



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

January 10, 2012

AGENDA DATE: January 25, 2012

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

Subject: Public Hearing to consider proposed amendments to Chapters 12.10, 13.10, 13.11, 16.10 and 18.10 of the Santa Cruz County Code, and related amendments to the General Plan/ Local Coastal Program, to provide new regulations for nonconforming uses and structures, revise “altered wall” provisions, update regulations for certain commercial uses and selected parking standards, amend Geologic Hazard Regulations regarding when the County is authorized to require geologic review, update the Level 4 permit approval process, and “clean-up” selected code provisions.

Introduction

The purpose of today's hearing is to consider a revised draft ordinance and related General Plan/ Local Coastal Program amendments to provide new regulations for nonconforming uses and structures, update certain regulations for commercial uses and parking standards, revise geologic review criteria, update the Level 4 permit process, and correct and update other code provisions. Staff is requesting that your Commission review the revised draft ordinance and proposed General Plan amendments, consider any additional public comment, and provide a recommendation to the Board of Supervisors regarding the adoption of the draft ordinance and General Plan Amendments.

Background

In June, 2011 Planning Staff presented a proposal to the Board of Supervisors to revise regulations for nonconforming structures and uses, update commercial uses and parking standards, and make other regulatory changes, consistent with ongoing efforts to update land use regulations. In August, Planning Staff met with several focus groups consisting of local design professionals, engineers, business and real estate interests, and neighborhood and environmental groups to review and further develop the proposals. After working with focus groups, planning staff prepared a package of ordinance amendments with the goals of clarifying and streamlining existing regulations, reducing processing time and costs, providing greater flexibility to applicants, addressing unintended outcomes of the current regulations, improving the regulatory environment for business, and providing a more predictable planning

process. On September 14, 2011 your Commission held a public workshop to consider these proposed amendments.

At the workshop, many members of the public expressed their support for the proposals overall and for the opportunity for public involvement. The draft ordinance was submitted to the Board of Supervisors on September 20, 2011, along with a summary of the Planning Commission workshop and a list of proposed revisions to the ordinance that would incorporate input from the workshop (Exhibit D). The Board of Supervisors accepted the draft ordinance with the proposed changes as the project description for the purpose of CEQA review, and directed staff to return the ordinance to your Commission for a public hearing after environmental review was completed. The proposal before you today includes the draft ordinance with the recommended revisions incorporated (Exhibit B), and proposed General Plan/ Local Coastal Program amendments (Exhibit C).

Changes to the Proposed Ordinance since September, 2011

This section of the staff report highlights the changes that have been made to the draft ordinance since your Commission's last review in September 2011 (Exhibit H). (For a side by side comparison of the existing regulations and the proposed regulations, see Exhibit E.)

Nonconforming Uses and Structures

Revisions to definition of "reconstruction" and "major structural components"

In the draft of the ordinance reviewed by your Commission in September, the definition of reconstruction was the modification or replacement of 75% - 80% of the major structural components of a structure. After environmental review and further consideration, staff is recommending that modification or replacement of 75% or more of the major structural components of a structure be considered reconstruction.

At the September workshop, several participants recommended revising the definition of "major structural components" to include only the foundation, floor framing, exterior wall framing and roof framing. That feedback has been incorporated.

Process for reestablishing a nonconforming use

As recommended by a workshop participant, the proposed ordinance adds a provision that may allow a nonconforming use that has lost its nonconforming rights due to a lapse in use to be reestablished through a Level 5 approval process.

Commercial Parking Standards

To facilitate establishment of new businesses in existing commercial buildings in general, and to simplify conversion between office and retail uses in particular, staff is proposing to modify the parking requirement for general retail from one space per 200 square feet to one space per 300 square feet. This is different from the ratio of one space per 250 square feet that was presented to your Commission at the public workshop, and is based upon a suggestion received at the Board of Supervisors hearing. Staff believes the change to 300 square feet is supported by data from the Institute of Transportation Engineers (ITE), and also, since this ratio is the same as the parking requirement for office use, it is the simplest way to facilitate changes back and forth between these two uses.

Staff is also proposing that the parking requirement for medical offices, which was originally proposed to be changed from a practitioner-based standard to a ratio of one space per 225 square feet, be changed instead to the more rigorous standard of one space per 200 square feet. This is in line with conclusions from a recent local parking study for medical offices.

Lastly, staff is no longer recommending an increase in the commercial parking exemption from 10% to 20%, because the increase is not necessary if office and general retail have the same parking requirement. Staff is continuing to recommend that the exemption be modified to include a number of spaces below which a property owner will not have to comply with an increased parking requirement that results from a change of use; however, we propose that the minimum number be two spaces rather than the previously suggested four spaces.

Taken together, these refinements to parking standards will update our code in accordance with actual evidence of parking demand, facilitate changes of use in existing buildings, and foster compliance with accessibility requirements.

Geologic Review

Geologic Hazard Regulations (Chapter 16.10), authorize the County to require Geologic Review for “Development/ Development Activities”. In the proposed ordinance, altering 75% or more of the major structural components (exterior wall framing, roof framing, floor framing, and foundation) would be considered development and could trigger geologic review. This is a change from the previous proposal, which indicated a threshold in the range of 75-80%. (It should be noted that although the code authorizes geologic review, staff only requires it when necessary because of site specific conditions). The administrative guidelines and worksheet discussed later in this letter would be used to calculate the extent of alterations to major structural components.

Level 4 Permit Process

As previously discussed with your Commission, the Level 4 administrative discretionary review process would be revised to reduce processing time and costs. Current Level 4 noticing requirements exceed that which is required for a Level 5, 6 or 7 approvals. Notices for Level 4 permits would be sent one time only, and a notice would be published on the Planning Department website instead of in the local newspaper. As recommended by your Commission, the current requirement to send notices to property owners within 300 feet and residents within 100 feet of the subject parcel would be retained. The current process of referring appeals of Level 4 Approvals to the Planning Director would be broadened, such that appeals would be heard at a public hearing before the Zoning Administrator.

Minor Code Clean-ups

As previously reviewed with your Commission, the proposed ordinance includes several minor changes to Design Review regulations in Chapter 13.11, and deletes an outdated amendment in Chapter 12.10 (Building Regulations). Several code clean-ups have been added, as part of ongoing efforts to maintain an accurate and up to date County Code. A review of all clean-up provisions is provided in Part 5 of the Project Description on page 18 of the Initial Study (Exhibit F).

Administrative Procedures for Evaluating Structural Alteration and Reconstruction

As noted in the definition of “reconstruction” in the proposed ordinance, calculating the percentage of major structural components that are proposed to be altered will be done in

accordance with administrative guidelines. As discussed with your Commission, staff will provide a worksheet for staff and the public that would be used to calculate the extent of work for specific projects. The goal of the guidelines and worksheet is to provide a transparent and predictable method to answer the question, “What type of review will be required for my project?” Promulgating the guidelines and worksheet as administrative documents will allow the Planning Department the flexibility to improve and update the guidelines and worksheet as experience using them grows.

Staff is currently preparing the draft administrative guidelines and implementing worksheet. Staff’s working proposal is that each of the major structural components would be weighted, with roofs considered 15% of the total structural components, exterior walls 65%, floor framing 10%, and the foundation 10%. Under this approach, a proposal to modify or replace the roof and almost all of the walls of a structure would be considered a reconstruction. To the extent that the project also included floor or foundation work, a lesser amount of exterior wall could be modified before the project would fall under “reconstruction” and trigger discretionary review. In most cases, replacing portions of the exterior walls, modifying portions of a roof, and repairing portions of a foundation of a nonconforming structure would not exceed 75% and would not be subject to discretionary review.

In comparison with current regulations, the revised approach would provide a more reality based understanding of reconstruction by considering changes to the entire structure, rather than just to the nonconforming portion of the exterior walls. This would correct a difficult, unintended consequence of the current regulations, which is that a proposal to alter an entire structure and leave 50% or more of an existing nonconforming wall standing can be done with a building permit only. This creates an incentive to preserve, rather than correct, the nonconforming part of the structure. Additionally, the revised method of calculation would avoid “stud by stud” measurement of the extent of alteration, which is difficult to do without very detailed plans and which sometimes leads to surprises in the field, since it is often impossible to predict with certainty which studs need replacement until construction has begun. Lastly, it is important to note that overall, under the revised ordinance, there would be significantly less pressure on the method of calculation to be quite precise because the “consequence” of exceeding the threshold of reconstruction would be a requirement to obtain a discretionary site development permit, rather than to obtain a Variance, which is currently required.

Prior to the Planning Commission meeting on January 25, staff intends to convene an additional focus group with local designers, architects, and other interested individuals to conduct a test run of the guidelines and worksheet to ensure that the worksheet can be completed in a reasonable amount of time, works for a variety of projects, and leads to reasonable outcomes. At the meeting on January 25, staff will report the results of the focus group to your Commission. The final administrative guidelines and worksheet, which will incorporate recommendations from the focus group, will be provided on the Planning Department website prior to implementation of the proposed ordinance.

General Plan and Local Coastal Program Amendments

Staff is proposing amendments to several specific General Plan (GP)/ Local Coastal Program (LCP) policies to improve consistency between the GP/LCP and the proposed regulations for nonconforming uses and structures (Exhibit C). The attached Initial Study (Exhibit F) provides a detailed review of the proposed amendments.

The proposed GP/ LCP amendments would delete restrictive policy language for commercial and light industrial nonconforming uses meeting certain criteria, and would delete language restricting reconstruction of “significantly nonconforming” residential structures.

Staff is also proposing to amend the definition of “development activity” in the General Plan Glossary, removing the specific definition and instead referring to existing definitions in the implementing regulations in the County Code.

Lastly, Staff is proposing to add Policy 2.1.17 to the Land Use Element of the General Plan to provide clear policy guidance for treatment of nonconforming uses and structures, consistent with the language provided in the draft ordinance reviewed by your Commission.

Environmental Review

An Initial Study has been completed for the proposed ordinance amendments and GP/LCP amendments (Exhibit F). The Initial Study focused on potential impacts relating to visual resources, traffic and transportation, and land use. No potentially significant negative environmental impacts were identified. The proposed amendments retain existing regulations protecting the environment, and are not anticipated to result in significant new development. In addition, several of the proposed ordinance provisions, including requiring additional review for nonconforming structures in riparian corridors, and allowing more existing nonconforming structures to be retained and reused rather than encouraging the structures to be torn down and rebuilt, have the potential to positively impact the environment.

Staff did not receive any comments during the public review and comment period, which ended January 3, 2012. Tribal consultations have been completed for the proposed General Plan Amendments. No comments were received during that comment period, which ended on December 6, 2011.

Several revisions have been made to the proposed ordinance since it was circulated with the draft Negative Declaration. Staff has prepared a table in Exhibit F listing the revisions. The Environmental Coordinator has evaluated each proposed change, and has determined that none of the proposed revisions has the potential to significantly impact the environment. Therefore, additional environmental review is not required (see memo of Matt Johnston, Environmental Coordinator, Exhibit F).

Local Coastal Program Consistency

The proposed ordinance amendments will not result in loss of agricultural land, loss of coastal access, or negative impacts to public viewsheds within the Coastal Zone. Except for amendments to modify certain parking standards, the proposed changes affect existing uses and structures or address permit processing procedures that will not have a physical effect on the Coastal Zone. The revisions to parking standards, which will reduce the required number of spaces for certain types of commercial uses, may have the positive effect of limiting pavement and encouraging infill rather than sprawl. Projects for which coastal permits are currently necessary would continue to have that requirement. The proposed GP/LCP amendments also will not result in loss of agricultural land, loss of coastal access, or negative impacts to public viewsheds within the Coastal Zone. The new and revised policies encourage the maintenance, upkeep and continued use of legal, non conforming uses and structures that currently exist and do not apply to proposed new structures and uses.

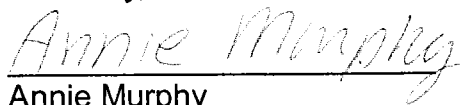
Conclusion and Recommendations

The proposal before you today would accomplish a number of important objectives. For nonconforming uses and structures, the proposed regulations provide greater flexibility while continuing to require appropriate planning review to protect public health, safety, welfare and the environment. For commercial uses, the proposal to streamline the review process for certain changes of use and revise selected parking standards provides an important step towards improving the regulatory environment for local businesses. The replacement of the “altered wall” provisions in the County Code with a more reality based “whole structure” approach provides a more workable approach for evaluating work to nonconforming structures and uses, and for establishing an appropriate threshold for triggering potential geologic review. The proposed ordinance amendments have been developed and revised in response to comments from your Commission, the Board of Supervisors, and extensive public participation, to ensure that the proposed regulations serve the community and are consistent with community objectives.

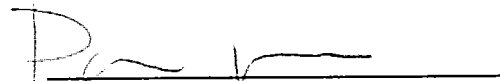
It is therefore RECOMMENDED that your Commission take the following actions:

1. Conduct a public hearing on the proposed Ordinance (Exhibit B) and General Plan/ Local Coastal Program Amendments (Exhibit C); and
2. Adopt a resolution (Exhibit A) recommending that the Board of Supervisors adopt the Draft Negative Declaration (Exhibit F) and approve the proposed Ordinance (Exhibit B) and General Plan/ Local Coastal Program amendments (Exhibit C).

Sincerely,



Annie Murphy
Planner III



Paia Levine
Principal Planner

Exhibits:

- A: Resolution recommending approval of the proposed ordinance amendments, GP/ LCP amendments, and certification of the proposed negative declaration
Attachment 1 to Exhibit A, Annotated Ordinance (Strike- through version)
Attachment 2 to Exhibit A, General Plan/ LCP amendments (Strike- through version)
- B: Clean Copy of proposed ordinance
- C: Clean Copy of the proposed GP/ LCP amendments
- D: Summary of Planning Commission Workshop on 9/14/11, including list of proposed revisions
- E: Table Comparing Existing and Proposed Regulations
- F: Negative Declaration, Initial Study, table of proposed changes to the ordinance that post- date CEQA review, and memo of Environmental Coordinator
- G: Letter to the Board of Supervisors dated September 12, 2011 (Attachments to report on file with the Clerk of the Board)
- H: Report to the Planning Commission dated September 6, 2011 (Attachments to report on file with the Clerk of the Board)
- I: Strike-out copy of existing regulations for Nonconforming Uses and Structures

cc: County Counsel
Coastal Commission

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. _____

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

PLANNING COMMISSION RESOLUTION RECOMMENDING AN ORDINANCE TO AMEND CHAPTER 12.10 OF THE SANTA CRUZ COUNTY CODE TO DELETE THE ADMINISTRATIVE AMENDMENT DEFINING "STRUCTURE"; TO AMEND CHAPTER 13.10 TO DELETE THE EXISTING PROVISIONS GOVERNING NONCONFORMING USES AND STRUCTURES AND ADOPT NEW PROVISIONS, AMEND VARIOUS PROVISIONS TO FACILITATE COMMERCIAL USES, UPDATE SELECTED PARKING REGULATIONS, AND CORRECT ERRORS, OMISSIONS AND REFERENCES; TO AMEND CHAPTER 13.11 TO CLARIFY BUILDING DESIGN REVIEW CRITERIA; TO AMEND CHAPTER 16.10 TO UPDATE THE DEFINITION OF DEVELOPMENT AS IT PERTAINS TO GEOLOGIC HAZARDS; AND TO AMEND CHAPTER 18.10 TO MODIFY APPEALS AND LEVEL IV PERMIT PROCEDURES

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

WHEREAS, the Board of Supervisors has expressed its intent to improve regulations governing nonconforming uses and structures, to acknowledge the prevalence of legally established nonconforming uses and structures, recognize the neighborhood benefit of well-maintained buildings, and preserve and improve existing housing stock and commercial space; and

WHEREAS, the Board of Supervisors has expressed its intent to ease the movement of tenants and businesses in and out of established commercial structures, through improvements to the permit review process and revision of parking standards; and

WHEREAS, consistent with these goals, the Board of Supervisors on June 28, 2011 accepted a status report discussing these regulatory changes and directed staff to convene with business, homeowner and environmental groups to obtain comments on these proposals, and also directed staff to develop draft ordinance amendments as a "project description" for environmental review; and

WHEREAS, the Planning Commission conducted a workshop and public hearing on September 14, 2011 to discuss draft ordinance amendments to Chapters 13.10, 13.11 and 16.10 of the County Code regarding nonconforming uses and structures; commercial changes of use; parking regulations; the definition of reconstruction and altered walls; clarification of the Design Review ordinance; and the definition of development that governs geologic review; and

WHEREAS, the Board of Supervisors conducted a public hearing on September 20, 2011 to receive comments on draft ordinance amendments to Chapters 12.10, 13.10, 13.11,

16.10 and 18.10 regarding, respectively, the building code definition of "structure"; nonconforming uses and structures; commercial changes of use; selected parking regulations; the definition of reconstruction and altered walls; clarification of the Design Review ordinance; the definition of development that governs geologic review; appeals and Level IV permit procedures; and correction of errors, omissions and references; and

WHEREAS, the Board of Supervisors on September 20, 2011, accepted the draft ordinance amendments, with certain modifications, as the project description for the purpose of CEQA review, and directed staff to return the ordinance to the Planning Commission for a public hearing after environmental review was completed; and

WHEREAS, the environmental review has been completed for the project and the County of Santa Cruz Environmental Coordinator 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, the Planning Commission conducted a public hearing on January 25, 2012 to consider the proposed amendments to the above described chapters and proposed amendments to the County of Santa Cruz General Plan and Local Coastal Program (GP /LCP); and

WHEREAS, the Planning Commission finds that the proposed ordinances as revised will be consistent with other provisions of the County Code, with the policies of the GP /LCP and with State law; and

WHEREAS, Chapters 13.10, 13.11, 16.10 and 18.10 are implementing ordinances of the Local Coastal Program and the proposed amendments to these chapters constitute amendments to the LCP; and

WHEREAS, the Planning Commission finds that the proposed amendments to Chapters 13.10, 13.11, 16.10 and 18.10, are consistent with the General Plan / LCP and with the Coastal Act; and

WHEREAS, the Planning Commission finds that the proposed amendments to the General Plan / LCP are consistent with the Coastal Act,

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Planning Commission recommends that the Board of Supervisors adopt the Negative Declaration, the amendments to Chapters 12.10, 13.10, 13.11, 16.10 and 18.10 of the Santa Cruz County Code, and the amendments to the General Plan / LCP, and submit the adopted documents to the Coastal Commission.

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this _____ day of _____, 2012 by the following vote:

AYES: COMMISSIONERS
NOES: COMMISSIONERS
ABSENT: COMMISSIONERS

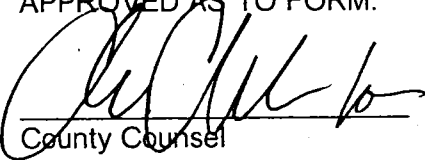
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Chairperson of the Planning Commission

ATTEST:

Secretary

APPROVED AS TO FORM:



County Counsel

DISTRIBUTION: County Counsel
Planning Department

AN ORDINANCE TO AMEND CHAPTER 12.10 OF THE SANTA CRUZ COUNTY CODE TO DELETE THE ADMINISTRATIVE AMENDMENT DEFINING "STRUCTURE"; TO AMEND CHAPTER 13.10 TO DELETE THE EXISTING PROVISIONS GOVERNING NONCONFORMING USES AND STRUCTURES AND ADOPT NEW PROVISIONS, AMEND VARIOUS PROVISIONS TO FACILITATE COMMERCIAL USES, UPDATE SELECTED PARKING REGULATIONS, AND CORRECT ERRORS, OMISSIONS AND REFERENCES; TO AMEND CHAPTER 13.11 TO CLARIFY BUILDING DESIGN REVIEW CRITERIA; TO AMEND CHAPTER 16.10 TO UPDATE THE DEFINITION OF DEVELOPMENT AS IT PERTAINS TO GEOLOGIC HAZARDS; AND TO AMEND CHAPTER 18.10 TO MODIFY APPEALS AND LEVEL IV PERMIT PROCEDURES

SECTION I

Note: County Code Section 12.10.215(c) is a local administrative amendment to the California Building Code (CBC), which added a definition of "structure" as a way to provide guidance regarding the types of projects for which a soils report is generally required in Santa Cruz County. The Planning Department also provides "Soils Report Requirement Guidelines" on the Planning Department Website, to provide this same general guidance to the public regarding when a soils report may be required and/or waived. Staff believes that this information is more appropriately provided through these administrative guidelines, rather than through a definition of "structure" as an administrative amendment of the California Building Code, and therefore proposes to delete this definition of "structure" from County Code Chapter 12.10. The guidelines are consistent with the 2010 California Building Code, which provides authority for the Building Official to require soils reports and also to waive the requirement for a soils report when it can be determined that a soils report is not necessary. In addition, the section of the CBC regarding soils reports was updated in 2010 and no longer includes the word "structure", so the local amendment is outdated.

Subdivision (c), "Administrative amendment – Definition of Structure for Section 1802" of Section 12.10.215, "2010 California Building Code adopted," is hereby deleted.

SECTION II

Note: Subsection 13.10.215(f) is being amended to be consistent with state law, to indicate that when the Board of Supervisors proposes to modify a zoning amendment referred to them by the Planning Commission, any proposed modification that was not previously considered by the Planning Commission shall be referred back to the Planning Commission, rather than just any "substantial modification". State law includes the word "any".

Subdivision (f) of Section 13.10.215, "Zoning Plan Amendment" of the Santa Cruz County Code, is hereby amended to read as follows:

(f) Board of Supervisors Action. The Clerk of the Board shall set a public hearing before the Board of Supervisors within thirty (30) days after the receipt of the report recommending a zoning amendment

from the Planning Commission. The Board may approve, modify, or disapprove the Planning Commission's recommendation, provided that any substantial modification of the proposed zoning amendment (including the imposition of regulations which are less restrictive than those proposed by the commission or changes in proposed dwelling density or use) which was not previously considered by the Planning Commission shall be referred to the Planning Commission for their report and recommendation. The Planning Commission is not required to hold a public hearing on the referral, and their failure to respond within forty (40) days shall constitute approval. Any hearing may be continued from time to time.

SECTION III

This proposed ordinance revises the Level 4 Approval Process in Chapter 18.10, such that the process is generally consistent with the existing approval process for minor exceptions. Therefore, appeals and noticing procedures for minor exceptions are being revised to refer to the Level 4 Process in Chapter 18.10.

Subdivision (c)3 of Section 13.10.235, "Minor Exceptions," of the Santa Cruz County Code, is hereby amended, to read as follows:

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 and within 100 feet 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 18.10.222(d).~~ Noticing shall be as provided by Sections 18.10.222 and 18.10.224.

SECTION IV

Subdivision (c)6 of Section 13.10.235, "Minor Exceptions," of the Santa Cruz County Code, is hereby amended, to read as follows:

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. The procedures for appeals shall be as provided by sections 18.10.310 and 18.10.324.~~

SECTION V

Section 13.10.260, "Nonconforming Uses -- Provisions that apply to all uses," Section 13.10.261, "Residential Nonconforming Uses," Section 13.10.262, "Nonresidential nonconforming uses" and Section 13.10.265, "Nonconforming structures," of the Santa Cruz County Code, are hereby deleted.

SECTION VI

Note: As the existing regulations for nonconforming uses and structures are being extensively revised, existing regulations in Sections 13.10.260, 13.10.261, 13.10.262 and 13.10.265 are being replaced with new Sections 13.10.260, 13.10.261 and 13.10.262.

Section 13.10.260, "Nonconforming uses and structures – general provisions," is hereby added to the Santa Cruz County Code to read as follows:

13.10.260 Nonconforming uses and structures – general provisions

(a) Purpose:

To establish regulations for nonconforming structures and uses that recognize the prevalence of legally established nonconforming uses and structures, the neighborhood benefit of well-maintained buildings, and the need to preserve and improve existing housing stock and commercial space. To allow legal nonconforming uses and structures to continue to exist, and to be improved, within appropriate parameters that address potential impacts to public health, safety and welfare. To establish a threshold for when changes to existing nonconforming uses and structures are subject to discretionary review, and establish findings for approval of discretionary permits to protect public health, safety, welfare and the environment. To establish provisions whereby nonconforming uses that are determined to be detrimental to public health, safety or welfare may be terminated by the Board of Supervisors.

(b) Definitions. The following words and phrases, whenever used in this Section, or Sections 13.10.261 or 13.10.262, shall have the following meanings:

1. Intensification of Use, Non-Residential: Any change or expansion of a non-residential use which will result in both a greater than 10% increase in parking need and more than two spaces or which is determined by the Planning Director likely to result in a significant new or increased impact due to potential traffic generation, noise, smoke, glare, odors, hazardous materials, water use, and/or sewage generation, shall be an "intensification of use" for the purposes of this Chapter.

2. Intensification of Use, Residential: Any change to a residential use which will result in an increase of its number of bedrooms, as defined in Section 13.10.700(B), shall be an "intensification of use" for the purposes of this Chapter.

3. Major Structural Components: The foundation, floor framing, exterior wall framing and roof framing of a structure. Exterior siding, doors, window glazing, roofing materials, decks, chimneys and interior elements including but not limited to interior walls and sheetrock, insulation, fixtures, and mechanical, electrical and plumbing elements are not considered major structural components.

4. Nonconforming Structure: A structure that was lawfully erected prior to the adoption, revision or amendment of this Chapter but that does not conform with standards for lot coverage, setbacks, height,

number of stories, distance between structures, or floor area ratio currently prescribed in the regulations for the zoning district in which the structure is located.

5. Nonconforming Use: A use of structure or land that was legally established and maintained prior to the adoption, revision or amendment of this Chapter, but does not conform to the current use standards, and density standards where applicable, of both the zone district and/ or the General Plan/Local Coastal Program land use designation in which the use is located. A nonconforming structure is not a nonconforming use. A legally established use shall not be deemed nonconforming due to the lack of a use permit.

6. Reconstruction: Modification or replacement of 75% or more of the major structural components (see 13.10.260(b)3) of an existing structure within any consecutive five-year period. The calculation of extent of work will be done in accordance with administrative procedures established by the Planning Director.

(c) General Requirements.

1. Determination of Nonconforming Status. The property owner shall have the burden of proof in establishing the legal status of any nonconforming use or structure, in accordance with any administrative procedures that may be established by the Planning Director.

2. Compliance with Other Provisions of the County Code. The permits required in sections 13.10.260, 13.10.261, and 13.10.262 of this chapter are in addition to all other reviews and permits required by the Santa Cruz County Code, including requirements in Chapters 13.11, 13.20, 18.10 and in Title 16. Approvals issued pursuant to sections 13.10.260, 13.10.261, and 13.10.262 do not alter the permit and review requirements of other provisions of the Santa Cruz County Code. Work performed on a nonconforming structure or a structure accommodating a nonconforming use shall be pursuant to a building permit as required by Chapter 12.10, and shall meet the requirements of these Nonconforming Structures and Uses Regulations (sections 13.10.260, 13.10.261, and 13.10.262) unless a waiver or exception is granted as provided in these regulations. Except as provided by 13.10.262(a)4, "Reconstruction or replacement of a nonconforming structure after a catastrophic event," or as specifically authorized by other provisions of the Santa Cruz County Code, relocation of a nonconforming structure that does not result in a conforming structure shall require either variance approval or minor exception in accordance with Section 13.10.230 or Section 13.10.235.

3. Regulations in effect at the time of construction. Nothing contained in this Section shall be deemed to require any change in the plans, construction, or designated use of any structure upon which actual construction or operation was or will be lawfully initiated in accordance with applicable regulations in effect at the time when a planning or building permit was approved.

4. Pre-existing Parcels. A parcel that does not meet the current minimum site area, width, or frontage as required by the regulations of the zone district in which the parcel is located, or does not conform due to public dedication of right-of-way in accordance with Section 13.10.323(d)3, shall be deemed conforming and may be developed if:

(i) The parcel was legally created; and

(ii) The parcel has not been combined or merged pursuant to Sections 14.01.110 and 14.01.111.

5. Nonconforming Parking. In accordance with the limitations of Section 13.10.575, no legal existing use of land or structure shall be deemed to be a nonconforming use solely because of the lack

of offstreet parking or loading facilities.

6. Exception for compliance with accessibility requirements. Work performed solely to comply with the American with Disabilities Act or with Chapter 11 of the State Building Code shall be excluded from calculations of reconstruction or alteration for the purposes of Sections 13.10.260, 13.10.261 and 13.10.262.

7. Exception for properties that have been designated as historic resources pursuant to County Code Chapter 16.42, or for corrective work on dangerous building elements. Work performed solely to comply with federal standards for rehabilitation of historic properties or with Chapter 16.42 of the County Code, or solely to comply with a notice or requirement of the County Building Official to correct dangerous building elements, shall be excluded from calculations of reconstruction or structural alteration for the purposes of Sections 13.10.260, 13.10.261 and 13.10.262.

8. Other regulations pertaining to nonconformity.

The following code sections establish additional regulations for nonconforming uses or structures:

- i. Nonconforming signs. See Section 13.10.588.
- ii. Nonconforming Greenhouses. See Section 13.10.636(c).
- iii. Nonconforming Farm Worker Housing. See Section 13.10.631.
- iv. Nonconforming Recycling Collection Facilities. See Section 13.10.658(b).
- v. "M-1" Zone District Uses Not in Compliance with Section 13.10.345(a). Uses in the "M-1" Light Industrial zone district which are not in compliance with the provisions of Section 13.10.345(a)(1-6) are considered nonconforming uses subject to Sections 13.10.345(a)(7) and 13.10.345(a)(8).
- vi. Lands designated with a "P" Combining District. Modification or expansion of uses on lands designated with a "P" Agricultural Preservation Combining District shall be processed as set forth in Section 13.10.473.
- vii. Expansion of Organized Camps with Nonconforming Densities. See Section 13.10.353(b)3.

SECTION VII

Section 13.10.261, "Nonconforming Uses" is hereby added to the Santa Cruz County Code to read as follows:

13.10.261 Nonconforming Uses

(a) Applicability. This section applies to nonconforming uses in all zone districts.

(b) General requirements.

1. Continuation of Nonconforming Uses and Nonconforming Rights. The lawful use of land existing on the effective date of the adoption, revision or amendment of the zoning designation or of the zoning regulations that affect a property may be continued, even if the use no longer conforms to the regulations specified by Chapter 13.10 for the district in which the land is located. A nonconforming use that is not in use for at least three (3) out of the past five (5) years loses its status as

