



COUNTY OF SANTA CRUZ

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PLANNING DEPARTMENT

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AGENDA DATE: May 19, 2015

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

AMENDMENTS TO UPDATE THE LAND USE PERMIT FRAMEWORK AND REGULATIONS IN COUNTY CODE TITLE 13 (PLANNING AND ZONING REGULATIONS), TITLE 18 (PERMIT AND APPROVAL PROCEDURES) AND CHAPTER 16.01 (ENVIRONMENTAL REVIEW PROCEDURES), AND TO REVISE GENERAL PLAN/LOCAL COASTAL PROGRAM (GP/LCP) POLICIES AND CHAPTERS 13.10 AND 16.50 FOR AGRICULTURAL USES

Members of the Board:

On June 17, 2014, your Board considered the results of a comprehensive analysis of how the County's land use permit regulations could be amended to modernize, clarify, and streamline land use regulations and application review procedures. Your Board directed staff to return with more specific policy and ordinance language for further consideration before proceeding with environmental review and public hearings. The "Part A" material that is being presented to your Board today, which includes proposed draft General Plan policy refinements related to agricultural uses and draft ordinance language regarding permit and approval procedures, represents a portion of the next level of detail in the Code Modernization effort. While staff expects the draft language to largely be the "project" that is evaluated through environmental review (CEQA), we also acknowledge that there will continue to be refinements, additions and deletions as staff refines concepts and incorporates input from your Board and the public.

KEY COMPONENTS OF UPDATE PACKAGE

Due to the comprehensive nature of the effort, review of draft materials by your Board has been scheduled for consideration at two Board meetings. The key components of the modernization package have been divided into Part A and Part B, as follows.

PART A (May 19, 2015 Board Meeting)

- Amendments to Chapter 13.10 & Title 18 regarding Permit and Approval Procedures
- Amendments to Chapters 13.01, 13.02 and 13.03, and shifts to Title 18, to consolidate procedural regulations related to GP/LCP Amendments, Zoning Ordinance Amendments, Specific Plans, Planned Unit Developments, Development Agreements, and ADA Reasonable Accommodations
- Amendments to Chapter 13.10 to clearly identify which chapters of the County Code are considered to comprise the Planning and Zoning Regulations ("the zoning ordinance").
- Amendments to General Plan/Local Coastal Program, and to Chapters 13.10 and 16.50, regarding regulation of Agricultural Uses, including for wineries, breweries, agri-tourism and

agricultural technology and support uses; and also to reflect state law which requires that agricultural employee housing be treated as an agricultural use.

- Amendment of Chapter 16.01 to clarify and update CEQA environmental review procedures.

PART B (scheduled for June 9, 2015 Board Meeting)

- Amendments to Chapter 13.10 Part III, to update the various land use zoning district use charts and clarify principal permitted uses, establish separate site development permit requirements for physical development as distinguished from uses locating within existing developments, and to incorporate a shift to an alternate nomenclature for permit types and for permit processing procedures from the “levels” approach.
- Amendments to address a broader variety of temporary uses and temporary structures, and to address weddings and other commercial/quasi-commercial special events on private properties.
- Address land use issues that are of current concern, such as wood lot businesses in residential neighborhoods.
- Amendments to refine County Code Section 13.10.613 Home Occupation regulations, including allowing one employee to work at the site, as requested by cottage food and other home businesses.

The key outcomes desired of the modernization project for applicants include reduced risk, uncertainty, cost and time associated with review of development applications. The proposed amendments have been drafted to ensure continued protection of environmental resources and neighborhood quality, while also supporting key economic and employment sectors of our community. The need for Code Modernization was most recently identified during public outreach and research for the Economic Vitality Study (Goals 2.2, 2.5, 3.1, 3.5, 3.6 and 3.28, Economic Vitality Study, Santa Cruz County, 2014).

A more complete explanation of the history, goals and generalized scope of the project is included in the letter prepared for your Board’s June 17, 2014 agenda (Attachment 1). It should be noted that when the Code Modernization package was discussed with your Board at that time, staff had contemplated also including amendments to various Chapters of Title 16, the Environmental and Resource Protection provisions. While Chapter 16.01, the CEQA environmental review procedures, and Chapter 16.50, the Agricultural Land Preservation and Protection regulations have been included, other chapters are not included in the current package. Some of those chapters are being updated as part of the package that was funded by the Disaster Recovery Initiative (DRI) grant; including Chapter 16.10 Geologic Hazards, Chapter 16.20 Grading Regulations and Chapter 16.22 Erosion Control, which all relate to the Safety Element Update funded by the DRI grant. Proposals for updates to the the sensitive habitats, riparian corridor and significant tree regulations in Title 16 chapters will be undertaken sometime in the future as work program priorities and levels of staffing and resources allow.

PURPOSE OF AND STRUCTURE FOR THIS REVIEW

Today’s meeting is an opportunity for public comment and for staff to receive feedback and direction from your Board. To facilitate comparison of current policy and code language with proposed new language we have provided the policy and code changes in strikeout/underline format. After the discussion on Part B next month, staff will incorporate your Board’s direction on both portions of the package, make further refinements as needed, and proceed with CEQA review. It is important to emphasize that additional refinements will also be able to be incorporated into the proposed amendments as needed to respond to environmental review and public hearings. Due to the scope of the Modernization project,

staff expects to prepare an Environmental Impact Report (EIR). While staff actually does not expect to find significant environmental impacts, preparation of an EIR will acknowledge the comprehensive nature of the package and will maximize information, analysis, transparency and public input.

This report, and the Part A material related to each topic, is discussed and presented in the following order:

1. Permit and Approval Framework

- a. Summary Table of types of permits/approvals in new framework (Attachment 2)
- b. Proposed Amendments to Chapter 13.10 & Title 18 regarding Procedures (Attachment 3):
 - i. Sections 13.10.110-.215, Zoning Ordinance and Zoning Plan Amendment
 - ii. Chapter 18.10, Permit and Approval Procedures
 - iii. Chapter 18.20, Requests for Reasonable Accommodation
 - iv. Chapter 18.30, Planned Unit Developments (PUDs)
 - v. Chapter 18.40, Zoning Map, Zoning Ordinance and Zoning Plan Administration
 - vi. Chapter 18.50, General Plan Administration
 - vii. Chapter 18.60, Local Coastal Program Administration
 - viii. Chapter 18.70, Specific Plan Administration
 - ix. Chapter 18.80, Development Agreements

2. Amendments to GP/LCP and County Code Agricultural Policies and Regulations

- a. Proposed GP/LCP Text Amendments (Attachment 4)
- b. Summary Table of proposed changes to agricultural regulations (Attachment 5)
- c. Amendments to Chapter 13.10 Agricultural Zoning Districts (Attachment 6)
- d. Amendments to Agricultural Regs 13.10.631-.644, Wineries/Breweries etc (Attachment 7)
- e. Amendments to Chapter 13.10 Definitions related to agriculture (Attachment 8)
- f. Amendments to Chapter 16.50 Agricultural Preservation Regs (Attachment 9)

3. Amendments to Chapter 16.01 regarding CEQA Environmental Review Procedures (Attachment 10)

SUMMARY OF THE PROPOSED NEW PERMIT AND APPROVAL FRAMEWORK

The proposed new permit framework communicates permit requirements and processes more clearly, using terms that are more standard and well established than the current code. The framework will plainly indicate which permits are discretionary and which are ministerial, transition away from the term “level” for permits and reviews to more descriptive terms, create separate discretionary permits for uses and for physical site development, and identify, in the use charts, which uses require discretionary permits and which are considered “principally permitted”. The following table summarizes the framework:

Existing Nomenclature	Type of Permit, Approval or Clearance - New Nomenclature ¹	Type of Action	Public Notice	Public Hearing	Appeal Decision Maker, Who May Appeal
PERMIT APPLICATIONS WHERE DECISION MAKER IS THE PLANNING DIRECTOR OR DESIGNATED STAFF					
Level I, Level II	Zoning Clearance ² ZC Environmental Clearance ³ EC	Ministerial	No	No	Planning Director, for certain actions (18.10.320). Applicant / Owner only
Level III	Minor Permit MUP, MSP	Discretionary	No	No	Zoning Administrator. Applicant/ Owner only
Level IV	Administrative Permit AUP, ASP	Discretionary	Yes, 18.10.116(A)	No	Zoning Administrator. Any party
PERMIT APPLICATIONS WHERE DECISION MAKER IS THE ZONING ADMINISTRATOR					
Level V	Conditional Permit ⁴ CUP, CSP	Discretionary	Yes	Yes	Planning Commission. Any party
PERMIT APPLICATIONS WHERE DECISION MAKER IS THE PLANNING COMMISSION					
Level VI	Conditional Permit CUP, CSP	Discretionary	Yes	Yes	Board of Supervisors, (Jurisdictional hearing). Any party
PERMIT APPLICATIONS WHERE DECISION MAKER IS THE BOARD OF SUPERVISORS					
Level VII	Conditional Permit CUP, CSP Legislative Matters	Discretionary	Yes	Yes	No Appeal (court challenge would be next step)

¹ **Key to Abbreviations:** MUP = Minor Use Permit MSP= Minor Site Development Permit
 ZC = Zoning Clearance AUP = Administrative Use Permit ASP= Administrative Site Development Permit
 EC = Environ. Clearance CUP = Conditional Use Permit CSP=Conditional Site Development Permit

^{2,3} A Zoning Clearance (ZC) is a plan check tool to review projects against established criteria. Typically ZC is done at the building permit application stage to ensure that a project complies with criteria and standards in Titles 13, 16 and elsewhere; or with approved discretionary permits. An Environmental Clearance (EC) is similar, but focused on compliance with Title 16 environmental ordinances.

⁴ The decision maker for Conditional Use and Conditional Site Development Permits (CUPs and CSPs) is the Zoning Administrator unless the Planning Commission or Board of Supervisors is specified in the use and site development charts in Chapter 13.10.

Another table, Attachment 2, is a more complete list of land use permits by name, with a description of the prescribed process for that permit, including public notice and appeal path, and a reference to the current “level” nomenclature.

KEY PROPOSED AMENDMENTS TO PERMIT AND APPROVAL FRAMEWORK

Chapter 18.10 and Chapter 13.10 Zoning Districts. The existing County Code reflects use of a “Level I through Level VII” nomenclature. In reality, the “levels” are intended to convey the type of process that is required in order to take action on an application. However, throughout the Code there are also frequently references to a “Level V Permit” and so forth, which implies that the levels are types of permits. The proposed amendments provide more clarity, while also providing a “crosswalk” to relate the existing nomenclature with the new nomenclature, and the Code transitions to the new terms.

The existing County Code lacks distinctions between ministerial and discretionary permits, and uses the term “development permit” to apply to most types of permits, although the term “use approval” is also used. The existing use charts included within the various zoning districts are used to convey what type of process is required for a development permit, and there is no distinction between physical development of new structures, and a proposed use that is requesting to occupy an existing structure. This can create burdensome processes for some uses. For example, it is appropriate to require public hearings and Zoning Administrator approval of proposed new office buildings, once the office is built future office uses should be able to go in and out of the building without a requirement for a discretionary permit. For this reason, the proposal establishes charts in each zoning district for both “Use Permits” and “Site Development Permits”. While the Code itself would lengthen, application processing for some projects would be appropriately streamlined.

The proposal includes an explanation of the “zoning clearance” and “environmental clearance” processes, which are essentially plan check activities associated with the building permit application review process. These ministerial clearances confirm that no discretionary permit or legislative action (and CEQA review) would be required before the building permit could be issued; or that the building permit request complies with conditions of approval of any previous discretionary permit for the site.

Other notable changes include new definitions, clarify what type of staff determinations are appealable to either the Planning Director or Planning Commission, provide that appeals of administrative permits are considered by the Zoning Administrator at a public hearing (rather than the Planning Director), and update public notice requirements consistent with State law.

As with the existing Chapter 18.10 Permit and Approval regulations, all discretionary development permits would require that the following “general findings” for approval of the permit be made by the approving body. Additional “specific findings” may also required for certain types of permits, as specified in other chapters of the County Code.

18.10.230 General Findings for Approval of Discretionary Permits

- (1) That the proposed location of the project and the conditions under which it would be developed, 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.

- (2) That the proposed location of the project and the conditions under which it would be developed, operated or maintained will be in substantial conformance with the intent and requirements of all pertinent County ordinances and the purpose of the zone district in which the site is located.
- (3) That the proposed development or use is in substantial conformance with the intent, goals, objectives and policies of all elements of the County General Plan and with any specific plan which has been adopted for the area.
- (4) That the proposed development or use will not overload utilities, will not result in inefficient or wasteful use of energy, and will not generate more than the acceptable level of traffic on the streets in the vicinity.
- (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, land use intensities, and dwelling unit densities of the neighborhood, as designated by the General Plan and Local Coastal Program and implementing ordinances.

Chapter 13.01, 13.02, 13.03, 13.10 and New Title 18 Chapters. In that provisions related to General Plan and Local Coastal Program administration; Zoning Map, Text and Plan administration; Specific Plan administration; Planned Unit Developments (PUDs); Development Agreements; and Requests for Reasonable Accommodation are essentially procedures, and are predominately legislative matters rather than discretionary permit regulations, these procedures are proposed to be consolidated into Title 18. This also makes it easier to locate provisions for reasonable accommodations, zoning amendments, PUDs and development agreements.

KEY PROPOSED REFINEMENTS OF AGRICULTURAL POLICIES IN THE GENERAL PLAN/LCP

Agriculture, and agricultural practices and challenges, have changed substantially since General Plan policies were last comprehensively updated more than thirty years ago. Important current uses, such as technology-driven agricultural research and development, were not anticipated when policies were first developed. There has been a shift to farms that consist of multiple, leased properties that are not necessarily adjacent. Diversified revenue and alternative marketing are frequently necessary. The public is interested in on-farm education, the “slow food” and farm to table movements, and agricultural tourism.

Many of the proposed updates originated from public and stakeholder outreach and research that was undertaken as part of the Economic Vitality Study (EVS), which was accepted by your Board in November 2014. The agricultural sector is central to the economy and culture of the County, and many opportunities for programs and regulatory modernization that would assist agriculture were identified in the EVS. These range from “direct to consumer” local marketing, to housing agricultural workers, to agricultural tourism, to modernizing agricultural processing, and clarifying agricultural activities that can make use of lands zoned “Agriculture” (“A”). “A” zoning indicates properties considered suitable for agricultural use even though prime Type 1, 2, or 3 soils are generally not mapped within “A” parcels.

Key proposed refinements to GP/LCP agricultural policies include:

- Incorporating the concept of broadening the range of agricultural support uses that could be allowed with conditional use permits on land zoned Commercial Agriculture (CA) and Agriculture (A), to ensure space for agricultural uses that support food, fiber and livestock production. This recognizes that activities that support agriculture, such as processing agricultural products, storing farm equipment, delivery of products, on-farm retailing of agricultural products, research and development, and agricultural services such as equipment repair and irrigation, assist the farming sector as a whole and are necessary for the continuation of the most basic agricultural

use, which is cropping and ranching for food production. A definition of “agricultural use” is added, consistent with definitions in State law, to more clearly implement the understanding that agricultural uses involve a wide spectrum of activities. Applications for certain activities would be considered by the Planning Commission (rather than Zoning Administrator) at a public hearing.

- Related to recognizing a more broad range of agricultural uses, and in order to comply with State law that requires housing for agricultural workers to be treated as an agricultural use, policies are proposed to be amended to add farm employee housing, subject to certain restrictions, as a principally permitted use that does not require a discretionary permit.
- Adding criteria to existing General Plan/LCP policies that protect agricultural soil to provide additional siting options that can increase and ensure protection of agricultural soils.
- Revising policies for parcels zoned “Agriculture” (“A”), to clarify that “A” parcels may accommodate diverse agricultural as well as residential uses.
- Revising policy to change accessory dwelling units (ADUs) on CA-zoned parcels from a discretionary to a principally permitted use, and to allow ADUs inside the Coastal Zone. This is consistent with the State approach to accommodating the housing needs of agricultural households.

Draft text of the proposed policy amendments is found in Attachment 4.

KEY PROPOSED UPDATES OF AGRICULTURAL REGULATIONS IN THE COUNTY CODE

Policies in the General Plan/LCP are implemented through use charts, site standards, criteria, and permit processes and findings for approval that are articulated in the Code. Key proposed changes include:

- New and revised definitions to describe current agricultural uses, such as farmstay/homestays, on-farm events such as farm to table dinners, different scale wineries and breweries, and “agricultural use” (Summarized in Attachment 5, details in Attachment 8).
- Wineries and breweries: The current code lacks specific standards to address potential impacts of on-site marketing at wineries and breweries. Working with local winery and brewery owners, regulations have been drafted to support the businesses but also protect residential areas (Attachment 7, section 13.10.637). The revised regulations clarify requirements and provide a practical and reality-based approach for permit processing. Standards are established for promotional events, tastings, outdoor music, food service, and facility hours. Facilities are categorized by size based on production volume, with appropriate discretionary permit thresholds based on facility size, proximity to residential parcels, and other factors. Note that weddings are not considered winery/brewery marketing events and would require a separate permit approval. Standards and permit requirements for commercial/quasi-commercial weddings and special events on private property will be addressed in a section of the Code that is included with “Part B” of the modernization project.
- Revised agricultural uses chart, section 13.10.312 in Attachment 6, that implements the proposed General Plan/LCP policies to clarify and broaden potential for agricultural uses that could be allowed on CA and A land with use permits, sets out the principally permitted uses and the permit process for discretionary permits, and includes a column referencing the portions of the Code that contain the standards and criteria that apply to the subject use. All general and specific findings for approval of proposed projects on agricultural lands would need to be made by the approving body in conjunction with approving discretionary permits.

- A Site Development Chart to implement the new Site Development Permit (section 13.10.313 (A) of Attachment 6). This chart establishes the type of permit required for different sizes and types of development within the agricultural zoning districts, also with a column referencing the portions of the Code that contain the standards and criteria that apply to the subject development.
- Criteria and findings to limit use or covering of Type1-3 agricultural soil for non-farming uses where alternatives are available, and to minimize development on Type 1-3 soil when there are no alternatives, including, in various situations: required alternatives analyses, use of second stories to minimize building footprint over a certain size, requirement that activities be ancillary to farming, and mitigation of any conversion of these commercial agricultural lands. Criteria and findings are based on the hierarchy of “avoidance first”, followed by considerations of minimizing and mitigating non-farm use of Type1-3 soil. (Attachment 6).
- Criteria for agricultural employee housing in any zone district that allows agricultural use, consistent with State law (Attachment 7).
- Simplified greenhouse regulations, both within and outside of the coastal zone, and incorporating Coastal Exclusion provisions of the Coastal Commission (section 13.10.636 of Attachment 7).
- Streamlining and clarifying Agricultural Buffer Reduction applications by processing smaller requests administratively, rather than requiring full public hearing for each application. Agricultural Policy Advisory Commission (APAC) review remains available by routing those applications to Commissioners for review. See section 16.50.095, Attachment 9.

The proposed agricultural code amendments were discussed at two public meetings of the Agricultural Policy Advisory Commission (APAC). At its meeting of February 26, 2015 APAC reviewed the draft ordinance language for modernizing agricultural regulations for agricultural lands, and recommended that your Board consider the following proposed revisions and clarifications:

- Increasing the threshold for when an outdoor winery event requires a discretionary permit from 20 guests to 50 guests, such that gatherings with fewer than 50 guests would be allowed by right. Staff responded to this comment by differentiating between parcels that are residential (in RA - Residential Agriculture or RR-Rural Residential zone districts) or within 500 feet of a residential use, and other parcels. For RA and RR zoning the threshold was raised to 25 guests. For other cases, the threshold was raised to 50 guests as recommended by APAC. See Attachment 7, table 13.10.637.
- For wineries, clarifying whether the minimum distance to an adjacent residential parcel for the purpose of allowing amplified music should be measured to the property line or to the actual residence. Staff responded with revisions that require an “amplified music permit” for all amplified music, regardless of distance to residential parcels. This will allow site specific considerations of noise issues, including type of adjacent uses, distance to neighbors, and physical characteristics of the surrounding area. See Attachment 7, table 13.10.637.
- Clarify issue of container growing for research, and associated development area. Staff clarified that R&D facilities are required to comply with standards and permit requirements for container growing. See Attachment 7, section 13.10.644.

In addition to the APAC meetings, the proposed agricultural amendments were discussed at meetings with the Santa Cruz County Farm Bureau, Santa Cruz Mountains Winery Association and members of the brewery community. Modifications were made to incorporate comments and concerns of these