) feet with the approval of a Level IV Use Approval. Flat plate solar collectors on existing structure shall be permitted to exceed height restrictions by four feet.

In an RM-5 to RM-9 District, for multiple dwelling projects of five or more units which are designed to contain all the required parking spaces under the dwelling structures, a maximum height of thirty-five (35) feet is permitted, provided that one foot of additional side yard beyond the ten (10) foot required minimum side

yard is added for every foot of height above twenty-eight (28) feet. Solar access on neighboring sites shall not be obstructed.

In any commercial or industrial zone district, a building may exceed the height limit as established by the zone district by up to 5 feet, subject to review and recommendation by the Urban Designer and approval by the Zoning Administrator following a public hearing. In addition to the findings required in Chapter 18.10 for discretionary approvals, the project shall be subject to the following additional findings:

- A. The additional height complements or completes the architectural design.
- B. For properties located in the Coastal Zone, the proposed project complies with LCP policies, including policies protecting scenic corridors and public viewsheds.

## **SECTION VI**

Subsection 13.10.510(f) of the Santa Cruz County Code is hereby deleted as follows:

## **SECTION VII**

Subsection 13.10.510(i) is hereby added to Section 13.10.510 to read as follows:

(i) Setback reductions to protect the environment or public safety.

Up to a 25% reduction in the required setback established by the zone district for front yards or other yards fronting on a street or vehicular right of way may be allowed, subject to review and approval by the Planning Director (Level 3 approval), for any of the following purposes:

- 1) To minimize grading on steep lots;
- 2) To protect environmentally sensitive resources such as significant trees or sensitive habitats such as riparian corridors; or
- 3) To facilitate conformance with regulations for geologic hazards (Chapter 16.10).

In addition to the findings required in Section 18.10.230 for discretionary approvals, the following additional findings shall be required:

- 1) The reduced setback would result in an environmentally superior outcome or improved public safety, either by minimizing grading, affording better protection to an environmentally sensitive habitat or resource, or resulting in greater conformance with geologic hazard regulations.
- 2) The proposed project shall not unreasonably infringe on adequate light, air, or privacy of adjacent residential property.

**SECTION VIII**

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 \_\_\_\_\_, 2011 by the following vote:

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

\_\_\_\_\_  
Chair of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

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

Copies to: County Counsel  
Planning Department

**EXHIBIT G**

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

**ORDINANCE AMENDING CHAPTER 13.10 OF THE SANTA CRUZ COUNTY  
CODE TO ALLOW FOR EXCEPTIONS FROM CERTAIN ZONING SITE  
STANDARDS AND ALLOW GARAGES WITHIN REQUIRED SIDE AND REAR  
YARDS**

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

**SECTION I**

Subsection 13.10.230 (c)(1) of the Santa Cruz County Code is hereby amended to read as follows:

1. That because of special circumstances applicable to the property, including size, shape, topography, location or and surroundings existing structures, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

The language in Section 13.10.230 relating to variance findings is being amended to conform to state law.

**SECTION II**

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 a streamlined discretionary review process to allow consideration of minor variations from the zoning district site standards established for height, setbacks, separation between structures on the same property, lot coverage and floor area ratio.

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) and 13.10.323(e)6(c)); 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.

Language in the earlier version of the ordinance stating that minor exceptions may be approved to recognize structures built without permits has been deleted.

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

Height: Up to a 5% increase in the allowed height. For example, a 28-foot height limit could be increased by up to 16.8 inches ( $28' \times .05 = 1.4'$ ).

To ensure that minor exceptions for height will not impacts neighboring properties, the revised ordinance allows only a 5% increase in the allowed height, reduced from a 10% increase proposed earlier

Setbacks: Up to a 15% reduction in the required front, side or rear setback. For example, a 5-foot setback may be reduced by up to 9 inches ( $5' \times .15 = .75'$ ).

Separation between structures: Up to a 15% exception from the 10-foot separation requirement between structures on the same property, allowing a reduction of up to 1.5 feet, or an 8.5-foot separation.

Floor Area Ratio: Up to a 7.5% increase in the total allowable 50% FAR for lots 4,000 square feet or less, allowing up to 57.5% FAR.

Minor exceptions for up to a 7.5% increase in FAR would be allowed only on lots 4,000 square feet or less. The earlier proposal would have allowed FAR increases on lots 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:

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

Minor exceptions apply only to the zoning site standards noted above, and do not apply to or supersede 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

1) Application. The application for the minor exception shall contain such information as required by the Planning Department.

2) Application Review. The Planning Director or designee shall review and make a determination on the application for a minor exception. At the discretion of the Planning Director, the project may be referred to the Zoning Administrator or Planning Commission for a public hearing.

EXHIBIT G-4



3) Noticing. Not less than 21 days prior to the County taking action on an application for a minor exception, a mailed notice shall be sent to owners and occupants of property adjacent to the subject parcel or across a right of way that overlap any part of the frontage of the subject parcel, notifying them of the date after which a decision will be made on the project, the final date on which comments will be accepted, and the appeal process. The contents of the notice shall be consistent with Section 18.10.222(d).

4) Required findings. Findings shall be in accordance with findings required for variance approvals in Section 13.10.230 (c), and in accordance with the findings required in Section 18.10.230 for discretionary approvals. In addition, the following finding shall be required for minor exceptions allowing an increase in lot coverage:

A. That there is no increase in stormwater leaving the property as a result of additional impermeable area allowed by a minor exception to increase lot coverage. Projects shall be conditioned to direct runoff to the landscape, use permeable paving material, reduce existing impermeable area, or incorporate other low impact drainage design practices to control stormwater runoff.

5) Project conditions. The project may be conditioned as needed to ensure compliance with County policies and ordinances, in accordance with Section 18.10.240.

6) Appeal. The determination on the minor exception may be appealed by any person whose interests are adversely affected. Appeals shall be heard at a public hearing before the Zoning Administrator, or by the Planning Commission if the Planning Director determines this to be in the public interest. A notice of the public hearing for the appeal shall be sent to all property owners and occupants within 300 feet of the subject property, and to local agencies that provide essential services to the subject parcel, at least 10 days prior to the hearing. A notice shall also be posted on site in accordance with Section 18.10.224. Appeals shall be conducted in accordance with Section 18.10.310.

The revised ordinance requires that Appeals be determined by the Zoning Administrator or Planning Commission at a public hearing. In the earlier version of the ordinance, appeals would have been heard by the Planning Director.

### SECTION III

Subsection (e)6E of Section 13.10.323 of the Santa Cruz County Code is hereby amended to read as follows:

Distance from Alleys. Detached accessory structures including garages shall not be located within six three feet of any alley.

EXHIBIT G

## SECTION IV

Section 13.10.323(e)6F is hereby added to the Santa Cruz County Code to read as follows:

Garages within Required Rear and Side Yards. An attached or detached garage ("garage" as defined under 13.10.700-G) may be located within side and rear setback areas with up to a 50% reduction of the required setback distances to the rear and interior side property lines, provided that:

In the revised ordinance, the minimum setback from the interior side or rear property lines has been changed from three feet in the earlier version of the ordinance to 50% of the required setback, to avoid extreme setback reductions on large parcels with larger required setbacks.

- (i) There shall be no windows, doors or other openings on garage walls that are less than five (5) feet from the side or rear property lines;
- (ii) The garage shall be located a minimum of forty (40) feet from the front property line;

The 40' setback requirement has been added to the revised ordinance to ensure that requiring garages that encroach into the side or rear setbacks are located towards the rear of the property.

- (iii) Eaves or other projections on garages with reduced setbacks shall extend no more than two additional feet closer to the rear and side yard property lines, and no closer than allowed by the California Residential Building Code (CRC).
- (iv) The garage shall have a maximum depth of thirty (30) feet.

The 30' maximum depth for garages has been added to the revised ordinance to ensure that garages that encroach into the side or rear setbacks do not extend along the entire depth of the property.

- (v) The garage shall not exceed 17 feet in height or 1 story, unless a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

EXHIBIT G

- (vi) A garage may be located up to zero (0) feet from the rear or interior side property line if a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

## SECTION V

This section adds several new specific height exceptions for nonresidential buildings to facilitate improved designs and fire safety.

Section 13.10.510(d)2, entitled Height Exceptions, is hereby amended to read as follows:

(2) Height Exceptions. Chimneys, church spires and steeples, water tanks, cooling towers, elevators, flagpoles, monuments, non-commercial radio and television antennas, fire towers, and similar structures not used for human habitation and not covering more than ten percent of the ground area covered by the structure, may be erected to a height of not more than twenty-five (25) feet above the height limit allowed in any district. Parapets (a low screen or barrier wall) for non-residential buildings located at least 5 feet from the edge of any exterior wall that are constructed for the purpose of screening mechanical equipment or other building features may exceed the height limit by up to 3.5 feet. Firewall parapets for non-residential buildings that are upward extensions of an exterior wall and are required by the Building Code for fire safety purposes may exceed the height limit by up to 3 feet. Utility and commercial poles and towers may not be subject to the height limits prescribed in the district regulations. Height limits on windpowered generators shall be established in Section 12.24. Non-commercial radio and television towers or free-standing antennas may exceed the height limits above by twenty-five (25) feet with the approval of a Level IV Use Approval. Flat plate solar collectors on existing structure shall be permitted to exceed height restrictions by three four feet.

In an RM-5 to RM-9 District, for multiple dwelling projects of five or more units which are designed to contain all the required parking spaces under the dwelling structures, a maximum height of thirty-five (35) feet is permitted, provided that one foot of additional side yard beyond the ten (10) foot required minimum side yard is added for every foot of height above twenty-eight (28) feet. Solar access on neighboring sites shall not be obstructed.

In any commercial or industrial zone district, a building may exceed the height limit as established by the zone district by up to 5 feet, subject to review and recommendation by the Urban Designer and approval by the Zoning

EXHIBIT G

Administrator following a public hearing. In addition to the findings required in Chapter 18.10 for discretionary approvals, the project shall be subject to the following additional findings:

A. The additional height complements or completes the architectural design.

B. For properties located in the Coastal Zone, the proposed project complies with LCP policies, including policies protecting scenic corridors and public viewsheds.

## SECTION VI.

In this section, existing language in the County Code is being deleted, since such a process supersedes requirements in state law regarding variances.

Subsection 13.10.510(f) of the Santa Cruz County Code is hereby deleted as follows:

~~(f) **Building Setback Lines.** The Planning commission may establish building setback lines different from those required by the district standards of this Chapter when such district standards would impose a purposeless hardship on new buildings compared to the setback of existing buildings in the same block or area, or where the topography of the area may call for a building setback line contrary to the requirements of any district under this Chapter. This provision does not supersede any building setback which may be established under other chapters of the County Code, such as for riparian corridors, geologic hazards, sensitive habitats, or agricultural buffers. When building setback lines are established by the Planning Commission, they may be shown on the sectional district maps of such districts or on such other maps as may be designated~~

## SECTION VII

This section adds a front setback exception for the purpose of protecting the environment or public safety.

Subsection 13.10.510(i) is hereby added to Section 13.10.510 to read as follows:

(i) **Setback reductions to protect the environment or public safety.**

Up to a 25% reduction in the required setback established by the zone district for front yards or other yards fronting on a street or vehicular right of way may be allowed, subject to review and approval by the Planning Director (Level 3 approval), for any of the following purposes:

1) To minimize grading on steep lots;

2) To protect environmentally sensitive resources such as significant trees or sensitive habitats such as riparian corridors; or

EXHIBIT G - 1

3) To facilitate conformance with regulations for geologic hazards (Chapter 16.10).

In addition to the findings required in Section 18.10.230 for discretionary approvals, the following additional findings shall be required:

1) The reduced setback would result in an environmentally superior outcome or improved public safety, either by minimizing grading, affording better protection to an environmentally sensitive habitat or resource, or resulting in greater conformance with geologic hazard regulations.

2) The proposed project shall not unreasonably infringe on adequate light, air, or privacy of adjacent residential property.

### SECTION VIII

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 \_\_\_\_\_, 2011  
by the following vote:

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

\_\_\_\_\_  
Chair of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

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

Copies to:        County Counsel  
                     Planning Department

EXHIBIT G - 1



# COUNTY OF SANTA CRUZ

## 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

### NOTICE OF ENVIRONMENTAL REVIEW PERIOD

#### SANTA CRUZ COUNTY

APPLICANT: County of Santa Cruz

APPLICATION NO.: Minor Exceptions from Zoning Site Standards

PARCEL NUMBER (APN): County Wide

The Environmental Coordinator has reviewed the Initial Study for your application and made the following preliminary determination:

XX Negative Declaration  
(Your project will not have a significant impact on the environment.)

           Mitigations will be attached to the Negative Declaration.

XX No mitigations will be attached.

           Environmental Impact Report  
(Your project may have a significant effect on the environment. An EIR must be prepared to address the potential impacts.)

As part of the environmental review process required by the California Environmental Quality Act (CEQA), this is your opportunity to respond to the preliminary determination before it is finalized. Please contact Matt Johnston, Environmental Coordinator at (831) 454-3201, if you wish to comment on the preliminary determination. Written comments will be received until 5:00 p.m. on the last day of the review period.

Review Period Ends: January 19, 2011

Staff Planner: Annie Murphy

Phone: (831) 454-3111

Date: December 21, 2010

EXHIBIT G -

**DRAFT**

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

**ORDINANCE AMENDING CHAPTER 13.10 OF THE SANTA CRUZ COUNTY CODE TO CONFORM TO STATE LAW AND ESTABLISH A PROCESS TO ALLOW CONSIDERATION OF EXCEPTIONS FROM CERTAIN ZONING SITE STANDARDS**

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

**SECTION I**

Subsection 13.10.230 (c)(1) of the Santa Cruz County Code is hereby amended to read as follows:

1. That because of special circumstances applicable to the property, including size, shape, topography, location or ~~and surroundings~~ existing structures, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

The language in Section 13.10.230 relating to variance findings is being amended to conform to state law.

**SECTION II**

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 a streamlined discretionary review process to allow consideration of minor variations from the zoning district site standards established for height, setbacks, separation between structures on the same property, lot coverage and floor area ratio.

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) and 13.10.323(e)(c)); 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 shall be limited to the following exceptions from site standards:

Height: Up to a 5% increase in the allowed height. For example, a 28-foot height limit could be increased by up to 16.8 inches (28' X .05 = 1.4').

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Setbacks: Up to a 15% reduction in the required front, side or rear setback. For example, a 5-foot setback may be reduced by up to 9 inches ( $5' \times .15 = .75'$ ).

Separation between structures: Up to a 15% exception from the 10-foot separation requirement between structures on the same property, allowing a reduction of up to 1.5 feet, or an 8.5-foot separation.

Floor Area Ratio: Up to a 7.5% increase in the total allowable 50% FAR for lots 4,000 square feet or less, allowing up to 57.5% FAR.

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

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

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

- 1) Application. The application for the minor exception shall contain such information as required by the Planning Department.
- 2) Application Review. The Planning Director or designee shall review and make a determination on the application for a minor exception. At the discretion of the Planning Director, the project may be referred to the Zoning Administrator or Planning Commission for a public hearing.
- 3) Noticing. Not less than 21 days prior to the County taking action on an application for a minor exception, a mailed notice shall be sent to owners and occupants of property adjacent to the subject parcel or across a right of way that overlap any part of the frontage of the subject parcel, notifying them of the date after which a decision will be made on the project, the final date on which comments will be accepted, and the appeal process. The contents of the notice shall be consistent with Section 18.10.222(d).
- 4) Required findings. Findings shall be in accordance with findings required for variance approvals in Section 13.10.230 (c), and in accordance with the findings required in Section 18.10.230 for discretionary approvals. In addition, the following finding shall be required for minor exceptions allowing an increase in lot coverage:
  - A. That there is no increase in stormwater leaving the property as a result of additional impermeable area allowed by a minor exception to increase lot coverage. Projects shall be conditioned to direct runoff to the



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landscape, use permeable paving material, reduce existing impermeable area, or incorporate other low impact drainage design practices to control stormwater runoff.

5) Project conditions. The project may be conditioned as needed to ensure compliance with County policies and ordinances, in accordance with Section 18.10.240.

6) Appeal. The determination on the minor exception may be appealed by any person whose interests are adversely affected. Appeals shall be heard at a public hearing before the Zoning Administrator, or by the Planning Commission if the Planning Director determines this to be in the public interest. A notice of the public hearing for the appeal shall be sent to all property owners and occupants within 300 feet of the subject property, and to local agencies that provide essential services to the subject parcel, at least 10 days prior to the hearing. A notice shall also be posted on site in accordance with Section 18.10.224. Appeals shall be conducted in accordance with Section 18.10.310.

**SECTION III**

Subsection (e)6E of Section 13.10.323 of the Santa Cruz County Code is hereby amended to read as follows:

Distance from Alleys. Detached accessory structures including garages shall not be located within ~~six~~ three feet of any alley.

**SECTION IV**

Section 13.10.323(e)6F is hereby added to the Santa Cruz County Code to read as follows:

Garages within Required Rear and Side Yards. An attached or detached garage ("garage" as defined under 13.10.700-G) may be located within side and rear setback areas with up to a 50% reduction of the required setback distances to the rear and interior side property lines, provided that:

- (i) There shall be no windows, doors or other openings on garage walls that are less than five (5) feet from the side or rear property lines;
- (ii) The garage shall be located a minimum of forty (40) feet from the front property line;
- (ii) Eaves or other projections on garages with reduced setbacks shall extend no more than two additional feet closer to the rear and side yard property lines, and no closer than allowed by the California Residential Building Code (CRC).

## DRAFT

ATTACHMENT 3

- (iii) The garage shall have a maximum depth of thirty (30) feet.
- (iv) The garage shall not exceed 17 feet in height or 1 story, unless a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.
- (v) A garage may be located up to zero (0) feet from the rear or interior side property line if a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it is found that the garage will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

## SECTION V

Section 13.10.510(d)2, entitled Height Exceptions, is hereby amended to read as follows:

(2) Height Exceptions. Chimneys, church spires and steeples, water tanks, cooling towers, elevators, flagpoles, monuments, non-commercial radio and television antennas, fire towers, and similar structures not used for human habitation and not covering more than ten percent of the ground area covered by the structure, may be erected to a height of not more than twenty-five (25) feet above the height limit allowed in any district. Parapets (a low screen or barrier wall) for non-residential buildings located at least 5 feet from the edge of any exterior wall that are constructed for the purpose of screening mechanical equipment or other building features may exceed the height limit by up to 3.5 feet. Firewall parapets for non-residential buildings that are upward extensions of an exterior wall and are required by the Building Code for fire safety purposes may exceed the height limit by up to 3 feet. Utility and commercial poles and towers may not be subject to the height limits prescribed in the district regulations. Height limits on windpowered generators shall be established in Section 12.24. Non-commercial radio and television towers or free-standing antennas may exceed the height limits above by twenty-five (25) feet with the approval of a Level IV Use Approval. Flat plate solar collectors on existing structure shall be permitted to exceed height restrictions by three four feet.

In an RM-5 to RM-9 District, for multiple dwelling projects of five or more units which are designed to contain all the required parking spaces under the dwelling structures, a maximum height of thirty-five (35) feet is permitted, provided that one foot of additional side yard beyond the ten (10) foot required minimum side

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yard is added for every foot of height above twenty-eight (28) feet. Solar access on neighboring sites shall not be obstructed.

In any commercial or industrial zone district, a building may exceed the height limit as established by the zone district by up to 5 feet, subject to review and recommendation by the Urban Designer and approval by the Zoning Administrator following a public hearing. In addition to the findings required in Chapter 18.10 for discretionary approvals, the project shall be subject to the following additional findings:

A. The additional height complements or completes the architectural design.

B. For properties located in the Coastal Zone, the proposed project complies with LCP policies, including policies protecting scenic corridors and public viewsheds.

**SECTION VI**

Subsection 13.10.510(f) of the Santa Cruz County Code is hereby deleted as follows:

~~(f) **Building Setback Lines.** The Planning commission may establish building setback lines different from those required by the district standards of this Chapter when such district standards would impose a purposeless hardship on new buildings compared to the setback of existing buildings in the same block or area, or where the topography of the area may call for a building setback line contrary to the requirements of any district under this Chapter. This provision does not supersede any building setback which may be established under other chapters of the County Code, such as for riparian corridors, geologic hazards, sensitive habitats, or agricultural buffers. When building setback lines are established by the Planning Commission, they may be shown on the sectional district maps of such districts or on such other maps as may be designated.~~

**SECTION VII**

Subsection 13.10.510(i) is hereby added to Section 13.10.510 to read as follows:

(i) **Setback reductions to protect the environment or public safety.**

Up to a 25% reduction in the required setback established by the zone district for front yards or other yards fronting on a street or vehicular right of way may be allowed, subject to review and approval by the Planning Director (Level 3 approval), for any of the following purposes:

- 1) To minimize grading on steep lots;
- 2) To protect environmentally sensitive resources such as significant trees or sensitive habitats such as riparian corridors; or
- 3) To facilitate conformance with regulations for geologic hazards (Chapter 16.10).

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In addition to the findings required in Section 18.10.230 for discretionary approvals, the following additional findings shall be required:

- 1) The reduced setback would result in an environmentally superior outcome or improved public safety, either by minimizing grading, affording better protection to an environmentally sensitive habitat or resource, or resulting in greater conformance with geologic hazard regulations.
- 2) The proposed project shall not unreasonably infringe on adequate light, air, or privacy of adjacent residential property.

**SECTION VIII**

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 \_\_\_\_\_, 2011  
by the following vote:

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

\_\_\_\_\_  
Chair of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

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

Copies to: County Counsel  
Planning Department

EXHIBIT G

City of Laguna-Niguel 0458	Minor adjustments: 20% increase in height, 20% reduction in setbacks, other deviations determined by the Planning Director to be consistent with purpose of section.	Administrative review by Director, can be referred to PC or City Council.	N	Findings: requires a better design, not detrimental to public, other findings.
City of Antioch	Administrative variance: 25% reduction in required setback.	Decision by ZA, with public hearing. Noticing to adjacent neighbors.	?	
City of Windsor	Exceptions Can be requested as part of any project heard by PC or City Council.	Decision by PC or City Council.	?	
South Pasadena	Administrative modification.	Administrative review by Director. No notice required.	Y	
Chino	Minor Variance. 25% deviation from certain site standards.	Administrative review by Director.	Y	Additional findings: Will not endanger public health, safety, or welfare, will not be detrimental to property values, will not result in significant environmental impacts
La Verne	10% exception to various development standards.	Approval by Director.	N	Allowed when warranted by practical difficulties, unnecessary hardships, or results that without the minor exceptions may be inconsistent with the general intent of this code.
City of Glendora	Minor modifications: 15% setback reductions, 5% FAR,	Action by Director. Notice mailed 10 days prior to decision to property owners within 100 feet.	N	No special reason required for exception. (No "special circumstances" finding required. Property owners could never meet the legal standard for special circumstances.)

EXHIBIT C

0459

City of Chowchilla	10% reduction in setbacks, space between buildings, population density. 10% increase in lot coverage or height. Remodeling of NC structure to bring structure into greater conformity with site standards.	Action by "site plan review committee" (sub-committee of PC).	N	Findings: Not detrimental to welfare or injurious to property and improvements.
City of Rosenead	20% setback reduction in residential zones.	Decision by Planning Director.	N	Findings: Adjacent properties and public welfare will not be affected.
City of Fresno	Minor deviations: modify up to 10% of any property development standard	Administrative review by Director – no noticing or appeals	?	
City of Delano	Minor variance: 20% reduction in front setback, 40% reduction in side setback, 10% increase in lot coverage	Administrative approval by Director	Y	
City of Glendale	Administrative exceptions: Height, setbacks, extension of existing setback encroachment	Administrative approval by ZA	N	Design improvements; compliance with code would create hardship due to space restrictions.
City of Sonoma	Minor exception; 30% exception from certain standards	Public hearing and decision by PC	N	"...Justified by environmental features or site conditions, historic development patterns of property or neighborhood, or the interest in promoting creativity and personal expression in site planning and development."
City of Firebaugh	Exception: 20% reduction in setbacks, lot area and dimensions, distance between buildings, height.	?	?	
City of San Bernardino	10% deviation from site standards.	Review by Director – public hearing required.	Y	

County	Description	Approval process	State variance findings?	Findings
Santa Clara County	No general exception, but side setback reductions allowed by right for certain lots, based on lot size, depth, width.	By right	N/A	N/A
Sonoma County	Expedited process by right for minor exceptions—front yard averaging, side yard exceptions if neighbors sign off, exceptions to minimize grading, allowing reduced front setbacks	By right	N/A	N/A
Santa Barbara County	"Modifications" allowed for design, practical difficulties, topography or habitat protection. Setback reductions up to 20%, up to 10% height increase, up to 10% increase in FAR.	Public hearing by ZA, with design review, appealable.	N	Special findings, including that modification is minor in nature, better architectural or site design, and/ or will result in greater resource protection. "Any adverse environmental impacts will be mitigated to a level of insignificance."
San Luis Obispo County	Administrative Adjustment: Setback reductions can be approved administratively under specific situations, such as front setback reductions for shallow lots, and front yard averaging	Administrative review by Director – no public hearing required.	N	
San Mateo County	"Home improvement exceptions": Exception from site standards for yards, lot coverage, daylight plane, and FAR	Public hearing required if requested by anyone within 300'. Otherwise, administrative decision by	N	Findings: Only minor exterior changes, enhances existing design concept or neighborhood character.

	for small residential additions less than 250 sq ft. Does not apply for active violations.	ZA, appealed to PC.		
Marin County	Administrative variance: 2' height extension, 2% increase in FAR, 40% reductions in setbacks	Administrative decision by Planning Director, can be appealed to PC.	Y	
Mendocino County	No exception or minor variance available	N/A	N/A	

EXHIBIT

SummaryCities

24 cities identified with minor variances or exceptions.  
 1 city allows limited exceptions by right.  
 12 allow without requiring state variance findings  
 7 require state variance findings.  
 (3: required findings unknown.)  
 16 require administrative review without a public hearing.  
 6 require public hearing.  
 1 unknown

Counties

Of the 7 counties reviewed:

- 1 (Mendocino) has no exception or minor variance available.
- 2 (Santa Clara and Sonoma) allow some minor exceptions by right, including setback exceptions
- 2 (Marin and San Luis Obispo) allow exceptions with administrative approval by planning director.
- 2 (Santa Barbara and San Mateo) require a public hearing. (For San Mateo, no hearing is required if adjacent neighbors provide signed approval for project.)



Of the 4 counties requiring discretionary approval for exceptions, 1 (Marin) requires state variance findings, and 3 (San Mateo, San Luis Obispo, and Santa Barbara) do not.

Attachment 4

EXHIBIT G



# COUNTY OF SANTA CRUZ

## 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

November 3, 2010

AGENDA DATE: November 16, 2010

Board of Supervisors  
 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 Board:

In June of this year, Planning Staff reported to your Board on the status of efforts to provide greater flexibility in the planning process. Key among these is a process to allow minor exceptions to certain development standards, subject to a discretionary permit and noticing of adjacent neighbors. As directed by your Board, Planning Staff prepared a draft ordinance amendment implementing the minor exception process. On October 13, 2010, the Planning Commission reviewed the proposed amendments and recommended your Board approve the ordinance with a few minor changes. This ordinance is now before your Board for review.

### 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 some properties, there are special circumstances which should be considered in the design and evaluation of the project. There may be 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 like those discussed above is a variance. The variance process, with a mandatory public hearing to address community concerns, is appropriate for projects with extensive deviations from development standards. However, for those projects involving only minor exceptions from zoning site standards and without the potential to negatively impact neighboring properties or the environment, the process is expensive and time-consuming for the applicant without providing any benefit to the community. Additionally, some County residents may perceive the variance process to be inflexible and unreasonable, and chose instead to work outside the permit process.

EXHIBIT-G

Consistent with State law provisions authorizing local jurisdictions to define a subset of variances that can be approved administratively without a public hearing, staff has drafted an ordinance amendment to allow minor exceptions from site standards for setbacks, distance between structures, lot coverage, and height to be approved through administrative discretionary review with approval required by the Planning Director (who is also designated the Zoning Administrator under County Code) (Exhibit A to Attachment 1). Additionally, the findings required for approving a minor exception would define the nature of special circumstances which can allow for consideration of design issues, practical hardships or protection of environmentally sensitive resources on the site.

By limiting the exception to allow only minor deviations from certain site standards (see details section in this letter), providing criteria under which a minor exception would be considered and approved, and requiring discretionary review with noticing to adjacent property owners, the minor exception process would provide regulatory relief for many County residents while at the same time protecting neighboring properties and the environment. A similar process is available in many other communities such as Morgan Hill. 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

Following are examples of the types of situations appropriate for minor exceptions.

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

An owner of a legal nonconforming residence, with one side of the house encroaching one foot into the required side yard, wishes to construct an addition on that side of the residence. Strict compliance with existing setback requirements would result in an awkward addition that jogs back from the rest of the residence. A minor exception allowing, for example, a nine-inch encroachment into a required 5-foot side yard, would allow for an addition that extends the existing wall of the residence, resulting in a superior design that is compatible with residences in the neighborhood.

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

Due to the configuration of a residence and its proximity to property lines, the owners of the residence 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.

#### *Minor exception to side yard setback supports mixed use development*

Mixed use is becoming a more important type of development. Remodeling of a neighborhood market was proposed to include one residential unit upstairs for the owner. The owner in residence makes the market a feasible use in that location. However, the exterior stairs to access the upstairs unit intruded approximately four feet into the required side yard setback, which is 30 feet when commercial property is next to residential property. The ability to seek an exception in these cases, where the encroachment does not negatively impact the side yard neighbor, would support mixed use and in this case, a neighborhood food store.

#### *Lot coverage minor exception - Flexibility to create accessible residences – "Universal Access"*

For single story residences in the County that are at maximum ground floor lot coverage, the Floor Area Ratio provisions allow additional square footage on 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

Minor Exception  
Board of Supervisors Agenda – November 16, 2010  
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feasible. 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 could provide more options in home design for those needing an accessible residence.

*Height exception to accommodate green features in a commercial building*

The owners of an industrial parcel applied to construct an energy efficient medical office. The design for the green building included a special ventilation system to reduce the need for heating and cooling and to improve indoor air quality. The ventilation system increased the overall building height, requiring a building at the maximum 35' height limit, with the HVAC system extending an additional three feet. Although the height exceptions in the County Code allow HVAC to exceed the height limit, these exceptions do not allow the required screening of the HVAC to do so. Because the strict findings in the County Code did not allow for design issues to be considered, the applicant could not obtain a variance from the height requirement for the required screening and had to redesign their project without the energy efficient ventilation system. The proposed minor exception process, with a broader set of findings than is allowed for standard variance approvals, would allow for consideration of such special design features.

Improved consistency with County Regulations

An additional goal of the minor exception process is to facilitate greater consistency with other provisions in the County Code, particularly regulations protecting the environment. There are circumstances where additional flexibility will allow development to be sited further away from an environmental resource than is possible without an exception. For example, a project may be moved a few feet into a setback in order to provide greater distance between a foundation and significant trees. A few additional feet can be very beneficial in avoiding a root zone and preserving trees. Similarly, a riparian area or other resource can often benefit from additional room. The minor exception process could achieve this consistency without the increase in time and cost required by the variance process, thereby encouraging greater protection of environmental resources.

**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 a maximum 15% reduction in the required front, side or rear setbacks, a maximum 15% reduction in the required 10-foot separation between accessory structures on the same property, a maximum 10% increase in the allowed height, and a maximum 15% increase of the total percentage allowed for ground floor lot coverage. Each application would also be subject to making certain findings before the project could be approved (Exhibit A to Attachment 1).

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 from 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)

### Review Process

The review process for minor exceptions is intended to fully address all planning issues, and the concerns of adjacent neighbors, while providing a faster and less expensive process than is required for variance approvals. Minor exceptions would be processed as Level IV discretionary permits, requiring administrative review and approval by the Planning Director. Like other Level IV projects, the permit would be processed at cost. The attached resolution (Attachment 2) authorizes the addition of the minor exception to the Planning Department Fee Schedule. In addition to the standard development permit findings requiring protection of health, safety and welfare, and consistency with all applicable County policies and regulations, additional findings would be required for residential minor exceptions to ensure protection of light, air and privacy of residential properties, and, for projects with increases in lot coverage, to control any additional stormwater runoff. As is the case for all discretionary applications, minor exceptions could be conditioned appropriately to further protect neighboring properties and the environment from any impacts.

Since the minor exceptions would likely concern only immediate neighbors, notices would be sent only to adjacent parcels and to those parcels across a right of way that overlap any part of the frontage of the subject parcel. No public hearing would be required, although at the discretion of the Planning Director a hearing before the Zoning Administrator could be held if needed to fully address neighbor's concerns. The determination on the minor exception could be appealed by anyone, with the appeal heard by the Planning Director, or, if the Planning Director determines the public would be better served, by the Zoning Administrator or the Planning Commission.

### Planning Commission Review

At the hearing on October 13<sup>th</sup>, 2010, the Planning Commission recommended approval of the draft ordinance, with additional direction to clarify the appeal process, to add an additional exemption to allow separation between structures to be reduced by 15%, and to report back in two years on the status of the minor exception process, noting the number of applications received, the percentage of applications approved or denied, and any issues with the noticing process. Additionally, several Commissioners raised concerns regarding the proposed height exception, questioning whether the proposed 15% exception was excessive, and could lead to issues with adjacent residential neighbors. In response, staff is recommending reducing the proposed height exception from 15% to 10%, and has also incorporated the other recommendations of the Commission into the attached ordinance (Exhibit A to Attachment 1).

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## ATTACHMENT 5

### CEQA Exemption

The proposed ordinance 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, distance between structures, lot coverage, height and floor area ratio, and requires discretionary approval. Environmental site standards that protect sensitive resources, including riparian setbacks, agricultural buffer setbacks, setbacks from Coastal bluffs, and setbacks from other geologic hazards, remain in effect and could not be altered through the minor exception process.

To eliminate the potential for any additional stormwater runoff that could result from projects with minor increases in lot coverage that include an increase in impervious surface, the ordinance requires a determination that no additional stormwater runoff will occur, and requires that projects be conditioned as needed to ensure no additional stormwater runoff from the project site (Exhibit A to Attachment 1).

As is the case for most discretionary projects, applications would be routed as needed 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. Exceptions for lot coverage require an additional finding to ensure no increase in stormwater runoff. The proposed height exception would also allow only minor increases; for residential structures allowing up to 2.8 additional feet in height for a total height of up to 30.8 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 pursuant to Chapter 13.20 of the County Code. 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

The proposed minor exception process will provide a new tool to allow for greater flexibility in the planning process. The administrative discretionary review process will allow for consideration of minor exceptions from certain zoning standards, recognize special circumstances to alleviate practical hardships or allow for superior designs, while at the same time protecting neighboring properties and the environment.

# EXHIBIT G

It is therefore RECOMMENDED that your Board take the following actions:

1. Conduct a public hearing on the proposed ordinance amendment to Chapter 13.10 of the County Code (Exhibit A to Attachment 1); and
2. Adopt the resolution (Attachment 1) making findings, certifying the Environmental Notice of Exemption, and approving the proposed ordinance amendment (Attachment 3); and
3. Adopt the resolution approving the addition of the minor exception to the Planning Department Fee Schedule (Attachment 2); and
4. Direct Staff to report back in two years on the status of the minor exception process, including the number of applications received, approved and denied, and the adequacy of the noticing process.

Sincerely,



Kathy M. Previsich  
Planning Director



SUSAN A. MAURIELLO  
County Administrative Officer

Attachments:

- 1: Resolution approving the proposed ordinance amendments  
Exhibit A to Attachment 1- Clean copy of the proposed Ordinance
- 2: Resolution approving the proposed addition to the Fee Schedule
- 3: CEQA Notice of Exemption
- 4: Planning Commission Resolution
- 5: Planning Commission Staff Report
- 6: Planning Commission Minutes

cc: County Counsel  
Coastal Commission  
Department of Public Works

EXHIBIT G -

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 is adopted:

BOARD OF SUPERVISORS RESOLUTION MAKING FINDINGS AND APPROVING  
AMENDMENTS TO CHAPTER 13.10 OF THE SANTA CRUZ COUNTY CODE  
ESTABLISHING A DISCRETIONARY REVIEW PROCESS TO ALLOW CONSIDERATION  
OF MINOR EXCEPTIONS FROM CERTAIN ZONING SITE STANDARDS

---

WHEREAS, Santa Cruz County has in recent years enacted reforms 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 process whereby minor exceptions from zoning site standards could be approved, subject to administrative discretionary review to ensure that such exceptions are substantially consistent with the General Plan and the Zoning Ordinance, and do not negatively impact neighboring properties or the environment; and

WHEREAS, California Government Code Section 65901 provides that the legislative body of a county may, by ordinance, specify the kinds of variances and extent of variation which may be administratively granted by a zoning administrator or board of adjustment without the requirement for a public hearing; and

WHEREAS, California Government Code Section 65901 also provides that the ordinance adopted by the legislative body authorizing administrative approvals of variations within the limits established by the legislative body must also establish criteria for such approvals for the class of variations that will be able to be administratively approved, and the legislative body must find that the specified class of allowable variations and the specified criteria and findings that will be applicable to projects under the administrative procedures will be consistent with the intent and requirements of Government Code Section 65906 pertaining to the granting of such variations from the terms of the applicable zoning ordinances for the specified class of variations; and

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

EXHIBIT G



exception process as is consistent with state law and recommended the proposed ordinance amendments for approval by the Board of Supervisors (Attachment 1 to Exhibit A).

NOW THEREFORE, BE IT RESOLVED AND ORDERED, that the Board of Supervisors hereby makes the following findings related to adoption of the Minor Exceptions ordinance:

(1) Administrative approvals of minor exceptions or variations from the standard terms of applicable zoning ordinances, for the specified types and within the specified limits of the subject Minor Exceptions ordinance, shall be based on special circumstances and practical difficulties related to the property and/or its surroundings. Approvals shall be based upon findings in the ordinance requiring specification of the circumstances and difficulties faced by the proposed project, and on findings that the resultant project will be in substantial conformance with the intent of the General Plan and applicable zoning ordinances, while achieving development allowed by the zoning district with a superior siting or design than would be achieved through the strict application of the standard requirements, in a manner that recognizes the circumstances of the property and balances achieving the project objectives with the special circumstances and practical difficulties related to the site. Special circumstances for this class of minor exceptions or variations is found to include but not be limited to the size, shape, topography, location, existing development or improvements, environmental constraints or surroundings applicable to the property and/or adjacent properties, which present practical difficulties or which would result in inferior siting or design than would be possible if the exception were approved.

(2) Future administrative approvals of projects within the class of minor exceptions or variations from the standard terms of applicable zoning ordinances, under the subject Minor Exceptions ordinance which defines such class by the types and extent of allowable variations, is found to be consistent with the intent, goals and policies of the General Plan, in that variations will not be granted which would authorize a use or activity which is not otherwise expressly authorized by the zoning regulations governing the subject property or parcel. Also, variations will not be granted that would confer a special privilege, in that the Minor Exceptions ordinance will apply to all zoning districts and all properties for the types and extents of variations addressed by the ordinance, and similarly situated projects will be able to be approved based on findings related to their relevant circumstances or practical difficulties, and based on finding that those projects have special circumstances that would affect the project and that approval of the minor exception or variation would result in more desirable configurations or more superior designs, along with the other findings required by the minor exceptions provisions.

(3) The ordinance amendments have been found to be statutorily exempt from further review under the California Environmental Quality Act under CEQA Guidelines Section 15265, and categorically exempt under CEQA Guidelines Section 15305.

(4) The proposed Local Coastal Program amendments and proposed amendments

EXHIBIT G

to the Santa Cruz County Code will be consistent with the policies of the General Plan and Local Coastal Program and other provisions of the County Code, are in compliance with the California Coastal Act, and are consistent with State law.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Board of Supervisors hereby adopts the amendments to Chapter 13.10 of the Santa Cruz County Code (Exhibit A to Attachment 1) and certifies the Negative Declaration under CEQA as set forth in Attachment 3, and incorporated herein by reference; and

BE IT FURTHER RESOLVED AND ORDERED that the Board of Supervisors hereby directs these amendments shall be in effect outside the Coastal Zone 31 days after adoption; and

BE IT FURTHER RESOLVED AND ORDERED that the Board of Supervisors hereby directs these amendments be submitted to the State of California Coastal Commission as part of the next 2010 "rounds" package.

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:

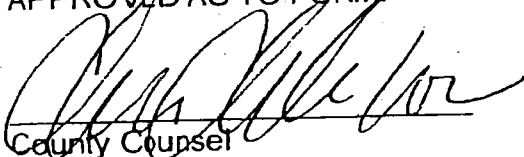
AYES: SUPERVISORS  
NOES: SUPERVISORS  
ABSENT: SUPERVISORS  
ABSTAIN: SUPERVISORS

\_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

  
County Counsel

DISTRIBUTION: County Counsel  
Planning Department

EXHIBIT G

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

0242  
ATTACHMENT

5

**ORDINANCE ADDING SECTION 13.10.235 TO CHAPTER 13.10 OF THE  
SANTA CRUZ COUNTY CODE ESTABLISHING A DISCRETIONARY REVIEW  
PROCESS TO ALLOW CONSIDERATION OF MINOR EXCEPTIONS FROM  
CERTAIN ZONING SITE STANDARDS**

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, separation between accessory structures on the same property, 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 a superior design that is also compatible with the neighborhood.

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) and 13.10.323(e)6(c)); 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 10% increase in the allowed height  
Setbacks: Up to a 15% reduction in the required front, side or rear setback  
Separation between structures: Up to a 15% exception from the 10-foot separation requirement between accessory structures on the same property  
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%

ATTACHMENT

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 owners of property across a right of way that overlap any part of the frontage of the subject parcel 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) That because of special circumstances applicable to the property, including but not limited to size, shape, topography, existing development or improvements, and environmental constraints; and/ or because of the surroundings related to the property; the strict application of the zoning ordinance would either (a) present practical difficulties for the applicant that could be relieved through the granting of a minor exception, or (b) would result in a project design or siting that is inferior to what could be achieved with a minor exception.

(2) That the granting of such an exception shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and under identical zoning classification.

(3) 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.

(4) 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.

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

(6) On properties in the Coastal Zone, that the proposed project complies with all LCP policies, including policies protecting scenic corridors and public viewsheds.

(7) 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.

(8) 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.

(9) That there is no increase in stormwater leaving the property as a result of additional impermeable area allowed by a minor exception to increase lot coverage. Projects shall be conditioned to direct runoff to the landscape, use permeable paving material, reduce existing impermeable area, or incorporate other low impact drainage design practices to control stormwater runoff.

(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

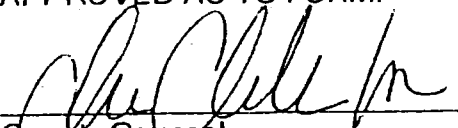
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ATTACHMENT 5

\_\_\_\_\_  
Chair of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

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

Copies to: County Counsel  
Planning Department

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA ATTACHMENT 5

RESOLUTION NO. \_\_\_\_\_

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

BOARD OF SUPERVISORS RESOLUTION AMENDING THE PLANNING  
DEPARTMENT UNIFIED FEE SCHEDULE

WHEREAS, the Board of Supervisors has previously enacted Resolution No. 375-82 which previously amended certain sections of the Santa Cruz County Code to provide that fees previously specified therein shall henceforth be established by Resolution of the Board; and

WHEREAS, the Board has determined that it is necessary to adjust and consolidate the amount of certain fees previously established by either ordinance and/or resolution.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the fees and charges of the Unified Fee Schedule for the Planning Department are hereby amended to include a fee for minor exceptions as presented in the attached Exhibit A, and that this amendment to the fee schedule shall be effective upon the date that the ordinance implementing the minor exception takes effect, or 60 days after the Board of Supervisors adopts the amendment to the fee schedule (Exhibit A), whichever date is later.

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

\_\_\_\_\_  
Chairperson of the Board of Supervisors

EXHIBIT G

~~029~~

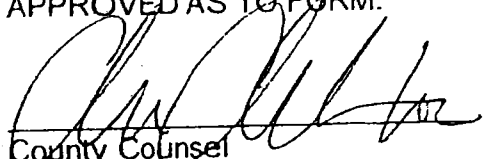
0477

ATTEST:

ATTACHMENT 5 J

\_\_\_\_\_  
Clerk

APPROVED AS TO FORM:

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

DISTRIBUTION: County Counsel  
Planning Department

EXHIBIT G



**Santa Cruz County Unified Fee Schedule**

**Planning**

**Budget Unit - 542200**

0478

Items	Current Fee	Proposed Fee	Unit
<b>ENVIRONMENTAL RESOURCE REVIEWS &amp; PERMITS Continue....</b>			
Fences greater than 6 ft. in height	AT COST		
Level: 5			
Variance - Existing Structure	AT COST		
Level: 5			
Variance - Major Project/New Construction	AT COST		
Level: 5			
<b>ZONING MISCELLANEOUS REVIEWS</b>			
<b>Zoning Services</b>			
Application Intake A	\$152.00		
Application Intake B	\$204.00		
Amendments & Time Extensions	AT COST		
Level: 1-7			
Development Review Group - DRG	AT COST		
Level: None			
Design Review Waiver - Level 5	AT COST		
Level: 5			
Design Review Waiver - Level 6	AT COST		
Level: 6			
Design Review Waiver - Level 7	AT COST		
Level: 7			
<u>Minor Exception</u>	-	<u>AT COST</u>	-
Energy Retrofit Certification	\$100.00		N/A
Level: None			
Historic Res. Approval/Demo W/O Reconstruction	AT COST		
Level: 7			
Historic Preservation Plan Review	NO COST		
Level: 3			

**EXHIBIT G**

## 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. Environmental site standards that protect sensitive resources, including riparian setbacks, agricultural buffer setbacks, setbacks from Coastal bluffs, and setbacks from other geologic hazards, would remain in effect and could not be altered through the minor exception process.

To ensure that no additional stormwater runoff would result from projects with minor increases in lot coverage that include an increase in impervious surface, the ordinance requires a finding that no additional stormwater runoff will occur, and requires that projects be conditioned as needed to prevent additional stormwater runoff from the project site.

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.

**ATTACHMENT 5**

Annie Murphy  
Annie Murphy: Project Planner

11/3/10  
Date



**SANTA CRUZ COUNTY GROUP**  
Of The Ventana Chapter  
P.O. Box 604, Santa Cruz, CA 95061 • phone (831) 426-4453  
[www.ventana.sierraclub.org](http://www.ventana.sierraclub.org) • e-mail: [scscrg@cruzio.com](mailto:scscrg@cruzio.com)

November 11, 2010

Santa Cruz County Board of Supervisors  
701 Ocean St. 5th Floor  
Santa Cruz, CA 95018

Subject: Agenda Item 34, Zoning Code changes adding Section 13.10.235 to Chapter 13.10 "zoning site standards". Please Note: Your Agenda was not posted by Friday morning when this letter was finished; therefore this letter is based upon the staff letter to the Planning Commission of Oct. 13, 2010. The ordinance presented is essentially identical, other than a change to height limits.

Greetings County Board of Supervisors,

From the staff letter to the Planning Commission Dated Oct. 13, 2010: "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."

Your Board is now considering approval of the second of these three "phases". Together these changes to County code represent a significant cumulative relaxation or weakening of several Planning Code sections.

**Letter Summary:**

1. This multi year project of changes to planning and zoning code is not exempt from CEQA. The law requires the County to assess the complex and long-term cumulative impacts of this program. This project is similar to a general plan amendment in its total and declared scope.

2. This claim by Planning is misleading: "Minor exceptions apply only to the zoning site standards noted above, and do not apply to or supersede 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."

Especially in mountainous rural areas, the details of, septic requirements, geologic hazard,

EXHIBIT G -

parking, emergency access, riparian setback and sensitive habitats are thoroughly intertwined with any consideration of "as built" or non-conforming structures. This is not a simple matter of lot line setbacks as the Planning letter claims.

3. Regarding "Legalization of an as built structure". These code changes provide a dangerous incentive to speculate and build without permits on undeveloped sub-standard lots.

There exist many undeveloped, rural mountain, old subdivision lots that do not meet septic code or slope etc. requirements. These lots are very inexpensive because non-conforming old subdivision lots have been, to date, generally regarded as unbuildable. However, under the proposed changes, these lots become a code requirement loophole for speculators to build houses that, from their inception, will violate zoning and other codes. The flagrant violation posed by building an entire new house on undeveloped land, without any permits, should not be treated with such willing cooperation from the Planning Department.

Also this change is insulting to citizens who cooperate with Planning and actively seek permits from the beginning, instead of setting out to evade and manipulate County regulations as some builders do.

4. There are poorly defined and complex interactions between these code sections such as Floor Area Ratio and lot coverage. They cannot be properly understood in their proposed form. Considerably more review and analysis are necessary before your Board can be confident that it comprehends the impact of this proposal. Certainly the general public will be impacted in numerous ways that have not yet been considered.

#### CEQA

From the beginning in 2007 your Board has asserted that this process is categorically exempt from CEQA (sections 15265 and 15305). This claim is false. Their combined scale exceeds the exemptions allowed in the law. CEQA case law contains a definition of "segmentation" which means that if the entire project is not considered as a whole then the intent to assess cumulative environmental impact is violated. We assert that this three phase, multi-year regulatory reform program, conducted without any environmental assessment is a perfect example of the problem of segmentation under CEQA and it is illegal.

Planning has cited this code section in its claim of CEQA exemption.

#### 15305. Minor Alterations in Land Use Limitations

Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;

(b) Issuance of minor encroachment permits;

(c) Reversion to acreage in accordance with the Subdivision Map Act.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

Nothing in this code section addresses the issue of increasing dwelling lot coverage and building height and volume systematically in all residential zone districts. The cumulative effect of this change will go well beyond the exemption claimed. The CEQA exemption is legally invalid.

Planning Staffs claims: "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."

This statement is very misleading. It ignores the frequent interconnection between environmental impacts and what Planning claims are routine lot coverage and housing density questions. These issues are intertwined and cannot be separated in practice.

The issue of FAR "Floor Area Ratio" is of major importance in the Live Oak area and elsewhere, as very large houses are squeezed into lots originally occupied by cottages. These proposed changes advance this conflict.

#### **Poor Planning Examples**

Examples of bad planning cases were provided by the Sierra Club to your Board in 2008. These examples were objected to and dismissed by then Planning Director Tom Burns, but I continue to assert their factual validity and I can explain them again to your Board at any time.

The "on the ground" implementation of Planning Code is what actually determines the future physical nature of this County, not facile statements of "no impact" by Planning staff.

This implementation is most complex in lands outside of the urban services line. The environmental conditions in the rural areas of the County, that make effective and accurate Planning Code implementation so important, can be summed up by reminding your Board that this area is a mountain range and is the water source for virtually all County residents.

The matters of primary concern to the Sierra Club are geologic hazard and hill slope stability, water quality, wildlife and wild-lands conservation. Other issues of traffic congestion, noise and so on also come into play when any long-term view of growth rates is considered.

When the Planning Department permits expansion of "legal nonconforming structures" these decisions have a direct impact upon environmental conditions that the code itself was written to prevent.

1) A simple example is the re-construction of old cabins and houses that were built too close to waterways on sub-standard parcels. Many houses in the San Lorenzo River Basin, Soquel Creek and elsewhere were originally constructed inside the code-defined Riparian-Setback. Every time Planning issues another "Riparian Exception" for the re-construction and expansion of these original non-conforming structures, Planning is increasing the environmental harm that the Riparian Protection Ordinance was written to address.

Additions of square footage are designated in these building permits as "unconditioned space" and recorded with Declarations of Restriction "to maintain these additions of space as non-habitable". However there is no enforcement of these "Declarations" therefore they are moot and irrelevant and constitute a tacit approval of substantial square footage additions on severely constrained sites.

Major remodeling and re-construction of houses always brings up the issue of square footage. Most homeowners would like a larger house than the one they live in. This normal desire, in itself, does not however justify expanding living space on severely constrained sites. When a member of the public purchases a home they are tacitly accepting the limitations of that home site. Nonetheless Planning is regularly allowing square footage expansions on constrained sites couched in agreements that supposedly prevent their future use but instead constitute direct expansions of living space.

At present such a project is nearing completion at the intersection of Zayante and Lompico Roads. This structure is entirely within the 60 foot Riparian Setback. The new foundation is actually placed upon the inner gorge wall of Lompico Creek. Part of this foundation is on slopes nearing 80% or about 38° above horizontal. Average homeowners are not knowledgeable enough to understand the hazards to health and safety and to water pollution from such building efforts, but the Planning staff certainly should be.

There are obvious limits necessary for building upon sub-standard parcels such as those without the space, slope and soils necessary for properly functioning septic systems. The number of sub-standard and failing septic systems in the County is an open scandal beyond the scope of this letter.

2) We can provide your Board with the example of a house built with permits in a "debris slide" described in its geology report. A long abandoned shack with no parking or septic system and resting upon a very steep and unusable parcel of little value was, after considerable wrangling, turned into a new house at the top end of that same unusable parcel. There was nowhere to place a septic leach field upon this 0.8 acre parcel, so after lengthy arguing with neighbors, the leach field was apparently moved to an adjoining parcel. The house hangs over a slope that is

extremely steep with slope segments of 100%. I saw the house when it was being offered for a bank sale after 3 prior owners had walked away. At the back of this house, drain-pipes exiting the foundation had sheared off, as the hill slope had subsided after construction, thus breaking these pipes. This building is probably a serious landslide hazard. It is also apparently an example of what Planning seems to be calling "creating reasonable flexibility". The winter of 1982, which shocked many people in Santa Cruz County with its deadly landslides has now receded into history. The additional caution concerning geologic conditions that followed from those events 28 years ago has been forgotten by many people.

### **The Interests of Neighbors**

Planning's letter to the Planning Commission states that: "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." Needless to say we find this statement to be unconvincing.

**How exactly are neighbors' interests protected by systematically permitting increased lot coverage, reduced setbacks and taller building height and changing the Floor Area Ratio?**

### **"As Built Structures"**

The issue of the legalization of "as built structures" being proposed is explained in Planning's letter to the Commission as follows:

#### *"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 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."

This language is remarkably vague for such a crucial issue. It creates a reverse incentive to construct buildings "without benefit of a permit".

What specifically does *this* mean for instance? "Such an exception would be granted only in

EXHIBIT G-4



conjunction with other required code compliance activities by the owner, such as ensuring that the structure was safely constructed, and upon example.....". Does "a code compliance activity" mean that the house is sort of built to code?

If this code change is approved, a property owner, knowing in advance the constraints of an inexpensive lot they purchased, could then build a house without permits, with the specific intent to avoid certain standards, like for instance a set-back, parking or emergency access problem, a building that does not meet energy efficiency standards or that encroaches upon another property. These are just a few of many possible examples.

County should not be creating further incentives to construct entire houses without permits. To make intentionally un-permitted, "as built" structures, subject to certain virtually automatic variances is an astonishing suggestion.

#### Conclusion

The Sierra Club is very conscious of the difficult and contentions job of the Planning Department. We know that there are dedicated people in this department who every day confront complex demands from property owners who do not understand or accept the reasons why the Planning and Zoning Code are so complex.

We also understand that there are illogical choke points in the code that should be corrected. However, systematically dialing back fundamental code limits is not the way to solve these problems.

We also understand that there are situations where homeowners should have more flexibility. It is the details of how this "flexibility" is defined and administered that we are challenging. The proposal before you is far too open-ended, broad and ill defined. There has been no attempt whatsoever to understand the long- term environmental impacts of these changes.

Santa Cruz County still retains parts of its rural and village-like character. We are advocating for the sustaining of this character and for the conservation of the splendid elements of nature that still exist in this county. Zoning and environmental codes are the foundation of any effort to maintain and sustain these values which many people take for granted. Without good code, and compliance with this code, this County will simply become another victim of uncontrolled development.

Regards,



Kevin Collins

Vice Chair, Sierra Club, Santa Cruz County Group

Jonathan Wittwer  
William P. Parkin  
Ryan D. Maroney

**WITTWER & PARKIN, LLP**  
147 SOUTH RIVER STREET, SUITE 221  
SANTA CRUZ, CALIFORNIA 95060  
TELEPHONE (831) 429-4066  
FACSIMILE (831) 429-4057  
E-MAIL: [office@wittwerparkin.com](mailto:office@wittwerparkin.com)

OF COUNSEL  
Gary A. Patton

November 15, 2010

**HAND DELIVERED**

Board of Supervisors  
701 Ocean Street  
Santa Cruz, CA 95060

Re: Board Agenda for November 16, 2010  
Ordinance Amendments Regarding Minor Exceptions to Certain Zoning  
Standards

Dear Members of the Board:

This office submits the following letter in opposition to the proposed changes to the County Code regarding Minor Exceptions for Certain Zoning Standards. The Santa Cruz Group of the Sierra Club has already sent a letter on this same issue, and raises some of the same concerns.

**The Proposal Violates CEQA**

First and foremost, the proposed changes to the County Code must undergo environmental review. The Staff Report claims that the proposed changes are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline § 15265 because the amendments are "necessary for the amendment of a local coastal program." However, the change will apply throughout the County, not just in the Coastal Zone. Therefore, the exemption does not apply, and under the law, CEQA exemptions must be construed narrowly.

The Staff Report also claims that review is exempt pursuant to CEQA Guideline § 15305, which applies to minor alterations in land use limitations. However, this exemption is clearly for individual projects, not a wholesale revision to standards that apply throughout the County. It applies to project specific approvals such as minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel, and issuance of minor encroachment permits. The Guideline does not exempt the drafting of regulations regarding these types of uses. Moreover, the changes are anything but minor. The proposal changes longstanding regulations

**EXHIBIT G -**

Board of Supervisors  
Re: Approval of Code Amendments for Minor Exceptions  
November 15, 2010  
Page 2

regarding land use in the County and the changes can be cumulatively significant as a time. Section 15305 has also an added proviso that "minor alterations in land use limits apply throughout the County and are not limited to areas of the County with slopes of less than 20%." However, these changes to the County Code will apply throughout the County and are not limited to areas of the County with slopes of less than 20%. Furthermore, assuming for the sake of argument that the exemption applied, the exceptions to the exemptions under CEQA Guideline 15300.2 apply because properties in sensitive habitats will be able to employ these new exceptions since it is Countywide and the Staff Report cites location of development in sensitive habitats as being able to take advantage of the exceptions, and there will be cumulative impacts associated with implementation of the exception.

Finally, the proposed changes violate CEQA because the County is "piecemealing" or "segmenting" environmental review concerning multiple regulatory "reforms" that the County is processing concurrently. For instance, the County Board of Supervisors will also be considering amendments to the County Code to allow garages and carports within side and rear yard setbacks on December 7, 2010. These particular changes in the County Code have the same effect on the environment with respect to exceptions to the standards such as height and setbacks. Indeed, they all deal with similar subject matters that affect aesthetics and neighborhood harmony. The impact of these regulations must be examined in one environmental document. CEQA Guidelines Section 15378(a) states that CEQA requires an entity to analyze the "whole of an action." 14 CCR § 15378(a). Legal precedent has long established that the environmental impacts of a project cannot be submerged by chopping a larger project into smaller pieces. See *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 592.

### **The Proposal Violates Fundamental Rules Concerning Variances**

The Staff Report states that the proposal is a subset of variances that can be approved administratively without a public hearing. It is true that Government Code § 65901 allows the County to specify certain kinds of variances that can be granted administratively without a public hearing. However, the proposal before the Board makes substantive changes to the zoning code that go beyond what is permitted in the Government Code. See Government Code § 65906. For instance, the code amendment allows the minor exceptions to be granted when the proposal "would result in a project design or siting that is inferior to what could be achieved with a minor exception." This is not a proper subject for a variance.

Government Code § 65906 provides:

Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

EXHIBIT G

Board of Supervisors  
 Re: Approval of Code Amendments for Minor Exceptions  
 November 15, 2010  
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Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property...

[Emphasis added]. A property owner's desire to expand development does not justify a determination that there is a hardship.

No doubt continued use of the variance lot for these purposes would be of great benefit to the defendants, but the fact remains that the lot was purchased with full knowledge of its restrictions, and furthermore, the expansion program undertaken by the defendants was promulgated in the face of those same restrictions. ...

Thus, while there is no doubt that some hardship exists, such hardship is the result, not of external circumstances, but of defendants' own expansion program. This is not enough to entitle defendants to relief. As this court recently pointed out, "Self-induced hardship is not within the purview of the ordinance. Only that type of hardship which inheres in the particular property is recognized, -- such as inability to use it for purposes of its existing zoning caused by the prevailing uses of surrounding property. . . . One who purchases property in anticipation of procuring a variance to enable him to use it for a purpose forbidden at the time of sale cannot complain of hardship ensuing from a denial of the desired variance. (Citation).

*San Marino v. Roman Catholic Archbishop* (1960) 180 Cal. App. 2d 657, 672-673; *see also, Atherton v. Templeton* (1961) 198 Cal. App. 2d 146, 154. Moreover, special circumstance only exists "if this property cannot enjoy privileges enjoyed by other property in the vicinity." *Orinda Assn., supra* 182 Cal. App. 3d at 1167. (emphasis in original).

The Supreme Court requires that public agencies follow strict requirements for processing applications for variances. Starting in 1967, in *Broadway, Laguna, Vallejo Association v. Board of Permit Appeals of City and County of San Francisco* (1967) 66 Cal.2d 767, the Supreme Court applied stringent standards to the issuance of a variance and overturned the issuance of a variance because, *inter alia*, it did not comply with the required "exceptional or extraordinary circumstances or conditions." "Discretionary power to disregard a basic planning code regulation whenever the board believes that the objectives of that regulation have been fulfilled in a particular building would probably prove impossible to control and might well undermine the entire zoning plan . . . ." *Id.* at 779-780, fn 12. A few years later, the Supreme Court decided the landmark land-use case *Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506. There the Court noted that a zoning scheme is similar to a contract in that each party foregoes rights to use its land as it wishes in return for the assurance that the use of neighboring properties will be similarly restricted. The underlying rational for this arrangement is that such mutual restriction can enhance

EXHIBIT G -

Board of Supervisors  
 Re: Approval of Code Amendments for Minor Exceptions  
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the total community welfare.

The *Topanga* Court also directed that lower courts must "meaningfully" review an agency's grant of a variance in order to protect the interests of those who hold rights in property nearby the parcel for which a variance is sought. If the interests of these parties in preventing unjustified variance grants for neighboring properties are not protected, the consequence will be the subversion of the "critical reciprocity" upon which zoning regulation exists. *Id.* at 517. Similarly, in *Orinda Assn. v. Board of Supervisors of Contra Costa County* (1986) 182 Cal. App. 3d 1145, 1161 - 1162, the court held:

A zoning scheme, after all, is similar in some respects to a contract; each party forgoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare. [Citations.] If the interest of these parties in preventing unjustified variance awards for neighboring land is not sufficiently protected, the consequence will be subversion of the critical reciprocity upon which zoning regulation rests.

Moreover, a more contemporary appellate decision held:

Whereas the adoption of zoning regulations is a legislative function (Gov. Code, § 65850), the granting of variances is a quasi-judicial, administrative one. [Citations.] If the judiciary were to review grants of variances superficially, **administrative boards could subvert this intended decision-making structure.** [Citation.] They could "[amend] ... the zoning code in the guise of a variance" [citation], and render meaningless, applicable state and local legislation prescribing variance requirements. Moreover, courts must meaningfully review grants of variances in order to protect the interests of those who hold rights in property nearby the parcel for which a variance is sought. A zoning scheme, after all, is similar in some respects to a contract; each party forgoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare. [Citations.] If the interest of these parties in preventing unjustified variance awards for neighboring land is not sufficiently protected, the consequence will be subversion of the critical reciprocity upon which zoning regulation rests. Abdication by the judiciary of its responsibility to examine variance board decision-making when called upon to do so could very well lead to such subversion....

*Stolman v. City of Los Angeles* (2003) 114 Cal. App. 4th 916, 923-924 [emphasis added].

We believe that the proposal before the Board is not legal in that it attempts to alter standards through a discretionary "exception" process, which is a variance. Because it is a variance, and the Staff Report admits it is a variance, it must comport with the requirements of Government Code § 65906. The fact that one of the rationales for allowing these exceptions is to

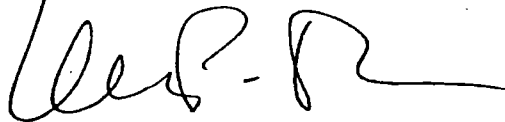
EXHIBIT G

Board of Supervisors  
Re: Approval of Code Amendments for Minor Exceptions  
November 15, 2010  
Page 5

recognize structures built without permits proves the point that this is not at all proper. Indeed, landowners building without permits should not be rewarded for their misdeeds.

Thank you for your consideration of these comments.

Very Truly Yours,  
WITTWER & PARKIN, LLP

A handwritten signature in black ink, appearing to read 'W.P. Parkin', with a long horizontal flourish extending to the right.

William P. Parkin

EXHIBIT G



# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

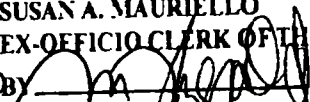
701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
 (831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
 KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

### APPROVED AND FILED BOARD OF SUPERVISORS

November 19, 2010

DATE: 12/07/2010

AGENDA DATE: December 7, 2010

Board of Supervisors COUNTY OF SANTA CRUZ  
 County of Santa Cruz SUSAN A. MAURIELLO  
 701 Ocean Street EX-OFFICIO CLERK OF THE BOARD  
 Santa Cruz, CA 95060 BY  DEPUTY

**SUBJECT: REQUEST TO CONTINUE THE PUBLIC HEARING TO CONSIDER THE PLANNING COMMISSION'S RECOMMENDATION TO ADOPT ORDINANCE AMENDMENTS TO SANTA CRUZ COUNTY CODE SECTION 13.10.323, REGARDING ALLOWING GARAGE AND CARPORT STRUCTURES TO BE LOCATED WITHIN SIDE AND REAR YARD SETBACK AREAS ON RESIDENTIAL PARCELS**

Members of the Board:

Earlier this year, your Board directed Planning staff to review and consider ordinance revisions to allow garages in rear yards in order to encourage options for the placement of garages away from the street frontage.

On October 27, 2010 the Planning Commission held a public hearing on the proposed ordinance amendments, and recommended that your Board approve the amendments. On November 9, 2010, staff requested and your Board scheduled a public hearing for December 7, 2010, to consider the proposed amendment.

Based to your Board's comments on the proposed Minor Exception ordinance made at your November 16, 2010 meeting, Planning staff requests additional time for further review and refinement of this proposed ordinance amendment.

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

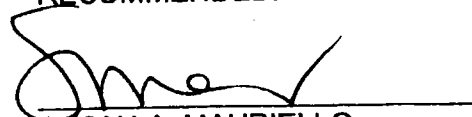
1. Open the public hearing and take public testimony, and
2. Continue the public hearing to your January 25, 2011 meeting.

Sincerely,



Kathy M. Previsich  
 Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO  
 County Administrative Officer

EXHIBIT C

0511

**SANTA CRUZ COUNTY  
BOARD OF SUPERVISORS INDEX SHEET**

---

**Creation Date:** 12/1/10

**Source Code:** PLANN

**Agenda Date:** 12/7/10

**INVENUM:** 64621

**Resolution(s):** \_\_\_\_\_

**Ordinance(s):** \_\_\_\_\_

**Contract(s):** \_\_\_\_\_

**Continue Date(s):** [1] 1/25/11

**Index:** --Letter of the Planning Director, dated November 19, 2010

- Item: 67.** Public hearing held to consider the recommendation of the Planning Commission for amendments to the Santa Cruz County Code regarding allowing garage and carport structures to be allowed within side and rear setback areas on residential parcels, subject to certain provisions;
- (1) opened public hearing to receive public testimony; and
  - (2) continued public hearing to January 25, 2011

**EXHIBIT C**





# COUNTY OF SANTA CRUZ

## 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

October 12, 2010

Agenda Date: October 27, 2010

Item #: 10

Time: After 9 AM

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

**Subject: Proposal to Amend County Code Section 13.10.323 to Allow Garages and Carports to be Located Within Side and Rear Setback Areas**

Members of the Commission:

The proposal before you to amend the development standards for residential districts regarding the placement of garages and carports would result in more flexible site design options, encourage more functional and community-friendly front yard spaces and allow for minimization of the visual impacts of off-street parking as seen from neighborhood streets.

### Background

During the public hearings for the Pleasure Point Combining District Standards, the County Board of Supervisors directed Planning staff to review and consider ordinance revisions to allow garages in rear yards in order to encourage options for the placement of garages away from the street frontage. Staff determined that this review should be expanded to consider location alternatives for carports located in side or rear yards, as well. It has been recognized that allowing some flexibility in the location of garages and carports may encourage more pedestrian-friendly streetscapes and help to maintain a neighborhood residential architectural character, particularly in situations involving small lots or parcels with other constraints.

Staff has reviewed ordinance requirements for garages in other jurisdictions and solicited comments from within the Planning Department in order to arrive at the attached proposed ordinance language. Other jurisdictions that responded to our queries regarding their reduced garage setback regulations reported no significant problems or negative impacts.

### Current Regulations

Currently, accessory structures less than 120 square feet in size and less than 10 feet in height are allowed to within three feet of the side and rear property lines, as stated in County Code 13.13.10.323(e)(6)(B). Any structures above that size limit must

EXHIBIT G

County Code Section 13.10.323 Regarding Site Standards for Placement of Garages in Residentially-Zoned Districts  
Agenda Date: October 27, 2010

located outside of the required side and rear setbacks specified for each zone district, unless a Variance approval is obtained under the provisions of County Code 13.10.230.

### **Proposed Regulations**

New ordinance language is proposed under County Code 13.10.323(e), the section that covers "Site and Structural Dimension Exceptions Relating to Structures". Under subsection # 6, "Accessory Structures", "(F) Garages and Carports" would be added as types of accessory structures that may be located up to three (3) feet from the interior side and rear property lines.

On a parcel with a side setback adjacent to street frontage, there is the potential for a garage within a street-facing setback to adversely affect sight lines or neighborhood character; thus the proposed ordinance would specify that only interior side setback reductions would be allowed by right. The proposed ordinance would allow for additional setback reductions to be considered with a Level IV discretionary approval where the applicable finding could be made. Current regulations allow an attached or detached carport, open on all four sides, to be located as close as five feet from a right-of-way if there is a difference of at least seven feet in grade within the first fifty feet of the lot (as measured from the center of the road).

Impacts to neighboring properties would be mitigated through the provision that no windows, doors or other openings would be allowed on garage walls that face toward adjacent property lines if sited within the required setback areas. Additionally, it is proposed that a garage or carport wholly or partially located within the rear and side setbacks would be limited to one story and a maximum height of 17 feet, unless a Level IV exception to this standard was approved. Eaves or other projections would not be allowed to encroach beyond two feet from the side and rear property lines, consistent with the California Building Code.

On certain parcels, it may be advantageous to allow up to a zero setback for a garage or carport to the side and/or rear property lines in the interest of the best site design. Under the proposed ordinance, a Level IV exception could be approved, subject to the finding that an additional setback reduction would not unreasonably infringe on adequate light, air or privacy of adjacent residences.

The proposed regulations would allow for more flexibility in the placement of a garage or carport on a parcel, which in turn would create opportunities for better landscaping and well-designed outdoor living areas, a more appealing streetscape and the potential to "hide" more of the required off-street parking.

### **Environmental Review**

The proposed changes to the residential site standards to allow for garages and carports within interior side and rear setbacks are exempt from environmental review according to Section 15305(a), Minor Alterations in Land Use Limitations of the California Environmental Quality Act Guidelines because the proposed amendment to ordinance language would not result in any changes to land use or density nor allow the creation of new parcels. Further, the proposed ordinance amendment would also be

County Code Section 13.10.323 Regarding Site Standards for Placement of Garages in Residentially-Zoned Districts  
 Agenda Date: October 27, 2010

statutorily exempt pursuant to CEQA Section 15265 because the proposed ordinance amendment is subject to California Coastal Commission Local Coastal Plan certification.

### **Local Coastal Program Consistency**

The proposed ordinance amendments will not result in any loss of agricultural land, loss of coastal access, or any negative impacts to public viewsheds within the Coastal Zone. The proposed amendments to allow garages and carports within interior side and rear setbacks is only applicable to one-story non-habitable garage or carport structures, and will allow more flexible options for the placement of these structures in a manner that could serve to further protect public viewsheds. While garage or carport placement nearer to a property line could potentially impact coastal views if near the coast, the garage or carport would be subject to design review as part of coastal permit issuance, which will serve as a check to any coastal viewshed disruption. The amendments therefore meet the requirements of, and are consistent with, the County's certified Local Coastal Program (LCP) and the California Coastal Act. However, as an amendment to County Code Chapter 13.10, the implementation of the proposed changes to allow garages and carports within side and rear setbacks is considered a "Coastal Implementing Ordinance" and will therefore require review and certification by the Coastal Commission subsequent to the Board's action.

### **Conclusion**

In the on-going regulatory reform efforts to make appropriate changes to the County's land use regulations, and in order to encourage flexible and community-appropriate site design without compromising environmental protection, the proposed changes will provide more and better options for residential site design. Flexible options for the siting of garages and carports and parking areas will have the potential to have a positive impact on neighborhood character, particularly by allowing structural placement on constrained parcels that maximize the opportunities for more front yard area for landscaping, porches and other features that encourage community life and create a more appealing streetscape.

### **Recommendations**

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

1. Conduct a public hearing on the proposed ordinance amendments to Chapter 13.10.323 implementing changes in development standards for residential districts in regards to allowing for the placement of garages and carports in the rear and side yard setbacks under certain provisions; and
2. Adopt the resolution (Exhibit A) recommending that the Board of Supervisors approve the proposed ordinance amendments and certify the Environmental Notice of Exemption (Exhibit C).

**EXHIBIT**

County Code Section 13.10.323 Regarding Site Standards for Placement of Garages in Residentially-Zoned Districts  
Agenda Date: October 27, 2010

Sincerely,

Alice Daly/gh  
Alice Daly, AICP, Planner

Glenda Hill  
Glenda Hill, AICP, Principal Planner

Exhibits:

- A. Planning Commission Resolution, including strikethrough/underline draft ordinance
- B. "Clean" draft ordinance
- C. Notice of Exemption from Environmental Review

cc: California Coastal Commission

EXHIBIT G

A

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 AMENDMENT OF  
SECTION 13.10.323 OF THE SANTA CRUZ COUNTY CODE TO ALLOW LOCATION OF  
GARAGES AND CARPORTS WITHIN SIDE AND REAR SETBACK AREAS

WHEREAS, the County of Santa Cruz regulates site standards for the location of development in the side and rear yard setbacks of residential districts for the following purposes: 1) to provide for privacy screening of these yard areas; and 2) to ensure that light and air of abutting properties are protected; and

WHEREAS, the County Planning Department administers development standards for residential districts through County Code Section 13.10.323; and

WHEREAS, the County of Santa Cruz is conducting on-going regulatory reform efforts to make changes to the County's land use regulations where appropriate to encourage flexible and community-appropriate site design without compromising environmental protection and the quality of the built environment; and

WHEREAS, the proposed amendments to the development standards for residential districts regarding the placement of garage and carport structures appurtenant to residential uses would result in more flexible overall site design options that would encourage more functional and community-friendly front yard space and allow for minimization of the visual impact of off-street parking areas; and

WHEREAS, the Planning Commission has held a duly noticed public hearing on October 27, 2010, and has considered the proposed amendments, and all testimony and evidence received at the public hearing; and

WHEREAS, the Planning Commission finds that the proposed amendments to the Santa Cruz County Code will be consistent with the policies of the General Plan and Local Coastal Program and other provisions of the County Code; and

WHEREAS, the Planning Commission finds that the proposed amendments are exempt from further review under the California Environmental Quality Act Sections 15265 and 15305(a); and

EXHIBIT G

WHEREAS, Chapter 13.10 of the County Code is an implementing ordinance of the Local Coastal Program (LCP) and the proposed amendments to Section 13.10.323 constitute amendments to the Local Coastal Program; and 0517

WHEREAS, the proposed amendments are consistent with the California Coastal Act.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends the proposed amendments to County Code Section 13.10.323 and the CEQA Notice of Exemption be approved by the Board of Supervisors and submitted to the California Coastal Commission as part of the next 2010 Local Coastal Program Round.

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

ATTEST:

\_\_\_\_\_  
Cathy Graves, Secretary

APPROVED AS TO FORM:

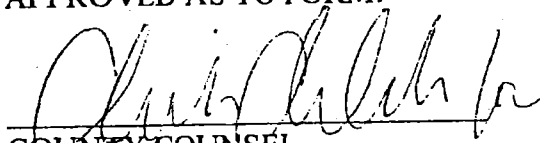
  
\_\_\_\_\_  
COUNTY COUNSEL

EXHIBIT C

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

**AN ORDINANCE AMENDING SECTION 13.10.323(e)6E AND ADDING  
SECTION 13.10.323(e)6F TO THE SANTA CRUZ COUNTY CODE TO ALLOW  
GARAGES AND CARPORTS TO BE LOCATED WITHIN SIDE AND REAR  
SETBACKS SUBJECT TO CERTAIN PROVISIONS**

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

**SECTION I**

Subsection (e)6E of Section 13.10.323 of the Santa Cruz County Code is hereby amended to read as follows:

Distance from Alleys. Detached accessory structures including garages and carports shall not be located within six ~~three~~ feet of any alley.

**SECTION II**

Section 13.10.323(e)6F is hereby added to the Santa Cruz County Code to read as follows:

Garages and Carports within Required Rear and Side Yards. An attached or detached garage ("garage" as defined under 13.10.700-G) or carport located within a required rear yard may be constructed to within three (3) feet from the interior side or rear yard property line, provided that:

- (i) There shall be no windows, doors or other openings on the garage walls that are adjacent to the side and rear yard setback lines;
- (ii) No eaves or other projections shall extend closer than two feet from the rear and side yard property lines.
- (iii) The garage or carport shall have a maximum overall height not to exceed 17 feet or 1 story, unless a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it can be found that:
  - 1. The garage or carport will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

EXHIBIT C

- (iv) A garage or carport may be located up to zero (0) feet from the property line if a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it can be found that:

1. The garage or carport will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

### SECTION III

This Ordinance shall take effect 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.

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

\_\_\_\_\_  
Chair of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

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

Copies to:        County Counsel  
                         Planning Department



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

**AN ORDINANCE AMENDING SECTION 13.10.323(e)6E AND ADDING  
SECTION 13.10.323(e)6F TO THE SANTA CRUZ COUNTY CODE TO ALLOW  
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- (i) There shall be no windows, doors or other openings on the garage walls that are adjacent to the side and rear yard setback lines;
- (ii) No eaves or other projections shall extend closer than two feet from the rear and side yard property lines.
- (iii) The garage or carport shall have a maximum overall height not to exceed 17 feet or 1 story, unless a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it can be found that:
  - 1. The garage or carport will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

**EXHIBIT G**

(iv) A garage or carport may be located up to zero (0) feet from the property line if a Level 4 approval is obtained pursuant to the provisions of Chapter 18.10, and it can be found that:

1. The garage or carport will not be detrimental or injurious to property or improvements in the neighborhood, and will not unreasonably infringe on adequate light, air or privacy of adjacent residences.

### SECTION III

This Ordinance shall take effect 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.

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

\_\_\_\_\_  
Chair of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

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

Copies to:           County Counsel  
                          Planning Department

**EXHIBIT G**

# CALIFORNIA ENVIRONMENTAL QUALITY ACT

## NOTICE OF EXEMPTION

0522

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 CEQA for the reason(s) which have been specified in this document.

Project Location: County of Santa Cruz, CA

**Project Description:** Proposal to amend Chapter 13.10.323 of the Santa Cruz County Code to allow an exception to structural setback requirements for garages and carports on residential parcels under specific circumstances.

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

**Contact Phone Number:** 831-454-2580

- 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).

Specify type: CEQA Section 15265, Adoption of Coastal Plans and Programs

- E. ☒ Categorical Exemption

Specify type: CEQA Section 15305(a), Minor Alterations in Land Use Limitations

**F. Reasons why the project is exempt:**

The project is a proposal to amend County Code Section 13.10.323 ordinance language to allow an exception to structural setback requirements for garages and carports on residential parcels, subject to certain provisions. The proposed ordinance amendment is subject to California Coastal Commission local coastal plan certification.

Further, the proposed ordinance amendment would not result in any changes to land use or density nor allow the creation of new parcels.

In addition, none of the conditions described in Section 15300.2 apply to this project.

Alice Daly / gph.  
Alice Daly, AICP, Project Planner

Date: 10-13-10

EXHIBIT C

### 13.10.230 Variance Approvals.

(c) Findings. The following findings shall be made prior to granting a Variance Approval in addition to the findings required for the issuance of a Development Permit pursuant to Chapter 18.10:

1. That because of special circumstances applicable to the property, including size, shape, topography, location, and surrounding existing structures, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.
2. That the granting of such variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety or welfare or injurious to property or improvements in the vicinity.
3. That the granting of such variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated.

EXHIBIT G



**SANTA CRUZ COUNTY GROUP**  
 Of The Ventana Chapter  
 P.O. Box 604, Santa Cruz, CA 95061 • phone (831) 426-4453  
[www.ventana.sierraclub.org](http://www.ventana.sierraclub.org) • e-mail: [scscrg@cruzio.com](mailto:scscrg@cruzio.com)

January 19, 2011

Santa Cruz County Board of Supervisors  
 701 Ocean St. 5th Floor  
 Santa Cruz, CA 95018

Subject: **Planning Public Policy** Scheduled Hearing Date January 25, 2011

Re: ORDINANCE AMENDING CHAPTER 13.10 OF THE SANTA CRUZ COUNTY CODE TO ESTABLISH  
 A PROCESS TO ALLOW CONSIDERATION OF EXCEPTIONS FROM CERTAIN ZONING SITE  
 STANDARDS

Greetings County Board of Supervisors,

This letter and attached photo document will address the proposed changes to the County Zoning Code adding Section 13.10.235 to Chapter 13.10 "zoning site standards". The Sierra Club understands that the zoning code (and related subdivision law) are the basis of all land use regulation, and as such, have a primary importance for consideration of environmental impacts and good, forward looking, urban and rural planning.

The attached photo document demonstrates recent errors and questionable policy decisions on the part of the Santa Cruz County Planning Department. We will show how these presented examples are fundamentally related to the ordinance language changes under deliberation.

The meaning of "findings" and "mitigating" or "extenuating circumstances" as they apply to Variances now being presented as "minor exceptions" must address the actual impact of the zoning code changes you are considering. Otherwise, the existing language combined with this current proposal will further promote Exceptions and Variances in general, damaging the environment and neighborhood quality of life.

The examples presented in the addendum to this letter show where exceptions to zoning code standards can lead to unsafe properties, and to development that avoids the environmental protection provisions in the code that Planning continues to assert are not undermined by the proposed ordinance language.

The following quote is from the CEQA Initial Study and the Negative Declaration: "Surrounding

**EXHIBIT G**

land uses would be all of the land uses found in the unincorporated portion of the County." This statement displays the broad scope of unidentified cumulative impacts in these proposed changes to County Code that your Board is considering.

### **California Environmental Quality Act**

The Initial Study itself is a perfunctory and insincere document. It accomplishes virtually none of the goals required by the California Environmental Quality Act. Your staff produces these Negative Declarations in a pre-prepared format that fails to inform this discussion or accomplish the intent of CEQA to make certain that all possible impacts are addressed and that alternative options for this project are considered. We have some suggestions at the end of this letter.

**The fact that this proposed ordinance change will apply to *all* land parcels, whether or not they are urban or rural, whether or not they are already developed or are wild undeveloped mountain lands or rare coastal prairie, is completely absent from written consideration by the Planning Department in their CEQA Initial Study.**

We find this simple fact to be most alarming, and it thoroughly invalidates the Initial Study and Negative Declaration, because the document fails to provide the "full disclosure" that CEQA mandates.

This is exactly the case in regard to the County's Storm Water Management Plan with the Regional Water Quality Control Board and State Water Resources Control Board (State Boards). It also applies to the County's National Pollution Discharge Elimination System permit. The County cannot ignore the fact that increased cumulative roof area from expanded buildings and additions, and more impervious paving, back yard garages and carports, will contribute to more polluted runoff defined in the County SWMP. These "minor exceptions to site standards" in the proposed ordinance changes will increase Storm Water discharges into streets, surface and sub-surface drainage infrastructure and into streams and wetlands in the County, all of which lead to the Monterey Bay National Marine Sanctuary. The County has yet to demonstrate any reductions in water pollution levels as a result of the adoption of their SWMP, therefore the County cannot assert that the mere fact that these permits and plans exist is proof of their effectiveness.

A similar argument can be made concerning the County's claim that their environmental ordinances are unaffected by these zoning ordinances changes. We demonstrate in the addendum to this letter how geologic hazard is overlooked and that the riparian protection ordinance is subject to excessive and systematic exceptions. These exceptions to the ordinance are based upon a "lowest common denominator" standard in which the worst house sites, in regard to compliance with this ordinance, become the example for other houses choosing to build in the setback or otherwise degrade it. When the County begins to enforce these environmental codes then they can begin to legitimately assert that they have some meaning in regard to environmental quality and protection.

**EXHIBIT C**

All of the examples presented to you, and to the Planning Commission by staff, of situations where parts of this proposed ordinance change might be reasonable, are within the Urban Services Line. This fact alone shows how inadequate this review process has been, since the ordinance applies everywhere, not just within those portions of the County, which are already developed at urban densities.

### **Planning Process**

We understand that County Planning is a complex, difficult and contentious task. It is *not* our intent to cast aspersions upon individuals involved.

The rigid application of planning and zoning code requirements can be of great frustration to building permit applicants who are told that their desire to add a bedroom requires a hearing before Planning Commission. Good code is hard to write and there will always be situations where the code seems in conflict with a sensible solution. There is no simple answer to this dilemma. It is a major reason we have a Planning Commission to resolve these dilemmas.

One suggestion for reform that has not been considered in this proposal is that the complexity of a specific Variance application should accurately reflect the cost/expense charged by Planning for access to the Variance process. Simple questions should not cost the applicant \$3000+ to answer. Planning should recover its legitimate expenses but not over charge people unnecessarily.

### **Original Subdivision Patterns**

The real and oddly unspoken reasons for the complexity of the County Planning and Zoning Code is related to the simple fact that Santa Cruz County was largely subdivided before there was any real consideration of what constituted a sensible building parcel.

Your predecessors in this County's government allowed thousands of absurd and problematic lots to be created a century ago. Many of these lots were built upon, and now these houses are in bad locations, such as the scores of homes slowly falling into the San Lorenzo River.

Many homeowners on these countless sub-standard lots cannot enjoy all the privileges they would otherwise enjoy if they owned imaginary large, flat, roomy building sites, with ample parking, and extensive septic system expansion areas, where they could reasonably continue enlarging their homes and building arrays of charming rented accessory dwelling units.

This however, is the apparent objective of the ill-conceived proposal before you, to weaken the zoning code, and remove the necessity of a Planning Commission public hearing for a Variance from specific Zoning Site Standards. Some parts of this proposal may be reasonable but others are not, and their combined cumulative effect has not been considered at all.

**EXHIBIT G**

I was once a licensed general building contractor and worked in several California jurisdictions, including Marin County, San Francisco, Oakland, Palo Alto and Los Altos as well as Santa Cruz County. The situation in Santa Cruz County is remarkable when compared with my experience in these other areas. If there is a single reason for this difference, it is the peculiar subdivision patterns in Santa Cruz County.

### **Inside the Urban Services Line**

We, do not think that your Board wishes to further compact together already tightly situated homes.

However these "exceptions to site standards" will result in, more closely spaced, taller houses, with smaller back yards replaced by garages, less space for trees and gardens, less privacy, and more noise disputes between neighbors. Any hope for better storm water management is undermined.

If Planning wants to write code for row-houses like those in San Francisco, they should suggest changes to the codes for multi-unit dwellings, or ask the public if they want to do away with side yards altogether. **Every property owner will have simultaneous access to every one of these proposed weaker site standards for each building.**

### **Effect upon environmental protection provisions of the code**

A prime example of how the environmental protection portions of the existing code is undermined by the existing Variance process is **Code Section 16.30 Riparian Corridor and Wetlands Protection**. The Variance provisions in the code state that (insert) "[if] the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification [*then a Variance is appropriate.*]" [See interpretation below]

This "special circumstances" language sets a "lowest common denominator" standard for compliance. **This situation holds sway all across the rural areas of this county and renders the Riparian Corridor Ordinance moot and irrelevant in many situations.**

In other words, if neighboring houses are only 20 feet from a stream bank, then all expanded, new, or re-built houses seeking their own riparian exception in that vicinity can have the same privilege to invade and nullify the Riparian Corridor Ordinance. This is a continuous process that we have never seen addressed. This has contributed to the extirpation of coho salmon from Santa Cruz County and the "threatened" ESA status of steelhead.

**EXHIBIT G**



### 13.10.250 Interpretation [ regarding Variance approval ]

The Zoning Administrator shall be responsible for the interpretation of the provisions of this Chapter for their application to any specific case or situation, interpretation of whether a proposed use is essentially the same as a use allowed in the zone district, or interpretation of the boundary location of a zone district, based on the following guidelines, subject to appeal to the Board of Supervisors pursuant to Chapter 18.10:

(a) In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare.

A "minimum requirements" standard does not impress us a good standard for the County's obligation to protect the environment and public health, safety, comfort and general welfare.

The proposal before you for "minor exceptions" does not further weaken this code section in specific language. However in practice, it further undermines environmental standards.

#### Inserted for reference

#### 13.10.230 Variance Approvals.

- (c) 1. That because of special circumstances applicable to the property, including size, shape, topography, location, and surrounding existing structures, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. [i.e. lowest common denominator]
2. That the granting of such variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety or welfare or injurious to property or improvements in the vicinity.
3. That the granting of such variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated.

#### Code in actual practice in rural mountain areas

To understand the logic of our position, one needs to understand the manner in which constrained mountain parcels are developed.

A mountain parcel will often have several problems such as slope, geology, septic system soils or land slope, road setbacks, driveway turn radius for fire access and so on. The developer, architect or building contractor will "play chess" with the parcel deciding which type of code to seek Exception or Variance from.

Thus if placing the house footprint into the road setback will solve another problem with a different site standard, such as geologic hazard or septic leach field location, then a "minor exception" variance as proposed makes an "undevelopable" parcel suddenly ready for construction without even consideration by the Planning Commission.

EXHIBIT C

This is another example of why the CEQA Negative Declaration itself is non-sense. The true environmental impacts have not even been disclosed or discussed, let alone mitigated.

### **Ways this code change proposal might be improved**

1. This proposal should never apply outside the Urban Services Line.
2. This proposal should not reserve the decision regarding the right of the public to a public hearing to the discretion of the Planning Director. If so, one neighbor speaking up may be denied a hearing; when 10 are speaking up they will be granted a hearing. The proposal as written discriminates against owners of homes in low-density rural areas, where it is virtually always more personally dangerous for residents to object to the development plans of other landowners.
3. This proposal should NEVER apply to undeveloped parcels, newly created sub-division lots OR to any parcels with environmental restrictions such as, sensitive habitats, geologic hazards, riparian corridors or slopes over 30% etc.
4. For areas inside the Urban Services Line, establish an absolute limit upon impermeable surface coverage percentages; this means building roof area plus hard pack parking area vs. open vegetated ground. Thus if the buildings are too tightly packed and there is too much asphalt and other hard surface drainage, then parcels in a defined assessment area of perhaps 2 acres around the proposal, would not be eligible for these "minor exceptions."
5. No individual building or a development of several+ structures in any zone district should have the benefit of all these exceptions in the same development permit. Otherwise you convert "minor exceptions" into a broad change to site standards in general. **The "minor exceptions" become basic code in practice.**

### **Conclusion**

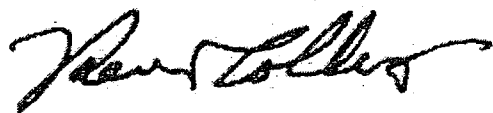
These are just a few suggestions for improvement. We do not accept this proposal. We however understand that there are occasions when Planning Code can force useless and expensive reviews to occur. Code is hard to write and administer but that is the job of County Planning and County Environmental Health. There will always be situations when the code, when applied to a specific situation, seems illogical and unnecessary. This is a dilemma of good public administration. Good planning is not easy but it is absolutely necessary for the future of Santa Cruz County.

We have watched a long-term erosion in the sound application of the provisions of the Zoning, Building, and Septic Code. We are very concerned and so should you be, as our elected Board of Supervisors. Santa Cruz County has always prided itself on being an attractive, harmonious and tranquil place to live where people have respect for nature and the environment. This area

**EXHIBIT C**

could quickly change within a few decades into another type of county altogether, something like the Santa Clara Valley or Santa Monica for instance. We are asking you as a Board, as our elected representatives, to demonstrate a restored commitment to the principles upon which the County Code was written. It is not just "a pile of paper"; the code is a commitment to sound planning administration in the public interest.

Regards,

A handwritten signature in black ink, appearing to read "Kevin Collins", with a stylized, cursive script.

Kevin Collins,  
Chair,  
Santa Cruz County Group, Sierra Club, Ventana Chapter

## Addendum

The intent in presenting these examples is to address Planning and Environmental Health policy questions in the broad sense, not to direct attention to these few example properties. I have no doubt whatsoever that a thorough survey of all the rural areas of the County would reveal many similar situations.

Your Board is considering weakening zoning code site standards. This issue bears upon the questions these examples reveal.

The application of zoning and building code cannot be separated from questions of how the Planning Code itself is administered.

It is one thing to claim that the proposed changes to zoning site standards have no significant impact upon environmental codes. It is another matter to understand how building and zoning codes work, or do not work, to control development and promote public safety as was intended when the code was adopted.

### Two properties will be shown

Their identities are not important. They are important only as examples of bad planning and building design and/or indifferent supervision by the County.

These examples are of permitted construction only. They do not represent the extensive rural construction that takes place without any county permits, particularly in regard to remodeling, additions, and accessory structures, but also *entire houses*.

### Example One

This house was built at the geographic top elevation of a long narrow parcel that has a lower margin at the canyon bottom in the creek.

A long abandoned shack once stood on the banks of Lompico Creek at the lower elevation of this parcel. According to what I have been told by long time residents of the canyon, this shack ceased to be occupied after the 1982-83 winter floods. I first saw this abandoned shack in 1988. The shack had absolutely no parking and no legitimate septic system and sat in a small land cut rotting away about 20 feet above the stream.

A few years ago the owner at the time attempted to re-occupy or re-develop the existing remains of this shack. This owner applied to the Department of Fish and Game to construct a "bridge" to nowhere across Lompico Creek for the purpose of using this "bridge" as a parking platform. DFG refused this application for a permit.

EXHIBIT C

The owner then went to the County for a building permit to move the house site to the top of the parcel where the existing unfinished structure in the photos now sits.

A geologic survey and soils report were required. I reviewed the permit history of this parcel in County records at the Planning Department. The geology report stated that the proposed building site sat upon a debris slide and is on very steep ground. A debris slide is a shallow landslide formation, essentially the remains of previous land sliding in this location. Despite this clear evidence of geologic hazard, the geology report stated that it could be possible to construct a foundation on the site. As the photos reveal, this site is remarkably steep. Most of the parcel is in the range of 100% slope or 45° above horizontal. This is far steeper than is supposedly permitted by County code for any building site. Exactly how is the 30% slope rule applied or more specifically not applied?

The building has no leach field and is called "one bedroom" by its real estate representative despite its significant square footage. Apparently the original plan was to use a "pump out" septic system (a simple tank with no discharge treatments system (leach field). This of course was a ridiculous idea later abandoned. This building was vacant and unfinished in 2007 when it was shown to me by a neighbor. It is still vacant and unfinished in 2011. It has internal fire scars perhaps from vagrants starting a fire of some sort. A large puddle of rain fills the main floor. It has passed through the hands of at least 4 property owners since the start of the saga we have described.

The driveway is sloping both downward and across its path of travel. It is unclear of the "parking-driveway allows turning around due to a narrow area so a driver would probably need to back down this steep complex path to park a car (in the dark).

This parking area drains to a sump where the front door access is dug into the earth nearly 5 feet below the grade of the "parking area" ground. A drain in this sump for an entry door supposedly prevents rainwater from flowing into the house at the front door.

**This structure is a positively astonishing screw up that was supervised by the Planning Dept. I never saw such an absurd and problematic design for a house in my entire 30-year career as a builder.**

## **Example 2**

This house is squeezed between a public road and a stream inner gorge. There was apparently an attempt to re-build the original house without permits resulting in a stop work order. Then a permit process began that included a road set back variance, a riparian exception and complex versions for the foundation that sits upon 8 ft. deep soils over bedrock.

The house is very close to the stream, about 20 feet. This is obvious in the photos, which show the stream in the lower portion of the photographs. The house is obscured by construction

**EXHIBIT C**

scaffolding in these images, but there are two stories (with windows) facing the stream and one story facing the road.

It was unclear and ambiguous from the records what the square footage of the old house was. The new structure added additional conditioned space compared with the original dwelling. Apparently due to the addition of considerable conditioned space, compared to the original building, there is a "Declaration of Restriction" applied to the added conditioned space. These "agreements" are never enforced or checked in the future therefore they are completely irrelevant "window dressing".

The new building is extraordinarily close to the stream and questions arose about flood safety and erosion of the banks, and the new foundation. This house is an extreme example of a Riparian Exception. Apparently the entire structure is within the setback. No upgrades to the septic system were indicated.

A property owner obviously possesses rights for re-construction of existing pre-1955 houses in such a situation. The question here is whether or not significant square footage additions are warranted on such a constrained parcel. This example is important for us because it further demonstrates how irrelevant the Riparian Corridor protection ordinance is. Someone owning a parcel "near" this house can cite it as their justification why they are also due a huge Riparian Exception.

EXHIBIT G

### Example 1

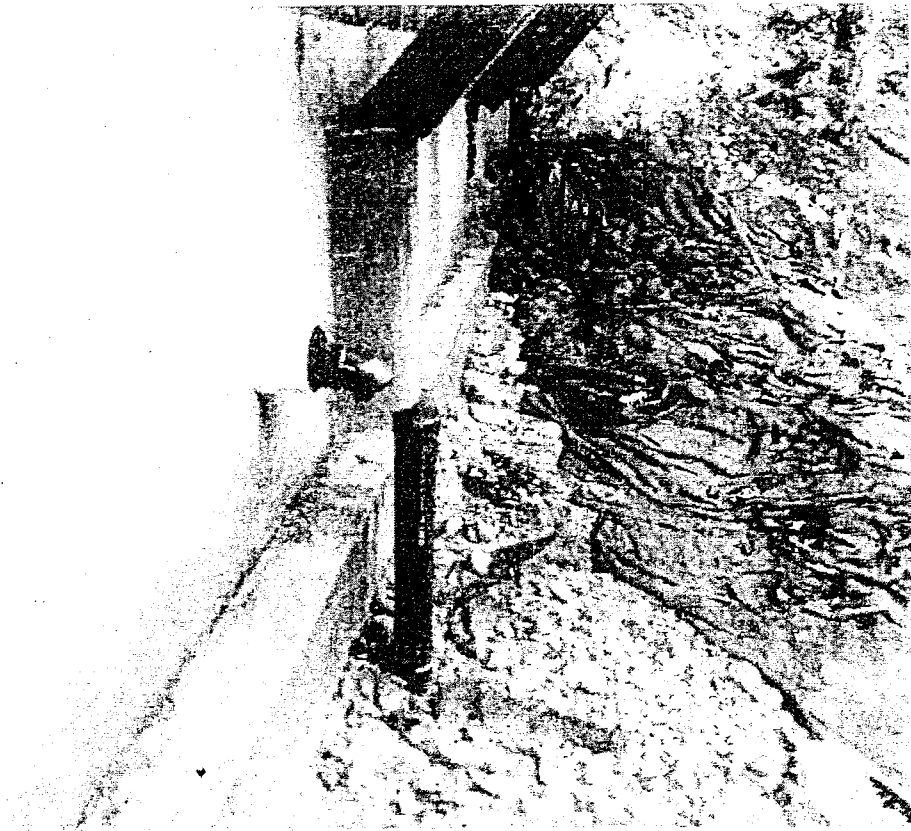
This photo demonstrates the extreme slope on the lower (back) side of the house. It is so steep that a person trying to walk on this ground risks falling head over heels down this mountain.

The foundation can be seen at the top of the photo. There were records in Planning of missing caissons (concrete earth pilings) that were noted as missing during inspections.

Cantilevered beams support the overhanging deck because deck columns would be too tall and long to reach the ground without bowing.



EXHIBIT G



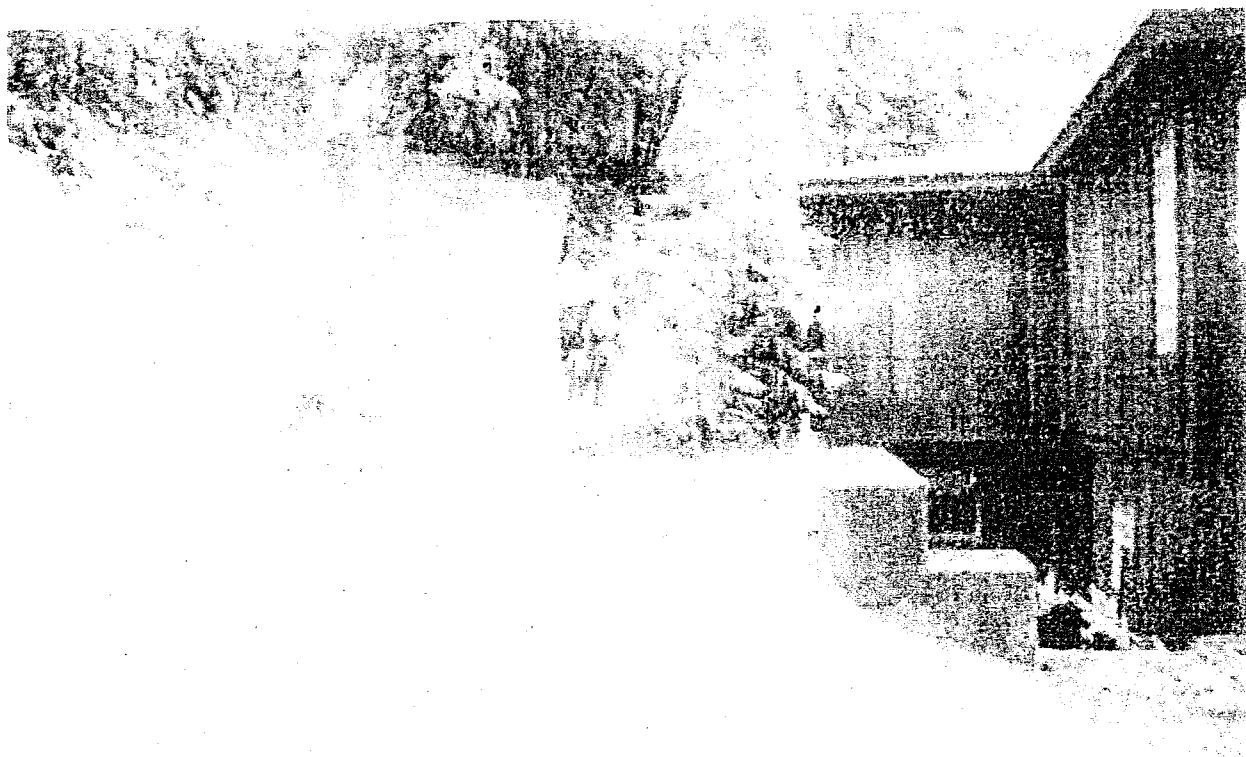
This photo shows a drainpipe perforating (leading through) the lower back grade beam foundation probably from the front of the house. The pipe has broken apart under stress, as the soil supporting it below has subsided.

This demonstrates the possibility of soil subsidence and soil creep (a geologic term for earth mantle movement on steep hillslopes). This process, if it is occurring, could eventually destroy this house. "Soil creep" is a common term in geomorphology. It is one of the most common forms of land-sliding in the Santa Cruz Mountains. Soil creep, deep-seated landslides (rotational block glide etc.) and debris slides, along with streambed incision, earthquakes and rain erosion, formed the current contours of the Santa Cruz Mountains. These are, in the long-term sense of decades and centuries, **continuous geologic processes** in this type of terrain and in this mountain range.

In my personal opinion this structure may be unsafe for various reasons, however I am not a licensed engineering geologist. My opinions in this regard have no "standing". I write only as an educated resident of these mountains who has observed with fascination these processes for the last 25 years as a "student" of nature.

EXHIBIT G



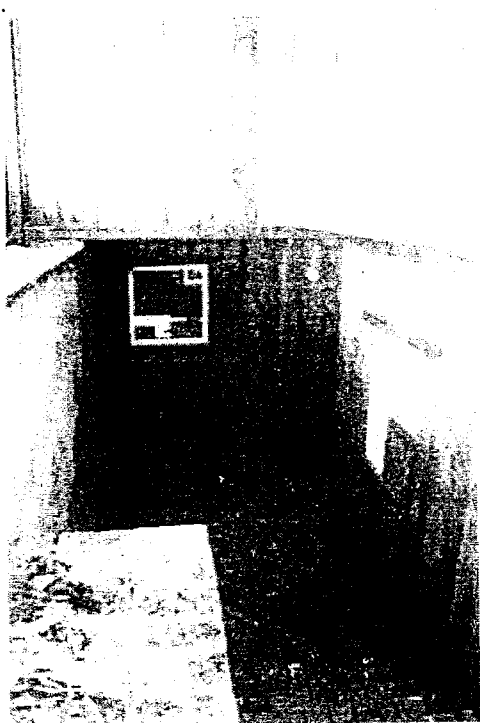


This photo of the front area of the house shows the entrance driveway and upper portion of the small parking area. The front door "sump" can be seen in the upper right corner of the image.

This driveway and parking area lead to a garage door (out of frame on left of image). To park cars here would be a task requiring serious expertise. In my opinion a vehicle may need to be backed in so that climbing up this tilting sloping and turning area would not need to be accomplished in reverse, in the dark. I do not know if a reversal of direction is possible after exiting the garage. Nonetheless, in simple terms, this is one tough parking situation.

EXHIBIT G•

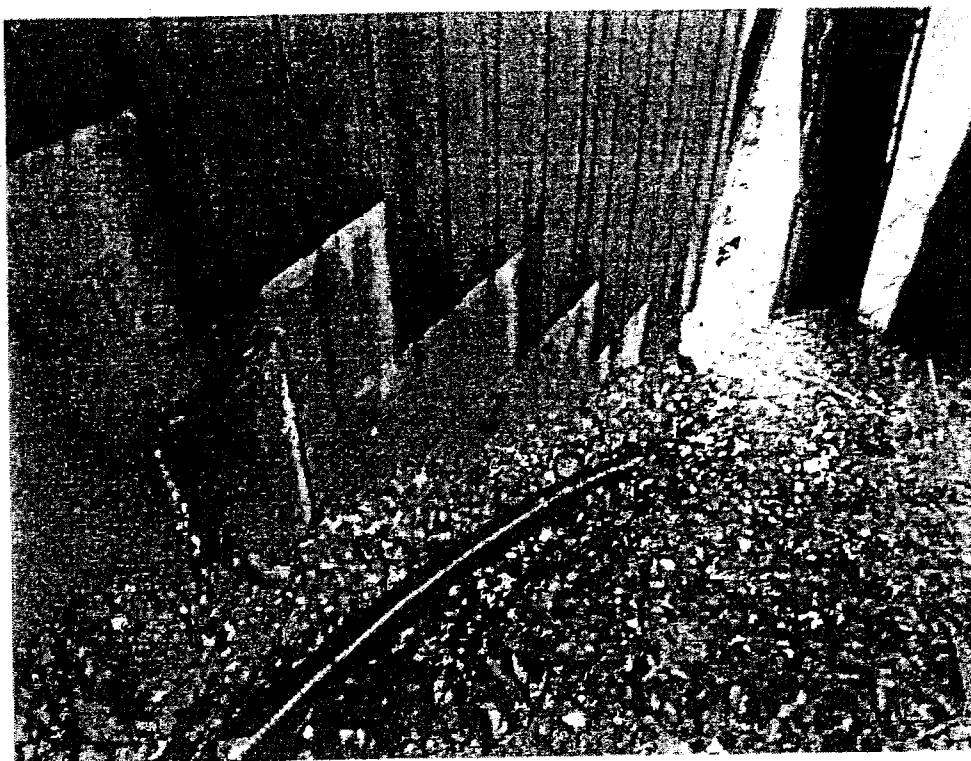
Close up of entryway "sump" and front door step and recess at right side of image.



View of "west" side of the foundation.

A simple arithmetic calculation (steps in the siding cuts) shows the extreme slope of the building's earth footprint. The slope of the hill on the backside of the house (Example 1 first photo) below the lower grade beam is even steeper.

This site is unsafe in our opinion, and this house site is oddly identical to home sites built upon before any building codes were adopted in 1955.





### Example 2

These are images of an expanded "replacement" house built upon the inner gorge wall of a stream. Construction scaffolding obscures the outer walls. The building is entirely within the riparian setback and nonetheless was permitted increased habitable square footage under an unenforced "Declaration of Restriction".

The building plans available for review were ambiguous and did not even state the building's habitable space. At least 450 sq. ft. of interior space with windows and other standard features were added exceeding the size of the original house.

The "blueprints" do not show elevation (side view) drawings of the bottom floor facing the creek. The house is 2 finished stories facing the creek.

There is no indication that the septic system has undergone upgrades in connection with this new larger house on top of a creek. This is an extremely constrained site needing a Riparian Exception and Road Set-back Variance.

The "findings" for the Variance refer to this statement: "[ ] the granting of the variance would not be a special privilege as other properties under similar circumstances would be granted a similar development variance".

These leaves us with the simple assumption that all variances and exceptions will be granted based upon this type of reasoning.

**EXHIBIT G**



## SAN LORENZO VALLEY WATER DISTRICT

13060 Highway 9 • Boulder Creek, CA 95006-9119  
Office (831) 338-2153 • Fax (831) 338-7986  
Website: [www.slvwd.com](http://www.slvwd.com)

January 21, 2011

Santa Cruz County  
Board of Supervisors  
Supervisors Chambers, Rm. 501  
701 Ocean St.  
Santa Cruz, California 95060

**Subject:** Proposed Minor Exceptions to Certain Zoning Site Standards

Dear Board of Supervisors:

During its January 6, 2011 and January 20, 2011 regular board meetings, the Board of Directors of the San Lorenzo Valley Water District (SLVWD) discussed, as an agenda item, the County's proposed ordinance to allow discretionary approval of minor exceptions to certain zoning site standards. (The first ordinance was dated November 16, 2010; the revision was dated December 22, 2010). As a result of these discussions, the SLVWD Board of Directors unanimously voted at its January 20, 2011 meeting to write a letter to your Board, expressing its concerns about the proposed ordinance.

SLVWD is concerned that the proposed ordinance seems designed primarily to address issues within the urban service line, but that the ordinance also applies outside of the urban services line, where its impacts may be more severe. For example, the exceptions in the ordinance could be used to develop parcels that currently are considered "undevelopable," due to their steep slopes. On such lots, the exceptions would allow structures to be built within road and neighbor setbacks that are currently off-limits to construction. These steeply sloped areas are more common in the rural areas than they are within the urban service line, and so the potential for increased development is more pronounced in rural areas.

Moreover, SLVWD does not concur with the County's CEQA Environmental Review Initial Study; the County has not shown that the proposed changes to the ordinance would not induce population growth. SLVWD believes that, for the reasons stated above, the ordinance could be growth-inducing; as such, it could significantly increase water demand, increase the area of impervious surfaces, and increase non-point source water pollution in rural areas like the San Lorenzo Valley.

To address its concerns, SLVWD respectfully requests that your Board require further CEQA review to assess the issues raised in this letter.

Sincerely,

Terry Viena  
President of the Board

EXHIBIT C

**Alicia Murillo**

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**From:** cdbbosmail@co.santa-cruz.ca.us  
**Sent:** Friday, January 21, 2011 2:17 PM  
**To:** CBD BOSMAIL  
**Subject:** Agenda Comments

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**Meeting Date :** 1/25/2011

**Item Number :** 51

**Name :** Joe Christy

**Email :** joe.christy@gmail.com

**Address :** 150 McGivern Way  
Santa Cruz, CA 95060-9300

**Phone :** 831-515-8389

**Comments :**

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

Subject: Agenda Item 51, 2011-01-25, Minor Exceptions To Certain Zoning Requirements

**Members of the Board**

As you know from our testimony of November 16, 2010, the Rural Bonny Doon Association, in furtherance of our mission to Keep Bonny Doon Rural and Natural, has an ongoing interest in the consideration of Ordinance Amendments Regarding Minor Exceptions To Certain Zoning Requirements.

At this time we would like to commend the wisdom of the Planning Director in recommending that the public hearing be further continued after referral to and consideration by the Planning Commission. As we noted in November, we endorse the avowed purpose of the proposed changes to ease the regulatory burden on applicants who are often frustrated and confused by the current regime. We are glad to note the changes in the wording of the ordinance, bringing the legal status of the granting of exceptions more in harmony with the established California State variance statutes and processes, a dis-harmony which motivated our first two points in November about the fairness and transparency of the minor exceptions.

Nonetheless, we do have some reservations remaining.

The first set of these concern the application of the ordinance changes to the entire unincorporated county, both urban and rural. Since our concern is primarily with the mountainous rural community of Bonny Doon, we will not comment on particular impacts within the urban services line.

The scale, in size and topography, of lots here in Bonny Doon renders some of the "minor exceptions" quite major. While lot sizes are generally large here, lots are often steep, include riparian and sensitive habitats, or have other natural features that render the buildable area quite small. While Bonny Doon encompasses nearly 50 square miles, the buildable portion is roughly 5% of that, which is mostly occupied at this point. The ordinance as now written would encourage the owner of a marginally suitable or even unsuitable lot, situated next to a more geographically favored lot, seeking to secure the same enjoyment of property as their neighbor, to apply for a minor exception to substantially enlarge the buildable portion of their property

1/21/2011

EXHIBIT C

by expanding into the large setbacks which give Bonny Doon its rural character. While the housing density in Bonny Doon at large wouldn't be significantly increased, the density in the inhabited portion would be. These scale issues are not unique to Bonny Doon, but rather typical of the rural part of the unincorporated county. We refer you to the further arguments and illustrations in the January 19th letter to your board from the Sierra Club. We urge you to consider limiting the applicability of the ordinance to the part of the unincorporated county within the urban services line, as specified in the County General Plan.

Beyond spatial extent, we are also concerned about the cumulative effect over time of the streamlining process, which began with the Regulatory Reforms for Small Scale Residential Projects in early 2008, and is scheduled to continue with consideration of non-conforming existing structures and beyond over the years to come. Our fear is that this sequential consideration will result in a piecemeal revision of County environmental and land use regulations specifically disallowed under CEQA.

In summary, given the broad spatial and temporal extent of the revisions, we question the whether any evaluation of the impacts considered in sections P., Q., and finally R. of the CEQA Environmental Review in your packet is even possible, and hence question the negative determination.

We thank you for the opportunity to comment and consult on the drafting of the Ordinance Amendments Regarding Minor Exceptions To Certain Zoning Requirements to date and look forward to continuing that dialog and contributing to a final ordinance that honors the historically high standards of environmental planning and land-use regulation in Santa Cruz County

Sincerely,

Joe Christy  
Chair, Rural Bonny Doon Association

EXHIBIT C

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

**ATTACHMENT 5**

RESOLUTION NO. 03-10

On the motion of Commissioner Gonzalez  
duly seconded by Commissioner Shepherd  
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

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

**EXHIBIT  
EXHIBIT II**

A. ....

amendments to the LCP; and

**ATTACHMENT 51**

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.

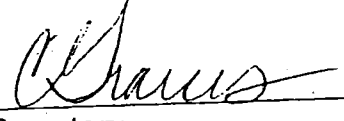
PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this 13th day of October, 2010 by the following vote:

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


Perlin, Aramburu, Dann, Gonzalez, and Shepherd

  
Chairperson of the Planning Commission

ATTEST:

  
Secretary

APPROVED AS TO FORM:

  
County Counsel

DISTRIBUTION: County Counsel  
Planning Department

**EXHIBIT H**



ATTACHMENT 5

ATTACHMENT 51



# COUNTY OF SANTA CRUZ

## 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.

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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

## EXHIBIT H

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%

## ATTACHMENT 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*  
 Annie Murphy  
 Planner II

*Paia Levine*  
 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

EXHIBIT I

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:

0501

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.



**ATTACHMENT 5**

(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

\_\_\_\_\_  
Chair of the Board of Supervisors

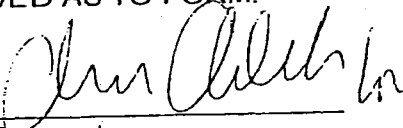
ATTEST:

\_\_\_\_\_  
Clerk of the Board

**EXHIBIT H**

ATTACHMENT 5

APPROVED AS TO FORM:

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

Copies to: County Counsel  
Planning Department

~~0313~~  
**ATTACHMENT 5**

## 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

10/11/10  
Date

**EXHIBIT H**



**County of Santa Cruz  
Planning Commission Minutes**

**ATTACHMENT 5**

0505

Planning Department, 701 Ocean Street, Suite 400, Santa Cruz, CA 95060

**Meeting Date :** Wednesday, October 13, 2010 9:00 AM

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

**VOTING KEY**

**Commissioners:** Chair: Aramburu, ViceChair: Dann, Shepherd, Gonzalez, Kennedy  
**Alternate Commissioners:** Britton, Danna, Holbert, Perlin

**REGULAR AGENDA ITEMS**

1. **Roll Call**  
Commissioners present were Perlin, Aramburu, Chair Dann, Gonzalez, and Vice Chair Shepherd.
2. **Planning Director's Report**  
No action taken
3. **County Counsel Report**  
No action taken
4. **Additions and Corrections to Agenda**  
No action taken
5. **Report on Upcoming Meeting Dates and Agendas**  
No action taken
6. **Oral Communications**  
No action taken
7. **Declaration of Ex Parte Communications**  
No action taken

**CONSENT ITEMS**

8. **Approval of minutes**  
To approve the minutes of the September 8, 2010 Planning Commission meeting as submitted by the Planning Department.

Approved Minutes  
Motion/Second: Aramburu/Gonzalez  
AYES: Perlin, Aramburu, Chair Dann, Gonzalez, and Shepherd  
NOES: None  
ABSTAIN: None  
ABSENT: None

**EXHIBIT H**

**SCHEDULED ITEMS****ATTACHMENT 5**

9. **Public Hearing to consider proposed ordinance amendments to the Accessory Dwelling Unit (Second Unit) regulations to exempt public agencies providing housing for special populations from the on site residence requirements.**

Applicant: County of Santa Cruz  
 Supervisorial District: Countywide  
 Project Planner: Erik Schapiro, (831) 454-5166  
 Email: erik.schapiro@co.santa-cruz.ca.us

Approved staff recommendation and adopt resolution.  
 Motion/Second: Perlin/Aramburu  
 AYES: Perlin, Aramburu, Chair Dann, Gonzalez, and Shepherd  
 NOES: None  
 ABSTAIN: None  
 ABSENT: None

10. **Public hearing to consider proposed amendments to allow minor exceptions from site standards**

Public hearing to consider a proposed amendment to add Section 13.10.235, entitled "Minor Exceptions" to Chapter 13.10 of the Santa Cruz County Code, to allow in all zone districts a minor exception from site standards established for setback, lot coverage, floor area ratio, and height requirements, subject to a Level IV Use Approval and to required findings. Chapter 13.10 is a Coastal Implementing Ordinance.

Applicant: County of Santa Cruz  
 Supervisorial District: County-wide  
 Project Planner: Annie Murphy, 454-3111  
 Email: pln400@co.santa-cruz.ca.us

Approved staff recommendation and adopt resolution. Include an additional exception to allow separation between structures to be reduced by 15%. Added direction to return to Commission in two years with report on implementation and noticing.

Motion/Second: Shepherd/Gonzalez  
 AYES: Perlin, Aramburu, Chair Dann, Gonzalez, and Shepherd  
 NOES: None  
 ABSTAIN: None  
 ABSENT: None

11. **10-0056                      Situs: 7272 Empire Grade Road, Santa Cruz                      APN(s): 080-251-31**

Appeal of the Zoning Administrator's approval of Application 10-0056, a proposal to construct an 1120 square foot garage at an existing fire station. Requires an Amendment to Commercial Development Permit 97-0874. Property located on the south east side of the intersection of Empire Grade Road, Felton Empire Road, and Ice Cream Grade.

Owner: County of Santa Cruz  
 Applicant: William Fisher, Architect  
 Supervisorial District: 3  
 Project Planner: Larry Kasparowitz, 454-2255  
 Email: pln795@co.santa-cruz.ca.us

Continued item until the December 12, 2010 Planning Commission Meeting.  
 Motion/Second: Gonzalez/Shepherd  
 AYES: Perlin, Aramburu, Chair Dann, Gonzalez, and Shepherd  
 NOES: None  
 ABSTAIN: None  
 ABSENT: None

**EXHIBIT H**

# APPEAL INFORMATION

Denial or approval of any permit by the Planning Commission is appealable to the Board of Supervisors. The appeal must be filed with the required appeal fee within 14 calendar days of action by the Planning Commission. To file an appeal you must write a letter to the Board of Supervisors and include the appeal fee. For more information on appeals, please see the "Planning Appeals" brochure located in the Planning Department lobby, or contact the project planner.

ATTACHMENT

5

## APPEALS OF COASTAL PROJECTS

(\*) This project requires a Coastal Zone Permit which is not appealable to the California Coastal Commission. It may be appealed to the Board of Supervisors; the appeal must be filed within 14 calendar days of action by the Planning Commission.

(\*\*) This project requires a Coastal Zone Permit, the approval of which is appealable to the California Coastal Commission. (Grounds for appeal are listed in the County Code Section 13.20.110) The appeal must be filed with the Coastal Commission within 10 business days of receipt by the Coastal Commission of notice of local action. Denial or approval of the Coastal Zone Permit is appealable to the Board of Supervisors; the appeal must be filed within 14 calendar days of action by the Planning Commission.

**Note regarding Public hearing items:** If any person challenges an action taken on the foregoing matter(s) in court, they may be limited to raising only those issues raised at the public hearing described in this notice or in written correspondence delivered to the Planning Commission at or prior to the public hearing.

Agenda documents may be reviewed at the Planning Department, Room 420, County Government Center, 701 Ocean Street, Santa Cruz.


The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Board of Supervisors chambers is located in an accessible facility. As a courtesy to those persons affected, please attend the meeting smoke and scent free. If you wish to attend this meeting and you will require special assistance in order to participate, please contact the ADA Coordinator at 454-3137 (TTD number is 454-2123 or 763-8123 from Watsonville area phones) at least 72 hours in advance of the meeting to make arrangements. As a courtesy to those persons affected, please attend the meeting smoke and scent free.

EXHIBIT H



Powers Land Planning, Inc.

Land Use and  
Development Consulting



October 12, 2010

Planning Commission  
County of Santa Cruz  
701 Ocean Street, 5<sup>th</sup> Floor  
Santa Cruz, CA 95060

RE: October 13, 2010 Planning Commission Agenda Item #10  
Ordinance Amendments Regarding Minor Exceptions to Certain Zoning Standards

Dear Commissioners:

The proposed ordinance amendments in the Planning Department staff report contain many practical and helpful tools for both planners and applicants and will allow projects to achieve better designs without compromising the County's environmental regulations or sacrificing neighborhood character. I hope you support the modifications as proposed.

There is one more minor site standard that I would hope the Commission and the Board of Supervisors will consider revising along with the proposed changes.

Section 13.10.323.(e) Site and Structural Dimension Exceptions Relating to Structures.

6. (C) Accessory Structures.

The minimum distance between any two detached structures shall be ten (10) feet with the following exceptions: eaves, chimneys, cantilevered, uncovered, unenclosed balconies, porches, decks and uncovered, unenclosed stairways and landings may encroach 3 feet into the required ten (10) foot separation.

This 10-foot separation requirement is only required for residential development (and certain agricultural structures) and is often the cause of design changes on urban residential lots. Originally conceived as a way of protecting structures from fire to allow

1607 Ocean Street, Suite 8  
Santa Cruz, CA 95060

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EXHIBIT H

Planning Commissioners  
October 13, 2010 Agenda Item #10  
Minor Exceptions to Certain Zoning Standards  
10/12/10  
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access around the structures; today's superior construction materials for fire protection along with the evolution of the fire code can achieve similar or better protection with a reduced separation. The fire code only requires an assumed 3-feet to a property line or basically 6 feet between structures without having to use 1-hour fire rated construction. A six-foot separation is common in many jurisdictions.

The difference between requiring 10 feet and allowing a 6-foot separation is very significant on a small residential parcel. Allowing the 6-foot separation does not impact neighbors or make a residential property less safe.

Please consider modifying the proposed ordinance amendments to include this change that would allow a 6-foot separation as opposed to a 10-foot separation between structures on the same residential parcel. The existing language that allows encroachments of eaves, chimneys, stairways, etc. can remain as written and the ordinance would merely change ten feet to six feet.

Thank you for your consideration.

Sincerely,



Ron Powers, AICP

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EXHIBIT H