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February 7, 2020

VIA FIRST CLASS MAIL AND EMAIL

Kathy Molloy, Planning Director
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060
Kathy.Molloy@santacruzcounty.us

Re: Further comments on proposed Santa Cruz County LCP amendments: Land Use
Plan section 6.4 (Coastal Bluffs & Beaches) and Implementation Plan chapter 16.10
(Geologic Hazards)
Our File: 35686.34863

Dear Ms. Molloy:

As you are aware, this office represents the Coastal Property Owners Association of Santa Cruz County ("CPOA") in connection with the proposed amendments to the Santa Cruz County ("County") Local Coastal Program ("LCP"). The CPOA is a non-profit corporation who, since 1967, advocates on behalf of its approximately 600 coastal property owner-members in Santa Cruz County for a legislative and regulatory framework that enables its members to enjoy and protect their homes and businesses from coastal erosion while also preserving beaches, maintaining public access, and protecting coastal resources.

The CPOA recognizes the substantial efforts made by you, David Carlson, and other County planning staff in this complex LCP amendment process. The CPOA also appreciates the County's willingness and ongoing commitment to consider the CPOA's viewpoints in that important process. To that end, in light of the significant changes to the proposed LCP amendments made between the County Planning Commission hearing on November 13, 2019

and the scheduled/continued County Board of Supervisors hearing on December 10, 2019, the CPOA strongly believes further efforts are needed to achieve the proper balance between preserving coastal resources, providing public coastal access, and protecting the rights of private property owners, as explicitly contemplated by the California Coastal Act (“Act”).¹

This letter highlights the CPOA’s most vital continuing concerns with, and recommends important further revisions to, certain portions of the County’s proposed LCP amendments; namely, proposed land use plan (“LUP”) section 6.4 (Coastal Bluffs & Beaches) and proposed implementation plan (“IP”) chapter 16.10 (Geologic Hazards).² The main goals of these proposed revisions are three-fold. First, to provide clarity to those reading, interpreting, and making investment and permitting decisions based on the LCP, not the least of which are the legion of CPOA members and the County’s planning staff and decision-makers. Second, to ensure the LCP is consistent with, and no more restrictive of private property owners’ rights than contemplated by, the “basic goals”³ of the Act. Third, to help the County guard against self-imposing legally unnecessary administrative burdens on County staff and decision-making bodies (e.g., Planning Commission, Board of Supervisors) in processing a greater number of coastal development permits that will undoubtedly follow from accepting and implementing an overbroad scope of “triggering” events as defined in the County LCP.

With those goals in mind, the CPOA offers proposed redline revisions and detailed comments to LUP section 6.4 and IP chapter 16.10, attached hereto as **Exhibits A and B**, respectively. In addition to concerns about numerous internal inconsistencies (within each and between the LUP and IP) that necessitate further review and correction, the CPOA’s primary concerns with those portions of the currently proposed LCP are summarized as follows:

1. The proposed provision regarding a one-time-only “replacement/redevelopment” allowance needs further revision for clarification that it is a one-time exception to what would otherwise “trigger” LCP/geologic hazards compliance, consistent with the explanation provided to the CPOA during its meeting with you and David Carlson on January 10, 2020.⁴
2. The proposed definition of “redevelopment/replacement” in the LUP needs further revision for clarification that it is based on a five-year consecutive period, consistent with proposed IP section 16.10.040(N)(2) and with the explanation provided to the CPOA during its January 10th meeting with you and Mr. Carlson.⁵

¹ See [Public Resources Code § 30001.5](#).

² A local coastal program (LCP) generally has two components: a LUP and an IP.

³ [Public Resources Code § 30001.5](#).

⁴ See, e.g., 4th, 5th, and 16th bullet points in LUP “Guiding Principles;” LUP policy 6.4.11, 3rd ¶.

⁵ See, e.g., LUP “Objective” ¶3; 4th and 16th bullet points in LUP “Guiding Principles.”

3. The proposed definition/calculation of “repetitive loss properties” needs further revision to clarify that it is based on any 10-year rolling period, consistent with proposed IP section 16.10.070(H)(13), and expand the “one loss” rule (in the LUP and IP) to losses within a 60-day period, as the 10-day period currently is far too narrow a window given the potential length and severity of a storm cycle.⁶
4. The proposed methodology for calculating the minimum required geologic/coastal hazards development setback needs further revision to make consideration of existing shoreline armoring mandatory (i.e., “shall” not “may,” “may not,” or “shall not”), as such existing armoring is part of the “existing site conditions” which “shall” be considered in calculating the setback, per IP section 16.10.070(H)(1)(b)).⁷
5. The proposed circumstances in which new shoreline armoring is allowed needs to be expanded to allow shoreline armoring “on parcels where both adjacent parcels are similarly armed” (and not merely on vacant parcels), consistent with current and proposed IP section 16.10.070(H)(3)(a), and consistent with the technical reality illustrated in the last paragraph of the proposed LUP’s “Intent and Review of Policy Intent” section: “focused erosion can occur at the ends of armoring” (i.e., can hasten erosion on adjacent unprotected parcels).⁸
6. The proposed condition of approval requiring a property owner’s agreement in advance to remove shoreline armoring “if it is no longer located on private property” is onerous and must be deleted. Similarly, the proposed condition requiring removal “if it becomes unsafe” should be revised to limit such required removal only where the “unsafe” condition is attributable to the property owner’s failure to maintain and repair the armoring; otherwise, the “unsafe” condition should trigger required maintenance (per monitoring and maintenance program).⁹
7. The proposed condition requiring “reconsideration” and potential removal of shoreline armoring that is not necessary to protect an existing structure from a significant threat should be deleted as it ignores the several other legal bases upon which armoring may be permitted (see, IP § 16.10.070(H)(3)(a)), the technical reality that “focused erosion can occur at the ends of armoring,” and existing armoring that pre-dates the Act.¹⁰

⁶ See, e.g., LUP policy 6.4.36; cf. IP § 16.10.070(H)(13).

⁷ See, e.g., LUP policies 6.4.7(a) and 6.4.11.

⁸ See, e.g., LUP policy 6.4.25(a).

⁹ See, e.g., LUP policy 6.4.9 “Removal or Relocation;” LUP policy 6.4.32(c).

¹⁰ See LUP policies 6.4.25(e), (f) and (l).

8. The proposed calculation of geologic setbacks requiring consideration of projected sea level rise (“SLR”) should be revised to project SLR in the future (i.e., from 2020-2040) instead of the current proposed period of 2000-2040, half of which is history and can be quantified.¹¹
9. The proposed provisions regarding Shoreline Management Plan (“SMP”) areas require additional details regarding SMP creation procedures, timeframe, and cost burdens to provide coastal property owners with sufficient “assurance.”¹²
10. The proposed definition/location of the proposed boundaries of the Shoreline Protection Exception Area (“SPEA”) and Shoreline Management Plan areas need further revision to clarify/identify the upcoast-most parcel within the proposed SPEA as 2868 S. Palisades Avenue, and to clarify/identify which parcels are within the proposed SMP areas.¹³

As mentioned above, further details regarding these and other concerns are included in **Exhibits A and B** attached hereto.

When reviewing and considering these issues of concern, for broad perspective, it is important to be mindful throughout this LCP update process that, so long as the County’s LCP complies with the Act’s “basic goals”¹⁴ (substantively unchanged since 1976), neither the California Coastal Commission (“Commission”) nor its staff have any legal authority to demand additional constraints on development or foreclose upon property owners’ rights to protect their coastal property. California courts have consistently held that the Commission exceeds its jurisdiction when it inserts itself into the local policymaking process.¹⁵ Prior case law highlights that, absent a delegation of authority from the Legislature, the Commission “literally has no power to act.”¹⁶ In fact, any action taken by the Commission “that is inconsistent with, or that simply is not authorized by, the Coastal Act... is void.”¹⁷

¹¹ See, e.g., LUP “Information and Review of Policy Intent” ¶5; LUP policy 6.4.3.

¹² See, e.g., LUP “Objective;” 4th, 16th, 22nd, and 24th bullet points of LUP “Guiding Principles;” LUP policies 6.4.1, 6.4.11, 6.4.25(a), (c), and (g), 6.4.32(d), 6.4.37.

¹³ See, e.g., 2nd bullet point of LUP “Guiding Principles”

¹⁴ [Public Resources Code § 30001.5](#).

¹⁵ *Security Nat. Guar., Inc. v. Cal. Coastal Comm.* (2008) 159 Cal.App.4th 402, 422; *Douda v. Cal. Coastal Comm.* (2008) 159 Cal.App.4th 1181; *Schneider v. Cal. Coastal Comm.* (2006) 140 Cal.App.4th 1339.

¹⁶ *Security Nat. Guar., Inc., supra*, at 422.

¹⁷ *Id.* at 419. See also, *Yost v. Thomas* (1984) 36 Cal.3d 561, 572-573 (CCC “can approve or disapprove but it cannot itself draft any part of the coastal plan.”).

Conversely, the California Legislature “left wide discretion” to local jurisdictions to formulate LCPs and “to determine how to implement” certified LCPs.¹⁸ Critically, once an LCP is adopted and then certified by the Commission, the certified LCP becomes the standard of review for coastal development permits (“CDPs”) and if/when CDPs issued by the local jurisdiction are appealed to the Commission. Therefore, the County should not feel inclined, be unduly influenced by, or allow itself to become part of and used as, what Commission staff often cites to as “Commission precedent” of other jurisdictions and coastal property owners accepting Commission staff’s demands that are not necessary for consistency with the Act and made in furtherance of the so-called “managed retreat”¹⁹ policy goal stated in the Commission’s Sea Level Rise Policy Guidance document (“SLR Guidance”)—a policy not supported by the California Constitution, the Act or its “basic goals.”

As for the SLP Guidance, it is not the law, despite Commission staff’s repeated characterizations to the contrary. Indeed, the SLR Guidance expressly acknowledges this fact in its introductory section entitled “How to Use This Document,” stating, “This Guidance is advisory and not a regulatory document or legal standard of review for the actions that the Commission or local governments may take under the Coastal Act. Such actions are subject to the applicable requirements of the Coastal Act, the federal Coastal Zone Management Act, certified Local Coastal Programs, and other applicable laws and regulations as applied in the context of the evidence in the record for that action.” The Commission further implicitly acknowledges that fact in its draft Coastal Commission Strategic Plan for 2020-2025, which makes no reference to the SLR Guidance in the “Rule of Law” paragraph of the “Core Values” section (on p. 8): “The Commission follows and applies the law fairly and consistently in each matter before it. The Coastal Act, certified LCPs, and Commission regulations govern the Commission’s decisions.”²⁰

The CPOA respectfully requests that you consider these principles when reviewing the CPOA’s comments and suggested revisions to LUP section 6.4 and IP chapter 16.10.

¹⁸ *Yost, supra*, at 574; *City of Malibu v. Cal. Coastal Comm.* (2012) 206 Cal.App.4th 549, 556.

¹⁹ “If a managed retreat strategy is not in place, existing structures may qualify for shoreline protection.” ([SLR Guidance](#) (defined below), p. 88.)

²⁰ It is worth noting that Commission staff’s comment letter, dated December 9, 2019, to the County Board of Supervisors relies heavily on “current Coastal Commission practice and guidance” (p. 1, ¶2), “the Coastal Commission’s current practice” (p. 2, ¶2), “current Coastal Commission practice” (p. 2, ¶2), “the Coastal Commission’s definition” (p. 2, ¶2), and “current Coastal Commission practices and guidance” (p. 2, ¶3). In addition to the fact that such practices, guidance, and definitions are not the law, coastal property owners are entitled to a minimum level of certainty as to the applicable land use laws and regulations. As recognized in proposed LUP policy 6.4.1, “project applicants seek a level of assurance regarding County land use policies that apply to proposed projects.” Unfortunately, “current Coastal Commission practices” provide no such certainty or assurance and such non-binding “practices” and “guidance” should not unduly influence the County’s LCP update process.

Kathy Molloy, Planning Director
February 7, 2020
Page 6

On behalf of the majority of its approximately 600 members, the CPOA again thanks you and your staff for engaging with the citizens of Santa Cruz County and for considering the CPOA's comments regarding the LCP update process. We look forward to continuing the dialogue with you on this matter that is vitally important to the County's long-term well-being. In that regard, we look forward to meeting with you to further discuss these issues before the matter is presented to and heard by the Board of Supervisors. As such, we request that the Board of Supervisors' hearing on this matter be continued to allow sufficient time to address the issues highlighted in this letter and its attachments, as the final LCP update (upon County adoption and Commission certification) will have significant impacts on the County and its coastal residents for decades to come.

Very truly yours,

FENTON & KELLER
A Professional Corporation



Derric G. Oliver

Enclosures

cc: Supervisor John Leopold, 1st District (John.Leopold@santacruzcounty.us)
Supervisor Zach Friend, 2nd District (Zach.Friend@santacruzcounty.us)
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David Carlson, County Resource Planner (David.Carlson@santacruzcounty.us)
Steve Forer, CPOA President

EXHIBIT A

GP/LCP PUBLIC SAFETY ELEMENT SECTION 6.4 COASTAL BLUFFS & BEACHES

“Clean” version (i.e., accepted changes made after 11-13-2019 Planning Commission public hearing) presented in Board memo for 12-10-19 hearing WITH CPOA’s redline suggested revisions and comments

COASTAL BLUFFS AND BEACHES: INFORMATION AND REVIEW OF POLICY INTENT

Coastal communities are particularly vulnerable to impacts from sea level rise and hazards that result from extreme weather, including flooding and inundation, erosion, and wave impacts. State law and current scientific projections regarding climate change and sea level rise require that the County update policies related to development on coastal bluffs and beaches, and relationship of such to shoreline and coastal bluff armoring, in order to acknowledge and incorporate sea level rise into development standards and into conditions of approval that apply to projects proposed on sites subject to coastal hazards. Policies are needed to guide regulatory responses by the County and Coastal Commission to proposed changes on existing developed properties due to involuntary damage (from coastal hazards or other hazards such as fire), as well as to proposed demolition/replacement projects or reconstructions that are pursued voluntarily by property owners. Policies are also needed to address projects that involve only existing shoreline protection structures themselves, such as proposals to maintain, rehabilitate or replace such structures in a manner that would reduce existing impacts on coastal resources, or that would act to protect critical public infrastructure. Areas that are anticipated to accommodate shoreline protection structures in the mid-to-longer term are considered to be "shoreline protection exception areas", which would be designated only within certain portions of the existing urbanized area of unincorporated Santa Cruz County.

Much of the Santa Cruz County coastline, particularly in the urbanized developed areas, has some level of armoring (walls, riprap, etc.). The primary type of coastal armoring in this area is riprap, but concrete, steel, wood, and gabion basket armoring also exist. Such improvements are themselves considered "structures" and some of the protection structures existed (within "existing developed areas") prior to the Coastal Act. Some of these structures are well-maintained and some less so, with varying levels of impacts on coastal resources depending upon condition and location.

East Cliff Drive is located within an urbanized area that was an existing developed area at the time the Coastal Act was adopted, and it is one of the four primary east-west transportation corridors in Santa Cruz County which include Highway One, Soquel Drive/Avenue, the Santa Cruz Branch Rail Line (not presently used for but publicly owned and planned for multi-modal transportation) and East Cliff Drive/Portola Drive/Opal Cliffs Drive. East Cliff Drive, along with its transition as it becomes Opal Cliffs Drive, connects the Santa Cruz Harbor area to the Capitola Village area. A modern seawall has been constructed by the County of Santa Cruz in the Pleasure Point area along East Cliff Drive that should greatly reduce potential damage from coastal erosion to East Cliff Drive as well as the homes on the inland side of the road. This seawall is featured in the Coastal Commission’ Seal Level Rise Guidance document as a model and desired approach for protecting public access and scenic and visual qualities when armoring is necessary and allowable. Transition to this type of seawall between Pleasure Point and the City of Capitola city limits, which is considered to be a "shoreline protection exception area" is a desired outcome for this portion of the urbanized coastal area of Santa Cruz County, which will open up more beach and shoreline area through removal of rip rap and the like, avoid future **deposition construction/placement[?]** of emergency protection that is typically rip rap, reduces visual impacts, and increases coastal access for the general public.

It is not uncommon for East Cliff Drive, a key arterial road, to be closed or damaged where it crosses Schwann Lake, Corcoran Lagoon and Moran Lake during large winter storms. In flood hazard areas it is not appropriate to construct hard armoring structures that divert or block flood waters or that artificially modify lagoon areas. Future sea level rise may require that bridges be built to cross the lagoon frontages, if it is necessary to maintain the East Cliff Drive transportation corridor in either the current or a nearby/modified road location. Such bridges would be designed to maximize lagoon function.

Comment [DGO1]: A local coastal program (LCP) generally consists of two components: Land Use Policy (LUP) and Implementation Plan (IP). The comments to this LUP section 6.4 and to IP chapter 16.10 use those three terms (LCP, LUP, and IP) as applicable throughout.

Comment [DGO2]: What “state law” and what “current scientific projections” legally “require” LCP updates? If this is an allusion to the CCC’s SLR Guidance, that Guidance expressly states that it is not the “law.” This is also implicitly acknowledged in the CCC’s draft Strategic Plan (2020-2025), which makes no reference to the SLR Guidance in the “Rule of Law” paragraph of the “Core Values” section (on p. 8): “The Commission follows and applies the law fairly and consistently in each matter before it. The Coastal Act, certified LCPs, and Commission regulations govern the Commission’s decisions.”

Expectations about the “design life” if improvements are an important consideration when establishing policies related to coastal bluff and other development on an eroding coastline. County policies in the 1994 General Plan/Local Coastal Program required throughout the unincorporated area a geologic setback from the top of a coastal bluff of 25 feet or a setback sufficient, at the time of application submittal, to provide a building site for an assumed 100-year design life of the structure, whichever is greater. Updated County policies require evaluation of the geologic setback for development projects on coastal bluffs considering not only historical shoreline and bluff retreat data, but also acceleration of shoreline and bluff retreat due to continued and accelerated sea level rise, and other climate impacts according to best available science. The level of uncertainty regarding the rate and amount of future sea level rise and future effects on coastal properties makes it difficult to predict when, where, and how much the coast will change in the future. Current reasonable professional projections for the Santa Cruz coastal area (i.e. State of California Sea Level Rise Guidance 2018 medium risk aversion scenario for Monterey tide gauge), are 0.9 feet of sea level rise from the year 2000 conditions to 2040, and 3 to 4.3 feet from year 2000 conditions to the year 2100. In that this Safety Element is intended to address the 2020 to 2040 timeframe, an adaptive approach is reflected that anticipates refinement of policies in the future with subsequent update(s), as well as an implementation of policies and requirements within the 2020-2040 timeframe for conditioning and mitigating impacts of coastal developments.

Comment [DGO3]: What was the actual SLR between 2000 and 2020 (representing half of the time period in which SLR is expected to be 0.9')? In calculating the required blufftop development setback, is the “projected” SLR (per 6.4.2 and 6.4.3) only ½ of the projected 0.9 feet between 2000 and 2040? Instead, the LCP should set forth the projected SLR for the relevant time period: 2020-2040.

The updated Safety Element includes new policies and requirements for development projects subject to coastal and geologic hazards. A key principle is "private internalization of the risks and costs of improving, maintaining and abating development projects/structures on sites that are subject to coastal hazards", so that the public (governments, taxpayers, insurance policyholders) are not the parties who ultimately bear the costs of private property owner investment decisions when the time comes that it is environmentally, practically and economically infeasible to continue the existence of portions or all of structures/improvements subject to coastal hazards. Property owners will be required to acknowledge and accept the risk of building along the coast within a context of rising sea levels. In this way, it is expected that property owners and future buyers and financiers of property along the coast will be well aware of and prepare for such risks, including potential future costs of adaptation, mitigation of on-going impacts on coastal resources, and eventual privately-funded removal of structures that can no longer feasibly exist due to sea level rise. Another key principle is to foster coordination between property owners along similarly-situated portions of the coastline, to pursue coordinated shoreline protection projects where such currently predominantly exist (i.e. within designated "shoreline protection exception areas", so that privately-financed replacement projects can greatly reduce impacts on coastal resources and improve public access, while also acting to protect critical public accessways and infrastructure so that local government/agencies may prioritize financial resources to other climate change adaptive responses (avoiding forest fires, managing flood risks, relocating pump stations, building bridges, and so forth).

Although shoreline armoring may reduce or delay coastal erosion processes as long as it remains functioning, ultimately coastal erosion continues, periodic maintenance and repair is needed, and shoreline armoring devices may eventually fail, especially as storm surge and episodic wave action destroys and/or impacts improvements. At some point in the future, which is not expected to occur within the 20-year term of this Safety Element (2020-2040) coastal erosion processes may overwhelm the capacity of shoreline and coastal bluff armoring, in terms of feasibility from both physical and cost considerations. Existing regulatory tools such as the Building Code provide legal mechanisms for local government to react to evolving conditions by requiring non-occupancy and/or removal of all or portions of a building or shoreline armoring device with consideration of any secondary impacts of such removal. Policies in this Safety Element establish "triggers" for when local officials will require private property owners to hire geologic and engineering professionals to more closely manage the required responses by owners of threatened properties, in order to protect public health and safety and coastal resources (i.e. protection of the structure itself is a ~~lesser or deemed irrelevant~~ secondary priority).

Comment [DGO4]: Coastal property owners are likely to reasonably object to this somewhat unfortunate choice of words that may not accurately reflect the County's intended message.

While shoreline armoring remains in place, it modifies coastal erosion, coastal processes, and sand transport through the reduction of wave erosion energy, or reflection or refraction of wave energy. For example, focused erosion can occur at the ends of the armoring. More broadly, shoreline armoring has impacts on natural shoreline processes, including ultimately a loss of beach and public recreational opportunities in many areas, and thus the use of armoring as a response to coastal hazards must be carefully examined in this context. While shoreline armoring can be helpful in protecting against coastal erosion, proper setbacks from the brow of bluffs, drainage control, and special construction are all necessary to protect structures, roadways, and utilities from damage for the duration of the expected design life of the improvements.

Different Contexts: Within Urbanized Areas, Rural Areas, Areas of Lower Sandy Bluffs and Beaches, and Areas Subject to Different Geology/Geography

A fundamental land use policy of Santa Cruz County since adoption of the Measure J growth management framework in 1978 is to encourage new development to locate within existing developed urban areas, and to protect agricultural land and natural resources. Santa Cruz County has a long established Urban and Rural Services Line (USL/RSL) which defines an area of the county characterized by urban densities of development based on a pattern of existing supporting urban infrastructure. In contrast, areas along the coast that are not within the USL/RSL are characterized by low-intensity development, agriculture and open space. However, geologic and geographic contexts are not uniform within either the urban service area, rural service areas, or areas outside of the USL/RSL boundaries, especially for development built on/at beach level or on/along coastal lagoons. Along the coast the USL includes the communities of Live Oak, Soquel and Aptos/Seacliff/Rio del Mar, including the Beach Drive, Pot Belly Beach and Las Olas areas. The RSL includes locations that reflect urban patterns of development within more rural contexts, including La Selva Beach, Place de Mer, Sand Dollar Beach, Canon Del Sol, Sunset Beach, Via Gaviota and Pajaro Dunes. Projects located on beaches must be restricted to maximum permissible "elevation strategies" to elevate structures above coastal flood waters and hazards, which generally is established as a "one non-habitable story" amount of elevation (i.e. approximately 10 feet), and height variances to accommodate structural elevations for replacement/redeveloped structures should not exceed approximately 10 feet in any case and may be lower in certain locations to prevent impacts on coastal resources. This applies to projects on beaches where habitable portions of new structures are required to be elevated above flood levels, and not to projects on coastal bluff where new structures are required to be setback from the eroding bluff edge. In summary, the policy objectives reflected in this Safety Element are different depending upon history, location, urbanized character, and geologic/geographic context.

The area of the County along the coast within the USL is essentially urbanized and dominated by single-family residential development on top of coastal bluffs and on beaches or back beach areas. The USL boundary at the west is the Santa Cruz Harbor coastal resource and City of Santa Cruz city limit. The boundary at the east extends to and includes the community of Seascape. This urbanized area along the coast includes the City of Capitola city limits, and the Capitola shoreline is currently protected with rip rap, and coastal bluff armoring within the key coastal visitor serving resource of Capitola Village. This urbanized area along the coast also contains critical public infrastructure such as roads, sewer, water supply, drainage, parking lots and train tracks. In many areas, such as along Opal Cliffs Drive, only one row of residential lots establishes a buffer between public roads and infrastructure and the coastal bluff and beach. Those existing roads and infrastructure improvements support public access to the coast, and support structures, businesses and economic activity related to visitor accommodations and tourism, a key job and business sector for Santa Cruz County. As the existing homes become threatened by coastal bluff erosion it will be important to consider how the homes can be protected while also preserving infrastructure and increasing public access to the coast.

Shoreline and coastal bluff armoring are common within the USL/RSL, currently protecting about one-half of the existing urbanized area along the coast. These urban areas are part of an historical pattern of

Comment [DGO5]: This truism illustrates why current IP § 16.10.070(H)(3)(a) allows shoreline armoring “where both adjacent parcels are already similarly protected.” However, no such allowance exists in proposed LUP policy 6.4.25, instead limiting that allowance to vacant lots only. This limitation is imprudent given that “focused erosion can occur at the ends of armoring,” regardless of whether the adjacent parcels are vacant.

Comment [DGO6]: While a “basic goal” of the Coastal Act is to “maximize public access to and along the coast,” such goal must be “consistent with... constitutionally protected rights of private property owners.” (See Coastal Act § 30001.5(c).) One such constitutional protection is the requirement for nexus and proportionality. Conditioning the protection of an existing coastal bluff home upon increasing public access may lack the necessary nexus and proportionality.

development that has been present for decades along the County's coast, and most of this urban development occurred before the Coastal Act became effective in 1977. The currently existing types of shoreline and coastal bluff armoring include natural stone riprap, concrete or wood retaining walls, gabion baskets, and concrete riprap of various shapes and sizes. Some of these existing measures take up areas of the beach that otherwise would be available to the public (at least in the near- to mid-term before sea level rise may consume the shoreline in certain locations), some have more visual impacts than others, and some are better-maintained than others.

Shoreline and coastal bluff armoring are not common outside of the urbanized coastal areas of Santa Cruz County. Armoring that does exist for development that has been built on or along beaches and coastal lagoons can have greater impacts on coastal resources. Given the distinctly different contexts that exist within the unincorporated area, the proposed coastal bluffs and beaches and armoring policies reflect a "hybrid approach", with "managed natural retreat ("MNR") establishing the regulatory approach in the rural, beach and lagoon areas, and "conditional accommodation, acceptance of risk, and adaptation" ("AAA") establishing the regulatory approach in certain urbanized areas. However, the AAA policies themselves differentiate between coastal bluff sites involving the less-erodible Purisima rock formation (e.g. higher existing bluffs along Opal Cliffs Drive that are included within a designated "shoreline protection exception area") and more-erodible sandy coastal bluff areas that are typically shorter and typically adjacent to higher-value coastal shorelines accessed by the public.

Objective

The objective of the coastal bluffs and beaches policies is to recognize and reasonably minimize risks to life, property, and public infrastructure in coastal hazard areas; and to minimize and mitigate for adverse impacts on coastal resources from permitted development within coastal hazard areas. Meeting this objective requires a careful balancing of impacts on public vs. private resources and investments, with appropriate mitigation based upon principles of nexus and proportionality consistent with the Coastal Act.

The approach of the County is one of balance: while climate change, sea level rise, and damage from greater storm wave attacks are realities; a practical and reality-based adaptive approach that recognizes different contexts and histories of sub-areas is necessary, given applicable legal and political constraints.

A key goal over the stated 20-year timeframe of the 2020 Safety Element is to "get ready" and have the property owners obligated to "internalized private property owner risks and the future costs of adaptation" so that public does not bear costs or obligations. In order to establish this platform over the next twenty years, it is considered reasonable to allow property owners in certain defined areas to pursue new or redevelopment/replacement of existing homes only one time without "triggering" LCP compliance unless located within a designated Shoreline Protection Exception Area or an adopted Shoreline Management Plan provides otherwise, and to maintain and repair homes and existing shoreline protection structures. Redevelopment/replacement means modification/reconstruction of 50% or more of major structural components or an addition of more than 500 square feet or 50% of the existing habitable area of the structure, whichever is greater, within any consecutive five-year period, for projects on coastal bluffs, as defined in SCCC 16.10, or work within any consecutive five-year period that equals or exceeds 50% of the market value of the existing structure for projects on beaches in coastal high hazard areas, as defined in SCCC 16.13. The timeframe would be from the date the new Safety Element is adopted. In exchange for approvals of coastal development permits that allow "redevelopment/replacement" (>50%) activity on properties that are also reliant on shoreline or coastal bluff armoring, a property owner must accept a package of conditions that include payment of sand mitigation in-lieu fees, recreation in-lieu fees, and otherwise minimizing public impacts and costs. Also, while Coastal Development Permits would not expire, conditions would be written in such a way that there is a check-in every 20 years (or less time as may be warranted in the future), and a new phase of mitigation obligations may be imposed based on conditions/impacts on coastal resources that are occurring at the time of the check-ins.

Comment [DGO7]: In other words, removing shoreline armoring to maximize beach areas for public use would be temporary, as projected SLR will eventually eliminate said beach area sought to be gained by removal.

Comment [DGO8]: Although the concept of "managed retreat" is discussed in the non-binding SLR Guidance, the Coastal Act does not require "managed retreat." In fact, "managed retreat" conflicts with the Coastal Act's allowance for shoreline armoring for the reasons enumerated in section 30235, which provides that armoring "shall be permitted when required to serve coastal dependent uses or to protect existing structures or public beaches in danger from erosion..."

Comment [DGO9]: It would be helpful to identify the "certain defined areas" here.

Comment [DGO10]: The relevant terms and definitions are in proposed IP § 16.10.040(N) ("Development/Development Activities") and should be used (or at least cited) here for consistency.

Comment [DGO11]: This is an issue of great importance to the CPOA-SC. During the CPOA-SC's meeting with Kathy Molloy and David Carlson on 1-10-20, Ms. Molloy and Mr. Carlson explained that the "only one time" rule meant that property owners could build one new home or redevelop (in excess of 50%) one time in the same location on the property within the next 20 years without "triggering" the GH requirements of the LCP (e.g., compliance with LUP policies 6.4.2, 6.4.5, 6.4.9, 6.4.11).

At the meeting, Ms. Molloy and Mr. Carlson also explained that the 50% threshold for "redevelopment" (thereby constituting "development" requiring a CDP) is measured in 5-year periods and resets every 5 years (i.e., can do 49% remodel every 5 years without triggering GH requirements).

However, as currently written, these proposed LCP amendments do not support those explanations. Nor do the GH requirements... [1]

Comment [DGO12]: Does the one "free" development (w/o "triggering" LCP compliance) apply within the SPEA? Please clarify/explain.

Comment [DGO13]: Does this mean repairs/maintenance of <50% (consistent with the recent explanation/interpretation provided by Ms. Molloy and Mr. Carlson)? Please clarify/explain.

Comment [DGO14]: Added for consistency with proposed IP § 16.10.040(N).

Comment [DGO15]: See previous comment.

The Coastal Act actually anticipated the difficulty of creating policy along the diverse coastline of California. It recognizes that at times, Coastal Act policies may conflict, and it is difficult to balance achievement of competing interests. N o t a b l y , S e c t i o n 3 0 0 0 7 . 5 o f t h e C o a s t a l A c t (" L e g i s l a t i v e f i n d i n g s a n d d e c l a r a t i o n s ; r e s o l u t i o n o f p o l i c y c o n f l i c t s ") p r o v i d e s g u i d a n c e f o r s u c h b a l a n c i n g :

"T h e L e g i s l a t u r e f u r t h e r f i n d s a n d r e c o g n i z e s t h a t c o n f l i c t s m a y o c c u r b e t w e e n o n e o r m o r e p o l i c i e s o f t h e d i v i s i o n . T h e L e g i s l a t u r e t h e r e f o r e d e c l a r e s t h a t i n c a r r y i n g o u t t h e p r o v i s i o n s o f t h i s d i v i s i o n s u c h c o n f l i c t s b e r e s o l v e d i n a m a n n e r w h i c h o n b a l a n c e i s t h e m o s t p r o t e c t i v e o f s i g n i f i c a n t c o a s t a l r e s o u r c e s . I n t h i s c o n t e x t , t h e L e g i s l a t u r e d e c l a r e s t h a t b r o a d e r p o l i c i e s w h i c h , f o r e x a m p l e , s e r v e t o c o n c e n t r a t e d e v e l o p m e n t i n c l o s e p r o x i m i t y t o u r b a n a n d e m p l o y m e n t c e n t e r s m a y b e m o r e p r o t e c t i v e , o v e r a l l , t h a n s p e c i f i c w i l d l i f e h a b i t a t a n d o t h e r s i m i l a r r e s o u r c e p o l i c i e s . " [bold text emphasis added]

Other key provisions of the Coastal Act which provide guidance for policy development include sections 3 0 0 0 1 (c) a n d (d) (r e g a r d i n g " L e g i s l a t i v e f i n d i n g s a n d d e c l a r a t i o n s ; e c o l o g i c a l b a l a n c e ") , w h i c h f i n d s a n d d e c l a r e s :

(c) *"T h a t t o p r o m o t e t h e p u b l i c s a f e t y , h e a l t h a n d w e l f a r e , a n d t o p r o t e c t p u b l i c a n d p r i v a t e p r o p e r t y , w i l d l i f e , m a r i n e f i s h e r i e s , a n d o t h e r o c e a n r e s o u r c e s , a n d t h e n a t u r a l e n v i r o n m e n t , i t i s n e c e s s a r y t o p r o t e c t t h e e c o l o g i c a l b a l a n c e o f t h e c o a s t a l z o n e a n d p r e v e n t i t s d e t e r i o r a t i o n a n d d e s t r u c t i o n . "*

(d) *"T h a t e x i s t i n g d e v e l o p e d a r e a s , a n d f u t u r e d e v e l o p m e n t s t h a t a r e c a r e f u l l y p l a n n e d a n d d e v e l o p e d c o n s i s t e n t w i t h t h e p o l i c i e s o f t h i s d i v i s i o n , a r e e s s e n t i a l f o r t h e e c o n o m i c a n d s o c i a l w e l l - b e i n g o f t h e p e o p l e o f t h i s s t a t e a n d e s p e c i a l l y t o w o r k i n g p e r s o n s e m p l o y e d w i t h i n t h e c o a s t a l z o n e . "* [emphasis added]

S e c t i o n 3 0 0 0 1 . 5 o f t h e C o a s t a l A c t (" L e g i s l a t i v e f i n d i n g s a n d d e c l a r a t i o n s ; g o a l s ") i n c l u d e s t h e f o l l o w i n g g o a l s f o r t h e c o a s t a l z o n e , a n d i n c l u d e s b o t h n a t u r a l a n d m a n - m a d e (" a r t i f i c i a l " o r d e v e l o p e d) r e s o u r c e s : [B o l d t e x t e m p h a s i z e s p o i n t t h a t d e v e l o p m e n t w a s a n t i c i p a t e d w i t h " b a l a n c e o f d e v e l o p e d & n a t u r a l " p o l i c y b a s i s ; b o l d i n g n o t i n t e n d e d t o m i n i m i z e i m p o r t a n c e o f n a t u r a l c o a s t a l r e s o u r c e s .]

a. *P r o t e c t , m a i n t a i n , a n d w h e r e f e a s i b l e , e n h a n c e a n d r e s t o r e t h e o v e r a l l q u a l i t y o f . . . i t s n a t u r a l a n d a r t i f i c i a l r e s o u r c e s .*

b. *A s s u r e o r d e r l y , b a l a n c e d u t i l i z a t i o n a n d c o n s e r v a t i o n o f c o a s t a l z o n e r e s o u r c e s t a k i n g i n t o a c c o u n t t h e s o c i a l a n d e c o n o m i c n e e d s o f t h e p e o p l e o f t h e s t a t e .*

c. *M a x i m i z e p u b l i c a c c e s s t o a n d a l o n g t h e c o a s t a n d m a x i m i z e p u b l i c r e c r e a t i o n o p p o r t u n i t i e s i n t h e c o a s t a l z o n e c o n s i s t e n t w i t h s o u n d r e s o u r c e c o n s e r v a t i o n p r i n c i p l e s a n d c o n s t i t u t i o n a l l y p r o t e c t e d r i g h t s o f p r i v a t e p r o p e r t y o w n e r s .*

d. *A s s u r e p r i o r i t y f o r c o a s t a l - d e p e n d e n t a n d c o a s t a l - r e l a t e d d e v e l o p m e n t o v e r o t h e r d e v e l o p m e n t o n t h e c o a s t .*

County of Santa Cruz Coastal Bluffs and Beaches Guiding Principles

Key information and guiding principles related to coastal bluffs and beaches, and shoreline and coastal bluff armoring, which have guided formation of policies, include the following considerations supporting a "hybrid approach". The approach reflects a strategy of "managed natural retreat" ("MNR") for rural, agricultural and open space areas, as well as for developments located on beaches and along coastal lagoons, and of "conditional accommodation, acceptance of risk, and adaptation ("AAA") for existing developed areas within the Urban and Rural Services Lines. However, the AAA Guiding Principles differentiate between coastal bluff sites involving the less-erodible portions of the Purisima rock formation (e.g. higher existing bluffs along Opal Cliffs Drive) and more-erodible coastal bluff areas

backing the beaches between the harbor and Pleasure Point and the south county beaches (typically adjacent to higher-value coastal shorelines accessed by the public).

GUIDING PRINCIPLES: REGULATION OF PROPOSED DEVELOPMENT ACTIVITIES ON COASTAL BLUFFS & BEACHES

1o At the time the Coastal Act was effective in 1977, the urbanized areas of Santa Cruz County were largely developed in a similar form as today, and as of 2019 approximately one-half of the properties within the urbanized area (within the Urban and Rural Services Lines) are protected by some form of shoreline and coastal bluff armoring. Recognize that the 2020 update of policies and regulations for coastal bluffs and beaches does not affect terms of existing permits for shoreline and coastal bluff armoring unless a triggering event occurs such as a proposed development project or work that exceeds the scope of authorized maintenance and repair. Such armoring is typically subject to requirements for monitoring, maintenance and repair – which also confers an expectation of and a reasonable right to such monitoring, maintenance and repair activity.

Comment [DGO16]: For ease of reference, CPOA-SC suggests numbering bullet points throughout these LUP “Guiding Principles.”

2o For certain urbanized properties along East Cliff/Opal Cliffs Drive between Soquel Point (Pleasure Point 2868 S. Palisades Avenue) and Capitola city limit, which are located on less-erodible taller coastal bluffs (predominately Purisima Formation rock/geology) and which were predominately urbanized prior to approval of the Coastal Act, it is not considered reasonable or feasible to expect that existing legally permitted shoreline and coastal bluff armoring will be removed or cease to exist within the immediate or near future, even in the face of climate change and sea level rise. Nearly all of these properties with existing shoreline protection structures would have adverse impacts on adjacent properties/structures if existing shoreline protection is removed within the twenty-year timeframe of this Safety Element. Therefore, the goal for this geographic area is to maintain, rehabilitate and/or replace existing shoreline protection structures, and allow new shoreline protection structures, in a coordinated manner, largely at private expense, so that impacts on public coastal resources are reduced. This may include integration of existing shoreline protection structures with the new structures. Removal of a majority of existing rip rap and assorted disparate material, avoidance of emergency placement of rip rap, and mitigation of visual, beach, recreation and access impacts are broad goals for this area. However, any permitted armoring must be regularly monitored, properly maintained, and repaired when needed. This area would be designated as a Shoreline Protection Exception Area.

Comment [DGO17]: It would be helpful to delineate between SPEA and Shoreline Management Plan (“SMP”) areas by calling out the downcoast-most parcel within SMP area and the upcoast-most parcel within the SPEA. Based on Mr. Carlson’s correspondence to certain CPOA-SC members, the County’s prior definition of the location of Soquel Point may have been in error and the preferred location of Soquel Point by all is 2868 S. Palisades Ave. (APN 028-304-78). As such, the CPOA-SC understands that the proposed upcoast-most parcel within the SPEA is 2868 S. Palisades Avenue (APN 028-304-78). Please confirm.

3o Recognize that the Coastal Act explicitly allows shoreline and coastal bluff armoring to be installed to protect existing structures and public beaches in danger from erosion, when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing structures include roadways used to access coastal resources, critical public facilities such as water and sewer lines, and visitor-serving assets such as vacation rentals and commercial areas, in addition to private homes and other private improvements.

4o Recognize that there is a different geologic/geographic context, even within the pre-Coastal Act urbanized areas within the USL/RSL, for developments/structures that exist on coastal bluffs and beaches and on/along coastal lagoons, due to greater impacts on valuable environmental and public coastal resources as well as greater vulnerability to sea level rise and associated risks. For these properties, unless located within a designated Shoreline Protection Exception Area or an adopted Shoreline Management Plan provides otherwise, allow only one “redevelopment/replacement” (defined as modification/reconstruction of 50% or more of major structural components or an addition of more than 500 square feet or 50% of the existing habitable area of the structure, whichever is greater, within any consecutive five-year period, for projects on coastal bluffs, as defined in SCCC 16.10, or work within any consecutive five-year period that equals or exceeds 50% of the market value of the existing structure for projects on beaches in coastal high hazard areas, as defined in SCCC 16.13) in the future after adoption of the 2020 Public Safety Element and implementing coastal bluff and beaches provisions of the Santa Cruz

Comment [DGO18]: See comments above regarding “one time” development without “triggering” LCP consistency requirements. As noted above, this is the CPOA-SC’s biggest objection to most recently proposed LCP amendments.

Comment [DGO19]: Added for consistency with proposed IP § 16.10.040(N).

Comment [DGO20]: See previous comment.

Comment [DGO21]: Confirm definitional consistency with proposed IP § 16.10.040(N) (“Development/Redevelopment Activities”)

County Code, but if repetitive loss occurs due to coastal processes and storm impacts, then do not allow a second redevelopment/replacement

5o Recognize that the Coastal Act also recognizes that new development would occur after adoption of the Act in 1977, and that approved developments can be considered essential for economic and social well-being. New development within identified urbanized portions of the USL/RSL may shall be allowed to conditionally rely upon existing armoring, as determined appropriate through the coastal development permit process, however, new development will be limited to one cycle of "replacement/redevelopment" after the effective date of this 2020 Safety Element without triggering LCP compliance (e.g., GH requirements).

6o Recognize that the Coastal Act and other land use laws require consideration of private property rights and ensure that policy and permitting decisions do not unduly expose the County of Santa Cruz to litigation.

7o For projects located on coastal bluffs, beaches and lagoons, establish a threshold for requiring geologic review, as well as requirements for deed restriction, evaluation of existing armoring, and mitigation of the impact of existing armoring; to be projects that meet or exceed the definition of "development/development activities" as codified by Santa Cruz County Code Chapter 16.10 Geologic Hazards. This definition establishes the threshold for application of certain coastal bluffs and beaches policies (note that some projects may be considered "development" by Chapter 13.20 Coastal Regulations and may require a coastal development permit but may not meet the Chapter 16.10 definition of "development/development activities" with its 50% threshold that triggers assessment of consistency with these GP/LCP Coastal Bluffs and Beaches policies and implementing regulations.). Those policies use the identifier, SCCC 16.10, after the term development to indicate the policy applies to development as defined in SCCC 16.10. This is to avoid confusion with the definition of development for purposes of the Coastal Zone Regulations (SCCC 13.20) and the need for a Coastal Development Permit. California Code of Regulations §13252 provides that "maintenance" means less than 50% of a structure is worked on or improved; except that certain areas such as beaches, coastal lagoons and coastal bluffs are subject to more stringent permit requirements).

8o Recognize that for projects located on beaches and dunes in flood hazard areas, the threshold for requiring geologic review, as well as requirements for deed restriction, evaluation and mitigation of the impact of existing armoring, and elevation of the structure above the flood hazard level, is established to be projects that meet or exceed the definition of substantial improvement found in Santa Cruz County Code Chapter 16.13 Floodplain Regulations. Additionally, establish policies to provide that development projects located on beaches must be restricted to maximum permissible "elevation strategies" for elevation of structures above waters and hazards, which generally is established as a "one non-habitable story" amount of elevation (approximately 10 feet), and height variances to accommodate structural elevations for replacement/redeveloped structures should not exceed approximately 10 feet in any case and may be lower in certain locations to prevent impacts on coastal resources.

9o Recognize that it is the intention that developments on and along beaches and coastal lagoons are not allowed to be protected by new coastal protection structures, and that impacts on coastal resources are generally greater from developments in these locations. In these areas strictly adhere to riparian setbacks requirements for development along coastal lagoons (GP/LCP 5.2.5).

10o Recognize that existing legally permitted structures and armoring will continue to exist pursuant to existing valid coastal development permits and other historic and valid permits. New requirements shall only be imposed as a result of a triggering event pursuant to these policies including but not limited to an application for a new coastal development permit that exceeds a defined scope of work, a violation of County Code, or the structure or armoring becomes unsafe.

Comment [DGO22]: See previous comment. Also, is "repetitive loss" intended to mean as defined in LUP policy 6.4.36? If so, then "repetitive loss" appears to mean only to losses "due to coastal bluff erosion and storm wave impacts and inundation" (i.e., not due to earthquake, fire, etc.). Please clarify/explain.

Comment [DGO23]: Change "may" to "shall," consistent with current LUP policy 6.2.16 and IP § 16.10.070(H)(1)(a), both of which provide that the setback calculation "shall" be based on "existing site conditions" (which conditions may include existing permitted shoreline armoring) and prohibits calculating the setback based on "proposed" shoreline armoring. Failure to consider existing armoring would be tantamount to ignoring "existing site conditions" in that calculation, which makes no sense.

Also, a potential inconsistency exists with LUP policy 6.4.7(a), which prohibits reliance on shoreline armoring for calculating the setback for projects located outside the SPEA (but not necessarily outside the USL/RSL).

Comment [DGO24]: Again, does this "one cycle" mean one time w/o triggering GH requirements under the LCP as recently explained by Ms. Molloy and Mr. Carlson?

Comment [DGO25]: Clarify that a "triggering event" means "new" development and "redevelopment" (i.e., 50% or greater remodel) of an existing structure's major structural components (foundation, exterior framing, or roofing) to be calculated in total, not by individual components.

Comment [DGO26]: This is vague and ambiguous. What CDP application "exceeds a defined scope of work"? A CDP would only be required when the scope of proposed work is for a "new" structure or for a <50% remodel.

Comment [DGO27]: If the "armoring becomes unsafe," wouldn't that generally require maintenance under an existing MMP?

- | 11○ Strive to avoid placement of new rip rap that is typically associated with “emergency permits”, in favor of early planning for construction of modern more-vertical armoring approaches in identified urbanized "shoreline protection exception areas" that would reduce or replace rip rap, in a manner that would lead to improved public access and improved visual resources during the planning horizon for the expected life of structures, when armoring is determined to be appropriate. Establish triggers for when property owners would be required to address imminent danger from coastal hazards.
- | 12○ Recognize that roadways crossing the mid-County lagoons (Schwann, Corcoran, and Moran) are not candidates for seawall protection, and that future road designs for crossing the lagoons will likely require bridges if the roads are to continue in their current locations, which should be a priority adaptation project for the County and adjacent cities in light of regional significance.
- | 13○ Recognize that the dredging practices of the Santa Cruz Port District, especially dredging spoils disposal location, have impacts to the amount of sand transported downcoast during winter months and to the amount of downcoast erosion. Work with the Santa Cruz Port District to implement dredging disposal policies which minimize downcoast impact and maximize beaches during high recreational seasons.
- | 14○ Coordinate with jurisdictions in the County on a county-wide regional sediment management policy and plan.
- | 15○ Pursue a “managed natural retreat” strategy within rural, agricultural and space areas, which reflects accommodation of natural processes and policies which do not favor shoreline and coastal bluff armoring, with new development placed beyond a 75-year (100-year for critical structures) geologic setback line.
- | 16○ Pursue an “adaptation” strategy within urbanized areas that conditionally accommodates improvements to and replacements of structures on coastal bluffs, but that emphasizes the risks due to sea level rise and increased coastal hazards. Implement different approaches within designated Shoreline Protection Exception Areas within the urbanized area, as compared to areas that are not designated that will be allowed only one "redevelopment/replacement" within any consecutive five-year period after the effective date of this Safety Element without triggering LCP consistency (e.g., GH requirements) unless the property is later included within a Shoreline Management Plan that establishes Shoreline Protection Exception Areas for identified properties included in the Plan area.
- | 17○ Realize that adaptation will take place over decades, in light of past and existing conditions, private property rights, and uncertainty about future conditions; but prepare for the time that sea level rise and climate change will may mean that development along the shoreline will may need to be removed, and ensure that private property owners internalize the risks and ultimately bear the costs of adaptation and removal, if necessary based on conditions on the ground.
- | 18○ Within identified urbanized areas, a primary goal is to establish a regulatory approach that will allow for replacement of existing armoring with modern measures that are considered near- to mid-term improvements. Strive to ensure that these measures are unified in appearance, remove rip rap as feasible to increase sandy beach areas, incorporate public access features as feasible, are colored and treated to better match natural materials, participate in programmatic mitigation approaches that fund priority investments in sand replenishment, public recreation and beach access, and provide funds for eventual removal of shoreline protection measures in the longer-term when repair and replacements are may no longer feasible or appropriate.
- | 19○ Recognize that the County will periodically update the Safety Element and applicable regulations in order to reflect evolving conditions and best available science. The planning horizon and timeframe of this current Safety Element is to the year 2040 when it is expected these policies will be updated.

Comment [DGO28]: It would be helpful to specify/identify the conditions here.

Comment [DGO29]: Based on Ms. Molloy’s and Mr. Carlson’s recent explanation, no “conditions” should exist for any improvements of less than 50%, as such projects do not “trigger” GH requirements (or any related required conditions).

Comment [DGO30]: See previous comments regarding “only one” project.

Comment [DGO31]: SLR is projected, not certain.

Comment [DGO32]: Merely a short-term increase if projected SLR reverses the “increase.”

Comment [DGO33]: Much of the long-existing rip-rap revetment fronting beachfront properties on East Cliff Drive is permitted or pre-dates the Coastal Act. Required removal of that long-existing armoring would likely result in widespread and accelerated erosion of the coastal bluffs and the destruction of property and structures, including public infrastructure.

Applications submitted after the update is adopted would be subject to updated policies.

20o Recognize that shoreline development may have impacts on surfing resources in the County.

21o Recognize that in the near- to mid-term, expenditures by private owners of certain coastal bluff properties (e.g. Opal Cliffs Drive) for shoreline and coastal bluff armoring will allow time for the County of Santa Cruz to identify funding for and carry out priority adaptation projects related to relocation of critical public infrastructure (which may also include roads and bridges) that must be undertaken in the future.

22o Recognize that Shoreline Management Plans may be needed to plan for and implement sea level rise adaptation strategies in certain hazardous areas of the County, especially for the area between the Harbor /7th Avenue and Pleasure Point Drive where shorter sandy bluffs rather than taller Purisima Formation coastal bluffs exist. The area that would most benefit from development of a **Shoreline Management Plan** in order to establish a vision and refined guidance for future development rights, is for the Harbor/7th Avenue to Pleasure Point Drive area, and grant applications will be submitted as feasible for available sources. The County will strive to support development of Shoreline Management Plans to be adopted by 2035 as Local Coastal Program implementation regulations. Shoreline Management Plans will need to address potential effects of development, shoreline armoring, at-grade and elevated buildings, especially on beach and at lagoon areas, and could identify potential opportunities to improve public access to the coast, protection of coastal resources, and adaptation of public roads and infrastructure.

23o Development projects located on beaches (including within certain Rural Service Areas such as for Beach Drive, Las Olas and Pot Belly Beach properties), must be restricted to maximum permissible "elevation strategies" to elevate structures above waters and hazards as sea level rises in the future, which generally is established as a "one non-habitable story" amount of elevation (approximately 10 feet), and height variances to accommodate structural elevations for replacement/redeveloped structures should not exceed approximately 10 feet in any case and may be lower in certain locations to prevent impacts on coastal resources. This would apply only to projects on beaches and not on coastal bluffs.

24o In conjunction with approval of coastal development permits for a new home or **major project involving an existing home located on a coastal bluff or on the shoreline, impose conditions of approval consistent with principles of nexus and proportionality, including:**

ao Acceptance of risk associated with geologic and coastal hazards by owners.

bo Waiver of any claim of damage or liability against and indemnification of the County for any damages or injury in connection with the permitted development.

co **Ensure monitoring, maintenance and repair programs are implemented for existing shoreline and coastal bluff armoring.**

do Ensure property owners are aware of their responsibilities to respond to coastal hazards should the site or structure become **unsafe**.

eo Require property owners within certain areas of the USL/RSL to recognize that should a future Shoreline Management Plan become effective, future activity that exceeds "maintenance and repair" of existing shoreline and coastal bluff armoring may only be considered if determined to be consistent with the Shoreline Management Plan.

fo Require property owners to recognize that local jurisdictions have the power to require that unsafe/dangerous structures be vacated and/or abated/removed, under the County Building Code (including the Uniform Code for Abatement of Structural and Geologic Hazards), when site conditions are such that hazards to life and public safety are no longer acceptable.

go When otherwise allowable, require new or repaired or modification of existing shoreline armoring to be the least environmentally damaging alternative and ensure that all impacts are mitigated.

Comment [DGO34]: It would be helpful to include an outline/overview of the intended process for evaluating and establishing SMPs in a manner that ensures maximum participation by private property owners. Also, CPOA-SC is concerned about the potential cost of SMPs to coastal property owners. Please confirm that private coastal property owners will not be financially responsible for building a seawall from Santa Cruz Harbor to Pleasure Point.

Comment [DGO35]: This is vague and ambiguous. Does this mean "redevelopment" (i.e., remodel of 50% or more) of an existing residence? Please clarify/explain/revise.

Comment [DGO36]: This policy potentially conflicts with proposed LUP policy 6.4.25(b), which suggests that existing armoring may be required to be removed, in that 6.4.25(b) provides that the CDP process (required by a "triggering" development event) "require[s] evaluation of existing shoreline and coastal bluff armoring in accordance with all applicable sub-sections of this policy 6.4.25. To that end, 6.4.25(a) only allows shoreline armoring within the USL/RSL and outside the SPEA or SMP areas "to serve coastal dependent uses or to protect existing structures or public beaches from significant threats." So, for example, if an existing residence is demolished, project opponents may argue (as CCC has) that existing shoreline armoring is not allowed under "all applicable sub-sections of this policy" because no "existing structure" exists (let alone that the existing structure faces a "significant threat"). The LCP should be revised to foreclose upon that argument and instead require the GH setback "shall" (not "may") be based on "existing site conditions" (which may include existing armoring).

Comment [DGO37]: The CPOA-SC also objects to this condition, as proposed LUP policy 6.4.9 (removal or relocation) requires, as a condition of CDP approval, that property owners agree that "all development on the site, including shoreline and coastal bluff armoring, will be required to be removed or relocated and the site restored at the owner's expense if it becomes unsafe..." Please revise to clarify that this "unsafe" condition of existing armoring will only require removal if the armoring is "unsafe" due to failure to properly maintain and repair. Otherwise, "required" removal may (at a minimum) jeopardize and hasten erosion on adjacent parcels.

ho Require property owners to recognize that as sea level rises, the public trust boundary will in most cases migrate inland, resulting in currently private lands becoming public land that is held in the public trust for public trust purposes, including public access and recreation and other coastal-dependent uses.

Objective 6.4 Coastal Bluffs and Beaches

(LCP) To reduce, minimize to an acceptable level, and internalize costs of private property investments, the risks to life, property, and public infrastructure from coastal hazards, including projected hazards due to sea level rise, wave run-up and coastal erosion, and to minimize impacts on coastal resources from developments granted coastal development permits and granted extensions to Monitoring & Maintenance Programs for shoreline protection structures.

General Shoreline Policies

6.4.1 Shoreline Policy Framework and Time Horizon

(LCP) Recognize the diverse nature of the coastline and coastal development in the County and implement a policy hierarchy with general policies that apply to all projects, policies that apply to shoreline type, policies that apply to project type, and policies that address ongoing adaptation to seal level rise along the County’s coastline and in specific shoreline areas.

Recognizing that shoreline and blufftop areas are inherently dynamic and hazardous places to build, particularly with respect to climate change and sea level rise in the coming decades, while at the same time understanding that property owners and project applicants seek a level of assurance regarding County land use policies that apply to proposed projects, the shoreline and coastal bluff policies of this Safety Element shall be considered to be in effect until the year 2040, by which time the expectation is that shoreline management plans and an updated set of policies within a Safety Element Amendment will have been adopted. Projects proposed after adoption of any updated policies and regulations would be subject to the updated policies and regulations.

6.4.2 Site Development to Minimize Coastal Hazards and Protect Coastal Resources

(LCP) Following the “one time only” “new” or “redevelopment” project, Require all development/development activities (SCCC 16.10) to be sited and designed to avoid, and where unavoidable to minimize, coastal hazards affecting the proposed development, and to not contribute to increased coastal hazards on adjacent properties, as determined by the geologic hazards assessment or through geologic and engineering investigations and reports, and within acceptable risk levels for the nature of the proposed development. Consider the effects of projected sea level rise in designing proposed improvements. Protect coastal resources (e.g. public access, beaches, and coastal habitats) from significant impacts through project design. Where impacts are unavoidable either deny the project or impose mitigation measures to reduce risks to acceptable levels and reduce impacts on coastal resources to less than significant levels.

6.4.3 Coastal Hazard Technical Reports to Use Best Available Science for Sea Level Rise Projections and Calculations of Geologic/Coastal Hazards Setbacks

(LCP) Recognize the scientific uncertainty by using within technical reports and project designs reasonably foreseeable projections of sea level rise (SLR) within the acceptable range established by the best available science and statewide guidance. The projection to be used in technical reports shall be based upon current best professional practices and best available science, which as of 2020 is considered to be 0.9 feet of sea-level rise between 2000 and 2040, and 3.1 feet to 4.3 feet of sea-level rise between 2000 and 2100. (State of California Sea Level Rise Guidance medium risk aversion scenario for the Monterey tide gauge). This policy may mean that certain developments are proposed, conditioned and mitigated based upon a shorter expected life as defined by a site-specific geologic study and application filed with the County.

Comment [DGO38]: CPOA-SC is very concerned about this proposed policy, when read in conjunction with proposed LUP policy 6.4.9 (removal or relocation), which requires, as a condition of CDP approval, that property owners agree that “all development on the site, including shoreline and coastal bluff armoring, will be required to be removed or relocated and the site restored at the owner’s expense if it... is no longer located on private property...”

It is a foreseeable possibility that soon after a property owner makes a significant financial investment in shoreline armoring (e.g., costs for construction, permitting, and mitigation fees) the property owner is then required to remove the armoring because the seaward face of the armoring is now below the mean high tide line and therefore now located on “public trust” land (i.e., “no longer located on private property”). This is an onerous policy that should be deleted. Instead, in such cases private property owners should merely be required to obtain the necessary leases (e.g., from State Lands Commission) to maintain armoring below MHTL (i.e., on public trust lands).

Comment [DGO39]: The CPOA-SC is unclear about what “assurance” project applicants may have if, on one hand, these LUP policies will purportedly be in place until 2040, while on the other, there is an “expectation” that policies will be updated/adopted on or before 2040 and projects proposed after the adoption of such updated policies are subject to those updated/adopted policies. In other words, do coastal property owners have “assurance” that the updated LCP will apply until 2040, or do they have no assurance because certain policies may be adopted at any time prior to 2040 (and what if as early as 2021)? If the latter, then the “assurance” appears to be illusory. Please clarify/explain.

Comment [DGO40]: See above comments re “one time only” as a potential one-time exception from triggering GH requirements. If Ms. Molloy’s and Mr. Carlson’s recently stated interpretation is accurate, then language similar to that suggested here should be added to the beginning of each requirement relating to a “triggering” event throughout this LUP chapter.

Comment [DGO41]: Given the “scientific uncertainty” of SLR projections, CPOA-SC is concerned that the proposed LCP update imposes limits (if not outright bans) on certain coastal development as though SLR (and the rate thereof) is a certainty.

6.4.4 Identifying Planning Horizons and Expected Design Life Timeframes for New Structures

(LCP) The time horizon to use to evaluate the impacts of projected future sea level rise on a proposed development is an expected "standard" design life; applications for a less-than-standard design life may be considered as a geologic setback exception included in the project development entitlements requested. Under the Santa Cruz County regulatory approach, a residential or commercial structure has an expected standard design life of 75 years. A critical structure or facility has an expected standard design life of 100 years. The hazards analysis prepared in association with a coastal development permit application shall evaluate the site over the applicable 75- or 100-year standard and shall include analysis supporting any requested exception to the design life/geologic setback. The proposed structure would be set back or designed to avoid hazards over the proposed "expected life" planning horizon. In areas subject to future hazards, the expected design life of any particular development may be limited by site conditions. The expected life of development in the coastal zone is not an entitlement to maintain development in hazardous areas for the stated design life, but rather shall be used for sea level rise planning, structure siting, and permitting purposes. The actual life of the development shall be as dictated by actual conditions on the ground at any time in the future, and subject to conditions of approval which include triggers/requirements for monitoring, maintenance, repair, and abatement as appropriate over time.

6.4.5 Geologic Hazards Assessment and Technical Reports in Coastal Hazard Areas

(LCP) Following the "one time only" "new" or "redevelopment" project, Require a geologic hazards assessment or full geologic, geotechnical, hydrologic, and/or other engineering report(s) for all development/development activities (SCCC 16.10), and foundation replacement or upgrade, within coastal hazards areas. Other technical reports may be required if significant potential hazards are identified by the hazards assessment. Reports must be prepared based on current best professional practices and best available science, consistent with this Safety Element and implementing provisions of the Santa Cruz County Code. Setback calculations shall consider historical shoreline and bluff retreat factors but must also consider projected acceleration of retreat due to sea level rise, wave run-up and other climate impacts according to best available science, which may include requirements for alternatives analysis under a range of future possible scenarios. Reports must be accepted by the County in order to use report findings as the basis for design of proposed structures or improvements.

6.4.6 Prohibit New Lots or Parcels in Coastal Hazard Areas

(LCP) Do not allow the creation of new lots or parcels in areas subject to coastal hazards, or within geologic setback areas necessary to ensure a building site for an expected 75 or 100-year lifetime, or where development would require the construction of public facilities or utility transmission lines within coastal hazard areas.

6.4.7 New Development in Hazardous Areas Not Located Within a Shoreline Protection Exception Area

(LCP) Following the "one time only" "new" or "redevelopment" project, Outside Shoreline Protection Exception Areas, allow new construction or placement of any habitable structure, including a manufactured home and including a non-residential structure occupied by property owners, employees and /or the public in areas subject to storm wave inundation or beach or bluff erosion on existing undeveloped lots of record, only under the following circumstances:

(a) A technical report(s), including a geologic hazards assessment, geologic, geotechnical, hydrologic, or other engineering report, demonstrates that the potential hazard can be adequately mitigated by providing a minimum 75 or 100-year geologic/coastal hazards setback calculated at the time of submittal of the development application without consideration of proposed shoreline armoring.

(b) As an alternative to the 75 or 100-year hazard setback, the property owner may apply for a Geologic/Coastal Hazards Setback Exception to request that the geologic setback applicable to the site

Comment [DGO42]: But not necessarily located outside USL/RSL. See next comment.

Comment [DGO43]: Current LUP policy 6.2.16 and IP section 16.10.070(H)(1)(a) provide that the setback calculation "shall" be based on "existing site conditions" (which conditions may include existing permitted shoreline armoring) and prohibits calculating the setback based on "proposed" shoreline armoring.

Unless "proposed" is added, this section is potentially inconsistent with "guiding principles" (5th bullet point), which provides, "New development within identified urbanized portions of the USL/RSL may be allowed to conditionally rely upon existing armoring..."

reflect a shorter expected lifespan for the development on condition that the property owner fully accepts the risk of same and agrees to removal of all development on the site (including any shoreline armoring) as may be required by triggers or other conditions identified in the conditions of development approval and to be incorporated within the Notice that is required and recorded pursuant to Policy 6.4.9.

(c) Mitigation of the potential hazard is not dependent on shoreline or coastal bluff armoring, except when within identified areas within the USL/RSL consistent with these Section 6.4 policies and provided such armoring is existing, legally established, and is required to be monitored, maintained, and repaired, and to mitigate its coastal resource impacts; and

(d) The owner records a Notice of Geologic/Coastal Hazards, Acceptance of Risk, and Liability Release on the property deed pursuant to Policy 6.4.9.

6.4.8 Density Calculations

(LCP) Exclude areas subject to coastal inundation, as defined by geologic hazard assessment or full geologic report, as well as bluff faces, sandy beach areas, and areas subject to the public trust from use for density calculations.

6.4.9 Required Recordation on Deed of Notice of Geologic/Coastal Hazard, Acceptance of Risk, Liability Release, and Indemnification as a Condition of Coastal Development Permit Approval

(LCP) Following the “one time only” “new” or “redevelopment” project. As a condition of approval of Coastal Development Permits for development/development activities (SCCC 16.10) on sites subject to coastal hazards, require the applicant to record on title/deed to the property, prior to issuance of a building permit or grading permit, a Notice of Geologic/Coastal Hazard, Acceptance of Risk, Liability Release, and Indemnification. The Notice shall be in a form approved by the County of Santa Cruz, and shall include, but not be limited to, the following acknowledgements and agreements, on behalf of the applicant and all successors and assigns, as applicable to the specific project:

Coastal Hazards. That the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storm surges, tsunamis, tidal scour, coastal flooding, liquefaction and the interaction of same;

Assume and Accept Risks. To assume and accept the risks to the Applicant and the properties that are the subject of a Coastal Development Permit of injury and damage from such coastal and geologic hazards in connection with the permitted development;

Waive Liability. To unconditionally waive any claim of damage or liability against the County of Santa Cruz its officers, agents, and employees, for injury or damage to the permitted development, occupants of the site, or the general public in connection with the permitted development as related to geologic/coastal hazards;

Indemnification. To indemnify and hold harmless the County its officers, agents, and employees, with respect to the County’s approval of the development against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement to the extent arising from any injury or damage in connection with the permitted development and geologic/coastal hazards (along with other standard indemnification provisions applied to all development permits by the County);

Property Owner Responsible. That any adverse effects to property caused by the permitted development, as related to geologic/coastal hazards potential or actual effects, shall be fully the responsibility of the property owner. That cost of monitoring, maintenance, repair, abatement and/or future removal of structures shall be fully the responsibility of the property owner;

Flood Insurance. If the structure is built so that it does not comply with an effective BFE data as may be shown on future final Flood Insurance Rate Maps (FIRM), acknowledging that the structure may be subject to a higher flood insurance rating, likely resulting in higher-risk annual flood insurance premium if the property owner purchases flood insurance (voluntarily, or as required by mortgage lenders). If a program is created in the future that removes the subject location from being eligible for FEMA flood insurance, agree to abide with the terms of such a program.

Formation of GHAD or CSA. The property owner and / or any future heirs or assigns, by accepting a Coastal Development Permit, acknowledges that a Geologic Hazard Abatement District (GHAD) or County Service Area (CSA) may be formed in the future by the County (or other public agency) or a private entity to address geologic and coastal hazards along the shoreline and coastal bluff (or related unit thereof) and coastal resources that exist in the project area, and assessments may be proposed and/or imposed for costs of projects and/or activities related to the protection against and/or abatement of geologic and coastal hazards.

Public Funds. That public funds may not be available in the future to repair or continue to provide services to the site (e.g., maintenance of roadways or utilities) and under such circumstances the County does not guarantee essential services to the site will continue to be provided;, especially to sites that have or will soon become public trust lands as the mean high tide line migrates inland due to sea-level rise;

Occupancy. That the occupancy of structures where sewage disposal or water systems are rendered inoperable may be prohibited;

Public Trust Lands. That the structure may eventually be located on public trust lands, which removes private ownership rights from such areas; and

Removal or Relocation. In accordance with County regulations and Orders of the Chief Building Official, County Geologist, and/or Civil Engineer, that all development on the site, including shoreline and coastal bluff armoring, will be required to be removed or relocated and the site restored at the owner's expense if it becomes unsafe, it is no longer located on private property, or if essential services to the site can no longer feasibly be maintained consistent with Policies 6.4.32 through 6.4.35 below.

6.4.10 Exceptions Takings Analysis

(LCP) Where full adherence to all LCP policies, including for setbacks and other hazard avoidance measures, would preclude a reasonable economic use of the property as a whole in such a way as to result in an unconstitutional taking of private property without just compensation, the County of Santa Cruz or Coastal Commission if having primary jurisdiction or on appeal, may allow some form of development that provides for the minimum economic use necessary to avoid an unconstitutional taking of private property without just compensation. There is no taking that needs to be avoided if the proposed development constitutes a nuisance or is otherwise prohibited pursuant to other background principles of property law (e.g., public trust doctrine). In no case shall the proposed coastal bluff development be setback ~~be~~-less than 25 feet except as specifically allowed by Policies 6.4.13 and 6.4.28. Continued use of an existing structure, including with any permissible repair and maintenance (which may be exempt from permitting requirements), may provide a reasonable economic use. If development is allowed pursuant to this policy, it must be consistent with all LCP policies to the maximum extent feasible. Approval of a lesser level of hazard reduction based upon accepting a lower than normal expected lifespan for the proposed improvements, may be based on conditions of approval to include requirements to remove improvements as life safety hazards become more imminent and upon notice of the County Building Official and County Geologist, and possible other limitations on future reconstruction or redevelopment of improvements.

Comment [DGO44]: As noted above, the removal condition for "unsafe" armoring should be limited to the property owner's failure to properly maintain/repair it.

Comment [DGO45]: Again, as noted above, CPOA-SC's concern is the foreseeable likelihood that removal of shoreline armoring will be required soon after a property owner made a significant investment in same (either to construct or repair/maintain). Instead, in such cases private property owners should merely be required to obtain the necessary leases (e.g., from State Lands Commission) to maintain armoring below MHTL (i.e., on public trust lands). Indeed, the location of MHTL does not, in and of itself, make existing armoring unsafe or provide sufficient policy reasons for demanding removal. As such, CPOA-SC objects to this condition.

Shoreline Policies by Shoreline Type

6.4.11 Geologic/Coastal Hazards Setbacks from Coastal Bluffs for New Development, Redevelopment and Reconstruction on Coastal Bluffs Located Within the Urban and Rural Services Lines

(LCP) Following the “one time only” “new” or “redevelopment” project, All development (SCCC 16.10) on a coastal bluff site, and all nonhabitable structures for which a building permit is required, shall be set back a minimum of 25 feet from the top edge of the bluff on sites located within the Urban and Rural Services Lines (USL/RSL). A setback greater than 25 feet may be required based on conditions on and adjoining the site, based upon recommendations of required geologic, soil engineering and/or other technical reports, in order to provide a stable building site for the reasonably foreseeable future. Within the USL/RSL, the geologic/coastal hazards setback shall be sufficient to provide a stable building site for a 75 or 100-year assumed expected life of the improvements, calculated at the time of application for permits when the technical reports are submitted.

Within the Urban and Rural Services Lines, the calculation of the 75 or 100-year geologic/coastal setback, or alternate timeframe setback requested under an exception procedure, may take into consideration the effect of existing legally established shoreline or coastal bluff armoring. If the geologic setback relies on existing armoring, the applicant(s) shall be required to re-evaluate such armoring consistent with Policy 6.4.25 regarding shoreline armoring, including that ~~and~~ such armoring is required to be monitored, maintained and repaired and to mitigate its coastal resource impacts. However, armoring installed under an emergency coastal permit shall not be factored into the setback calculation unless a regular Coastal Development Permit is issued, and all conditions of the permit are met. In addition, technical reports prepared for sites within the Urban and Rural Services Lines shall also include analysis based upon an alternative calculation of the 75 or 100-year setback that neglects any effect of existing armoring, in order to provide a measure of the effects of the existing armoring on the site conditions and provide information for decision making.

Furthermore, in areas within the USL/RSL that are NOT within the designated Shoreline Protection Exception Areas (the area from Soquel Point Drive along East Cliff/Opal Cliffs Drives to the Capitola city limit is within a Shoreline Protection Exception Area; other areas may be established in conjunction with adoption of future Shoreline Management Plans), allow one “redevelopment/replacement” in the future after adoption of the 2020 Public Safety Element and implementing regulations, but if repetitive loss occurs due to coastal processes and storm impacts, then do not allow a second redevelopment/replacement (defined as modification/reconstruction of 50% or more of major structural components or an addition of more than 500 square feet or 50% of the existing habitable area of the structure, whichever is greater, within any consecutive five-year period, for projects on coastal bluffs, as a whole, defined in SCCC 16.10, or work within any consecutive five-year period that equals or exceeds 50% of the market value of the existing structure for projects on beaches in coastal high hazard areas, as defined in SCCC 16.13) unless found consistent with a later-adopted Shoreline Management Plan.

6.4.12 Geologic/Coastal Hazards Setbacks from Coastal Bluffs for New Development, Redevelopment and Reconstruction Outside of the Urban and Rural Services Lines

(LCP) All development (SCCC 16.10) on a coastal bluff site, and all nonhabitable structures for which a building permit is required, shall be set back a minimum of 25 feet from the top edge of the bluff on sites located outside of the Urban and Rural Services Lines (USL/RSL). A setback greater than 25 feet may be required based on conditions on and adjoining the site, based upon recommendations of required geologic, soil engineering and/or other technical reports, in order to provide a stable building site for the reasonably foreseeable future. Outside the USL/RSL, the geologic/coastal hazards setback shall be sufficient to provide a stable building site for a 75 or 100-year setback, calculated at the time of application for permits when the technical reports are submitted.

Comment [DGO46]: What about within SPEA?

Comment [DGO47]: Change “may” to “shall,” consistent with current LUP policy 6.2.16 and IP section 16.10.070(H)(1)(a), which provide that the setback calculation “shall” be based on “existing site conditions” (which conditions may include existing permitted shoreline armoring) and prohibits calculating the setback based on “proposed” shoreline armoring.

Potential inconsistency with proposed LUP policy 6.4.7(a), which prohibits reliance on shoreline armoring for calculating the setback for projects located outside the SPEA (but which may still be within the USL/RSL).

Comment [DGO48]: In other words, unless armoring is necessary to, for example, protect an existing structure from a significant threat, the existing armoring may be required to be removed following “re-evaluation” of such armoring in connection with a “triggering” event (e.g., redevelopment of an existing home). The CPOA-SC objects to this condition as currently drafted.

Comment [DGO49]: If “may” is not changed to “shall” as suggested in previous comments, this statement further supports a legal (i.e., LCP) basis for removing existing shoreline armoring as a condition of approval of new development (or “redevelopment”). CPOA-SC objects to these policies as currently drafted.

Comment [DGO50]: No such street exists in Santa Cruz County. Please clarify SPEA upcoast boundary as requested above.

Comment [DGO51]: See previous comments regarding “only one time” and apparent inconsistency with allowance of 2nd project if no repetitive loss occurred.

Comment [DGO52]: Added for consistency with proposed IP section 16.10.040(N).

Comment [DGO53]: See previous comment.

Outside the Urban and Rural Services Lines, for properties located on coastal bluffs, the calculation of the 75 or 100-year geologic/coastal hazards setback shall be based on existing site conditions and shall not take into consideration the effect of any existing shoreline or coastal bluff armoring. New shoreline or coastal bluff armoring is not allowed outside the Urban and Rural Services Lines. Authorized maintenance and repair of existing armoring is allowed to continue under an approved monitoring, maintenance, and repair program.

6.4.13 Modification, Reconstruction, or Replacement of Damaged Structures on Coastal Bluffs

(LCP) If structures located on or at the top of a coastal bluff are damaged as a result of coastal hazards, including slope instability and seismically induced landslides, and where the loss involves 50 percent or more of Major Structural Components, allow repair if all applicable LCP policies and regulations can be met, including the minimum ~~25-foot and the applicable 75 or 100-year~~ geologic/coastal setbacks, or alternate setback authorized by an approved setback exception that establishes a shorter-term expected design life for the structure

For structures involuntarily damaged by other than coastal hazards (fire, for example), where the loss involves 50 percent or more of the Major Structural Components, allow repair “in kind.” ~~but encourage relocation to increase the setback if feasible.~~ Allow other ~~that than~~ “in-kind” reconstruction, redevelopment or replacement of involuntarily damaged structures in accordance with all applicable LCP policies and regulations.

Exemption: Public beach facilities and replacements consistent with Coastal Act Policy 30610(g).

6.4.14 Bluff Face Development

(LCP) Structures, grading, and landform alteration on bluff faces are prohibited, except for the following: public access structures with connection to public roads and/or public access easements, or as appropriate where no feasible alternative means of public access exists, or shoreline or coastal bluff armoring if otherwise allowed by the LCP. Such structures shall be designed and constructed to be visually compatible with the surrounding area to the maximum extent feasible and to minimize effects on erosion of the bluff face.

6.4.15 Flood Hazard Policies

(LCP) As further addressed in Section 6.6 Flood Hazards, all structures shall be located outside of the flood hazard area, wherever possible, and to incorporate floodproofing measures as required by FEMA and local flood regulations in areas subject to flood hazards, provided such floodproofing measures are consistent with the shoreline armoring policies for development along coastal bluffs and the shoreline.

6.4.16 Flood Hazard Mitigation

(LCP) If it is infeasible for development to avoid flooding hazards, it shall be designed to minimize risks from flooding, including as influenced by sea level rise, over the anticipated life of the development to the maximum extent feasible and otherwise constructed using design techniques that will limit damage caused by floods. (See Policies in Section 6.6 and the Floodplain Regulations)

6.4.17 Reconstruction or Replacement of Damaged Structures due to Storm Wave Inundation

(LCP) If structures located in areas subject to storm wave inundation are damaged as a result of any cause ~~relating to coastal bluff erosion and storm wave impacts and inundation~~ and the loss involves 50 percent or more of the value of the structure before the damage occurred (substantial damage), allow such repair (substantial improvement) only if all applicable regulations and LCP policies can be met. Also see policies in Section 6.6 Flood Hazards.

Exceptions: Public beach facilities and replacements subject to Coastal Act Section 30610(g).

Comment [DGO54]: Inconsistent with requirement to calculate the setback based on “existing site conditions.” (See IP § 16.10.070(H)(1)(b).)

Comment [DGO55]: Change to “proposed” because prohibition of “existing” shoreline armoring may be inconsistent with the requirement that “the calculation... shall be based on existing site conditions” where said conditions include existing shoreline armoring.

Comment [DGO56]: Changing “existing” to “proposed” in the previous sentence is consistent with this sentence prohibiting “new” shoreline armoring, as it does not prohibit “existing” shoreline armoring.

Comment [DGO57]: If existing armoring can be maintained, then it follows that such existing armoring should be considered (i.e., not be prohibited from being considered) when calculating the development setback.

Comment [DGO58]: The applicable setback is the greater of 25’ or the 75/100 year setback.

Comment [DGO59]: CPOA-SC is concerned that “encourage” will be likely be treated as “require” if “feasible” to “increase the setback.”

Comment [DGO60]: Proposed language added for consistency with enumerated causes of “repetitive loss” in proposed LUP policy 6.4.36. Otherwise, the language is too broad. See also proposed LUP policy 6.4.13.

6.4.18 Pajaro Dunes

(LCP) Siting and design of new development and other development activities in the Pajaro Dunes Community shall take into account the extent of erosion of the primary frontal dune during the 100-year flood (or 1% annual chance flood). Development shall be elevated a sufficient amount to prevent impacts to coastal resources, assure structural stability of the development, and avoid coastal hazards over the expected lifespan of the development in accordance with the Flood Hazard policies in Section 6.6 and the Floodplain Regulations.

6.4.19 Rocky Shoreline Development

(LCP) Development atop rocky shoreline areas with no beach or limited beach shall not impact existing public access to the shoreline and shall incorporate conditions of approval as necessary and appropriate to increase avoid negatively impacting public access to the shoreline.

Comment [DGO61]: Change to “maintain” as consistent with “shall not impact existing.” See previous comment regarding nexus and proportionality.

6.4.20 Development Along Creeks and Rivers in the Coastal Zone

(LCP) Where creeks and rivers discharge to the coastal zone recognize the combined effects of riverine flooding and coastal storm flooding causing elevated flood levels relative to existing FEMA flood mapping. Require hydrologic analysis to determine risk and appropriate development restrictions and flood resistant designs in these areas.

6.4.21 Habitat Buffers

(LCP) Provide buffers from the edge of wetlands or other environmentally sensitive habitat areas including riparian habitat, in accordance with habitat protection policies. Development shall ensure that as sea level rises buffer areas shall also expand appropriately to allow for migration of wetlands and other shoreline habitats. Uses and development within buffer areas shall be limited to uses allowed under the County’s policies and ordinances involving sensitive habitat and riparian corridor protection. All development, such as grading, buildings and other improvements, adjacent to or draining directly to a habitat area must be sited and designed so it does not disturb habitat values, impair functional capacity, or otherwise degrade the habitat area.

Shoreline Policies by Project Type

6.4.22 Publicly Owned Facilities

(LCP) Existing publicly-owned and quasi-public facilities that are coastal-dependent or visitor serving uses such as public access improvements and lifeguard facilities, that are located on the beach or within 25 feet or within a calculated 75 or 100-year setback from the edge of the bluff, may be maintained, repaired, and/or replaced. Any repair or replacement shall be designed and sited to avoid the need for shoreline protection to the extent feasible.

6.4.23 Public Works Facilities

(LCP) Public works projects as defined in the Coastal Act shall be consistent with the Local Coastal Program.

6.4.24 Public Services in Coastal Hazard Areas

(LCP) Prohibit utility facilities and service transmission systems, including internet/broadband service, in coastal hazard areas, unless they are necessary to serve existing development or public facilities.

6.4.25 Structural Shoreline and Coastal Bluff Armoring

(LCP) (a) Limit new shoreline and coastal bluff armoring within the Urban and Rural Services Lines to serve coastal dependent uses or to protect existing structures or public beaches from significant threats, unless located within and proposed in accordance with adopted policies and/or plans under a Shoreline Protection Exception Area or Shoreline Management Plan, in which cases the proposed shoreline armoring projects must be determined to be in substantial conformance with such policies and Plan(s).

Comment [DGO62]: This is an important addition for clarification.

Comment [DGO63]: Other than in SPEA or SMP areas, a “triggering” event will require “reconsideration” of existing shoreline armoring’s consistency with these LCP requirements. (See proposed LUP policy 6.4.25(b) below.) When read together (a) and (b) may mean that where a development project is proposed on a parcel that has existing shoreline armoring, the armoring may arguably be at risk of removal if no habitable structure on the parcel faces a significant threat of erosion (i.e., generally within the next 2-3 years). (See proposed LUP policy 6.4.25(b) below.) As such, CPOA-SC objects to the proposed “reconsideration” requirement.

New Armoring shall be designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Armoring ~~may shall also be allowed on parcels considered for vacant lots~~ where both adjacent parcels are already similarly protected, ~~or on vacant lots~~ which through lack of protection threaten adjacent or nearby developed lots; ~~or those and on parcels~~ which protect public roads and infrastructure, and coastal recreation areas. New shoreline or coastal bluff armoring is not allowed outside the Urban and Rural Services Lines. Authorized maintenance and repair of existing armoring is allowed to continue under approved monitoring, maintenance, and repair programs.

Comment [DGO64]: As noted above, this allowance for shoreline armoring “where both adjacent parcels are already similarly protected” should not, for important technical reasons (see comment #3 above), be limited only to vacant lots. This section should be revised in accordance with proposed IP section 16.10.070(H)(3).

(b) Through the coastal development permit review process for projects ~~involving constituting~~ “development” (SCCC 16.10), ~~require evaluation of existing shoreline and coastal bluff armoring in accordance with all applicable sub-sections of this policy 6.4.25.~~ Unless triggered by a proposed development project or work that exceeds the scope of maintenance and repair of an existing shoreline or coastal bluff armoring structure, the term of a permit for an existing armoring structure shall not be altered.

Comment [DGO65]: See comment regarding proposed LUP policy 6.4.25(a) above. See also proposed LUP policy 6.4.25(e)(1).

Project Review

(c) Require any application for new shoreline and coastal bluff armoring ~~located outside of Shoreline Protection Exception Area(s)~~ to include a thorough analysis of all reasonable alternatives to the proposed armoring including, but not limited to, the following:

Comment [DGO66]: This limitation not included in proposed IP section 16.10.070(H)(3); thus, an inconsistency exists.

- (1) Consistency with an approved shoreline management plan, if applicable
- (2) Relocation or partial removal of the threatened structure
- (3) Protection of the upper bluff and blufftop (including through planting appropriate native or non-invasive vegetation and removing invasive plant species, and better drainage controls) or the area immediately adjacent to the threatened structure
- (4) Natural or “green” infrastructure (like vegetated beaches, dune systems, and wetlands)
- (5) Engineered shoreline or coastal bluff armoring (such as beach nourishment, revetments, or vertical walls)
- (6) Other engineered systems to buffer coastal areas
- (7) Combinations or hybrids of the above

(d) New ~~S~~shoreline or coastal bluff armoring shall be designed as close as possible to the coastal bluff or structure requiring protection and must be designed to minimize adverse impacts. Design considerations include but are not limited to the following:

Comment [DGO67]: Added for clarity and for consistency with proposed IP section 16.10.070(H)(3)(a).

- (1) Minimize the footprint of the armoring on the beach
- (2) Provide for public recreational access ~~where physically and economically feasible~~
- (3) Provide for future access for maintenance of the armoring
- (4) Strive for a continuous lateral pedestrian access as physically ~~and economically~~ feasible
- (5) Minimize visual intrusion by using materials that blend with the color or natural materials in the area, contouring to match nearby landforms as much as possible, and using vegetation for screening
- (6) Meet approved engineering standards and applicable County Code provisions for the site as determined through the coastal development, building, and grading permit process
- (7) The design must be based on detailed technical studies to accurately define geologic, hydrologic and oceanographic conditions affecting the site
- (8) Eliminate or mitigate adverse impacts, if any, on local shoreline sand supply
- (9) All armoring structures shall incorporate permanent survey monuments for future use in establishing a survey monument network along the coast for use in ~~monitoring seaward encroachment or slumping of armoring~~ and erosion trends

Comment [DGO68]: Important limitations.

Comment [DGO69]: Important limitations.

(e) ~~Unless the existing armoring is being appropriately maintained by an approved Geologic Hazard Abatement District Plan of Control or other joint maintenance agreement, for development activities~~

Comment [DGO70]: As similarly discussed above, if “fugitive” rip-rap is found seaward of the mean high tide line (i.e., within “public” lands), the rip-rap may be required to be removed. See 6.4.9 (removal or relocation). CPOA-SC objects to that removal condition.

(SCCC 16.10) protected by existing shoreline and coastal bluff armoring, the coastal permit application shall include:

- (1) Re-assessment of the need for the armoring (see paragraph (l) below)
- (2) A report on the need for any repair or maintenance of the device (see paragraph (k) below)
- (3) Evaluation of the stability and condition of the armoring and recommendations for maintenance, repair, or modification, and potential for removal based on changed conditions
- (4) A report on changed geologic and hydrologic site conditions including but not limited to changes relative to sea level rise
- (5) Assessment of impacts to sand supply and public recreation.
- (6) Recommendation to avoid or mitigate impacts to sand supply and public recreational resources.
- (7) If approved, such development associated with existing shoreline or coastal bluff armoring shall meet all other applicable requirements of this policy, including with respect to the impact mitigation requirements

(f) For sites protected by existing rip rap or similar material, or nonengineered legacy structures, require that the applicant submit a report at the time of filing an application for a coastal development permit for development (SCCC 16.10), including an evaluation of the stability and condition of the armoring and recommendations for maintenance, repair, or modification, and potential for removal based on changed conditions. The report shall include a Recovery Plan for the maintenance and repair, or potential removal of all or a portion of the existing rip rap revetment, to recover migrated rip rap and to provide for least disturbance of the beach and shoreline while also functioning as necessary to protect the structures on and adjacent to the parcel. The Recovery Plan must incorporate Best Management Practices for maintenance and repair to address potential impacts to sensitive species and environmental resources, as well as Best Management Practices for construction during maintenance and repair activities.

Conditions of Approval

(g) New shoreline or coastal bluff armoring should be the least environmentally damaging feasible alternative to serve coastal-dependent uses or to protect a structure or a public beach in danger from erosion

- (1) Hard armoring (such as seawalls and revetments, etc.) shall only be allowed if soft alternatives (such as managed retreat/relocation, beach nourishment, vegetative planting, and drainage control, etc.) are not feasible, or are not the least environmentally damaging feasible alternative
- (2) Permit shoreline or coastal bluff armoring only if non-structural measures are infeasible from an engineering standpoint or not economically viable
- (3) Hard armoring is limited as much as possible to avoid coastal resource impacts
- (4) Alternatively, an approved Shoreline Management Plan or projects within a designated Shoreline Protection Exception Area may authorize hard armoring for identified sections of the coast.

(h) No new shoreline or coastal bluff armoring shall be allowed for the sole purpose of protecting an accessory structure.

(i) All new shoreline and coastal bluff armoring shall be sited and designed to eliminate or mitigate adverse impacts on coastal resources to the maximum feasible extent. All unavoidable coastal resource impacts shall be appropriately mitigated. Any approved new, replacement, reconstructed or redeveloped shoreline protection structure must not result in unmitigated impacts to coastal resources including:

- (1) Reduced or restricted public beach access
- (2) Adverse effects on shoreline processes and sand supply
- (3) Increased erosion or flooding on adjacent properties,

Comment [DGO71]: No SPEA or SMP exception?

Comment [DGO72]: For the reasons stated above, CPOA-SC strongly objects to this "re-assessment" condition.

Comment [DGO73]: See previous comments regarding shoreline armoring removal condition.

Comment [DGO74]: This language is vague and ambiguous. Does this mean development "reliant upon" existing shoreline armoring? Development "to" the existing shoreline armoring (i.e., maintenance and repairs above and beyond what would be required by MMP)? Please clarify/explain/revise.

Comment [DGO75]: See previous comments regarding CPOA-SC's objections to the proposed "re-assessment" condition.

Comment [DGO76]: See previous comment.

Comment [DGO77]: See previous comment.

Comment [DGO78]: This will be interpreted as "necessary to protect the structures" from a significant threat. See previous comment.

Comment [DGO79]: Again, an important clarifying word here and throughout the LCP, consistent with proposed IP section 16.10.070(H)(3)(a)-(b).

(4) Adverse effects on coastal visual or recreational resources, or harmful impacts on wildlife and fish habitats or archaeological or paleontological resources

(j) Mitigation Programs. Require mitigation of unavoidable adverse impacts on coastal resources, including payment of in lieu fees where on-site or in-kind options are not possible. The shoreline or coastal bluff armoring project shall include proportional mitigation for all unavoidable coastal resource impacts, including impacts on shoreline sand supply, sandy beaches, public recreational access, public views, natural landforms, and water quality. At a minimum, the effects of the armoring with respect to retention of sand generating materials, the loss of beach/sand due to its footprint, and passive erosion shall be evaluated. Proportional in-lieu fees may be used as a proxy for impact mitigation if in-kind options (such as developing new public access facilities) are not possible, and if such in-lieu fees are deposited in an interest-bearing account managed by the County and used only for mitigations offsetting unavoidable adverse impacts of the project. Required mitigation shall be determined based on reasonable calculation of unavoidable adverse impacts of a specific project on coastal resources, and may include the following:

(1) Sand Mitigation - to mitigate for loss of beach quality sand which would otherwise have actually been deposited on the beach the County may collect a fee proportional to the impact of the project on the deposit of beach quality sand which would have otherwise occurred to implement projects which mitigate for loss of beach quality sand due to or coastal bluff armoring. The methodology used to determine the appropriate mitigation fee will be as approved by the ~~County California Coastal Commission and which may be administratively amended from time to time by the Commission.~~ Unless amended, the methodology applies to coastal bluff environments and does not apply to sand dune environments such as Pajaro Dunes. The mitigation fee shall be deposited in an interest-bearing account designated by the Planning Director or County Parks Director.

Comment [DGO80]: CPOA-SC is informed that most coastal bluffs in Santa Cruz County consist of only a small percentage (i.e., approximately 10%) of beach quality sand. The sand mitigation fee must be limited to that small percentage.

Comment [DGO81]: The CPOA-SC objects to the County ceding its statutorily-granted jurisdiction (per Coastal Act § 30519(a)) or any portion thereof to the CCC. Instead, this section could explain that the County may, but is not required to, use the CCC's methodology for calculating sand mitigation fees.

(2) Public Recreation Mitigation - to mitigate for public recreational impacts associated with actual loss of public recreational opportunities, including access, caused by the armoring, the County shall identify mitigation that allows for objective quantification of the value of beach and shoreline area that is related in both nature and extent to the impact of the project. Project applicants have the option of proposing an on-site or in-kind public recreation/access project or payment of fees to the County in lieu of on-site or in-kind mitigation of impacts. The in-kind public recreational/access project may be an on-site easement or improvement or other off-site public use or access amenity. At the County's discretion, these projects may be accepted if it can be demonstrated that they would provide a directly -related recreation and/or access benefit to the general public. Fees paid to the County to mitigate public recreational impacts shall be calculated based on the cost to provide alternative public recreational opportunity, proportional to the loss of public recreational opportunity caused by the project. Unless an alternative method is adopted, the methodology used to calculate fees paid to the County for use of County-owned property, such as rights-of-way, shall be the methodology for calculating the public recreation in-lieu fee that would satisfy this mitigation requirement. Fees for use of County-owned property may be established and amended by the County from time to time.

(k) No approval shall be given for any development activity involving shoreline or coastal bluff armoring that does not include a requirement for submittal and County acceptance of a Monitoring, Maintenance and Repair Program prior to finalization of the building/grading permit for the structure. The Program shall include, but is not limited to the following elements:

Comment [DGO82]: This language is vague and ambiguous. Does this mean development "reliant upon" existing shoreline armoring? Development "to" the existing shoreline armoring (i.e., maintenance and repairs above and beyond what would be required by MMP)? Please clarify/explain/revise.

(1) Monitoring by a professional engineer or geologist familiar and experienced with coastal structures and processes.

(2) Report to the County upon completion of construction of the armoring and every five years or less thereafter, as determined by either the County Geologist or a qualified professional, for as long as the armoring remains authorized. Reports shall be reviewed and accepted by the County Geologist.

(3) The report shall detail the condition of the structure and list any recommended maintenance

and repair work

(4) The monitoring plan and periodic report shall address impacts to shoreline processes and beach width, public access, and availability of public trust lands for public use

(5) The monitoring, maintenance and repair program shall be recorded on the title/deed of the property

(6) The program shall allow for County removal or repair of shoreline or coastal bluff armoring, at the owner's expense, if its condition creates a public nuisance or if necessary, to protect the public health and safety

(7) The program shall include any other monitoring, maintenance, and repair activities the County determines necessary to avoid or mitigate impacts to coastal resources

(8) The term of the Program shall be 20-years. Extension beyond 20 years will require an application to amend the condition of approval of the Coastal Development Permit to extend the Monitoring, Maintenance, and Repair Program at which time the Program shall be updated if necessary, to address changed shoreline conditions, and may include additional and/or renewed requirements for mitigation of then-existing impacts of the project on coastal resources for the requested term of extension

(l) Armoring Duration. The shoreline or coastal bluff armoring shall only be authorized until the time when the existing structure that is protected by such a device 1) is no longer present; or 2) no longer requires armoring. Unless already authorized within an approved Monitoring, Maintenance and Repair Program pursuant to approved coastal development permit that addresses the anticipated removal of the protection structure, permittees shall be required to submit a coastal permit application to remove the authorized shoreline or coastal bluff armoring within six months of a determination that the armoring is no longer authorized to protect the structure it was designed to protect because the structure is no longer present or no longer requires armoring.

Comment [DGO83]: No exception for SPEA or SMP areas?

Comment [DGO84]: This section presumes the existence of an "existing structure"; however, no such "existing structure" may actually exist. See, e.g., IP section 16.10.070(H)(3)(a), allowing armoring in several circumstances other than to protect an "existing structure."

Comment [DGO85]: See previous comments regarding CPOA-SC's objections to LCP provisions requiring "reconsideration" and potential removal of existing armoring as condition of approval of "triggering" development.

(m) Maintenance and Repair Authorized. Approved shoreline or coastal bluff armoring may be maintained and repaired (with building or grading permits as needed) in accordance with conditions of approval of Coastal Development Permits authorizing the armoring; but exceeding authorized maintenance and repair may require updated technical reports and may require approval of an amendment of the coastal development permit.

Emergency Authorization

(n) In cases of emergency, an emergency shoreline protective device may be approved on a temporary basis only, and only under the condition that the device is required to be removed unless a regular coastal development permit is approved for retention of the structure. In such cases, a complete coastal development permit application shall be required to be submitted within 60 days following construction of the temporary emergency shoreline protective device, unless an alternate deadline is authorized by the Planning Director for good cause and good faith efforts continue toward submittal of the application. Any such temporary emergency shoreline protective device shall be sited and designed to be the minimum necessary to abate the identified emergency, and to be as consistent as possible with all LCP shoreline protective device standards, including in terms of avoiding coastal resource impacts to the maximum feasible extent. Mitigation for impacts will be required through the regular coastal development permit process, although mitigation commensurate with the duration of impacts caused by the emergency temporary device may also be required as determined by the County to be warranted. The County shall notify the Coastal Commission upon receipt of a request for an emergency shoreline protective device within the County's coastal permit jurisdiction.

6.4.26 Drainage and Landscape Plans

(LCP) Require drainage and landscape plans to consider potential hazards on and off site, to require removal of invasive plants and replacement with native bluff and/or other county-approved acceptable species in the area within 15 feet of the blufftop edge and below and be approved by the County

Geologist prior to the approval of development in coastal hazard areas. Require that approved drainage and landscape development not contribute to offsite impacts and that the defined storm drain system or Best Management Practices be utilized where feasible. The applicant shall be responsible for the costs of repairing and/or restoring any off-site impacts caused by drainage and landscape work on the site.

6.4.27 Drainage and Improvements within ~~the 25-foot or~~ applicable setback from coastal bluff.

(LCP) Drainage systems shall be designed to ensure that no drainage will flow over the coastal bluff. The drainage system (including water from landscaping and irrigation) shall not contribute to coastal bluff erosion. Furthermore, all drainage system components shall be maintained in good working order. All deck, stairs etc. within the ~~25-foot or~~ applicable minimum geologic/coastal setback are required to be structurally detached from other structures and do not require a building permit.

Comment [DGO86]: The applicable setback is the greater of the 75-year (or 100-year) setback or 25'. This suggested revisions eliminates a potential ambiguity.

6.4.28 Foundation Replacement and/or Upgrade

(LCP) Foundation replacement and/or foundation upgrades involving 50% or more of the existing foundation shall meet the 25-foot minimum and the applicable 75- or 100-year geologic setback requirements. An exception to those requirements is allowed for foundation replacement and/or upgrade for existing structures that are located partly or wholly or partially within the setback if the property owner agrees to record a Notice of Geologic/Coastal Hazard prior to issuance of the building permit, and if the Planning Director determines that:

- (1) the structure will be relocated to maximize the geologic setback from the coastal bluff or shoreline; or
- (2) the structure cannot be relocated to meet the setback due to inadequate parcel size.

6.4.29 Additions to Existing Structures Located on Coastal Bluff and Beaches

(LCP) Additions of any size to existing structures located on coastal bluff sites, including second story and cantilevered additions, ~~that extend the existing structure in a seaward direction,~~ shall comply with the applicable geologic/coastal hazards setback requirements of Policies ~~6.24.11 and 6.24.12.~~ ~~Prohibit~~ additions of any size to existing structures located on beaches or in the wave run-up zone, including second story and cantilevered additions, that extend the existing structure in a seaward direction.

Comment [DGO87]: Added comma to clarify that only projects "that extend... seaward" must comply with those requirements. This added comma makes the meaning of this sentence consistent with the next sentence.

6.4.30 Swimming Pools and Spas

(LCP) All new swimming pools, spas and similar in-ground and above-ground water recreation or fishpond types of features shall be located landward of the applicable geologic/coastal hazard setback. Any new water-containing features of this nature shall have double-wall construction with leak detection systems and drains to facilities and locations approved by the County.

Comment [DGO88]: Correcting erroneous citations.

6.4.31 Accessory Structures

(LCP) Coastal Development Permits are required for accessory structures in coastal hazard areas (including on bluffs and in the shoreline area), whether habitable or nonhabitable, and whether or not a building permit is required under Chapter 12.10 Building Regulations. CDPs authorizing accessory structures must include a condition of approval that requires the property owner and all successors in interest to remove the structure if the County Geologist, the Building Official or a licensed geotechnical engineer determines that the accessory structure is at risk of failure due to erosion, landslide or other form of bluff collapse or geologic/coastal hazard. In the event that portions of the development fall ~~off of~~ the bluffs or into the ocean before they are removed/relocated, the landowner shall be required to remove all recoverable debris associated with the development from the bluffs and ocean and lawfully dispose of the material in an approved disposal site.

Ongoing Adaptation

6.4.32 Removal Conditions/Development Duration

(LCP) Coastal development permits for projects involving development (SCCC 16.10) on private property located in areas subject to coastal hazards shall be conditioned to require that it be removed, and the affected area restored if:

(a) any government agency has ordered that the structures are not to be occupied due to coastal hazards, or if any public agency requires the structures to be removed;

(b) essential services to the site can no longer feasibly be maintained (e.g., utilities, roads);

(c) the development is no longer located on private property due to the migration of the public trust boundary; or

(d) removal is required pursuant to an adopted Shoreline Management Plan.

Such condition shall be recorded on a deed restriction against the subject property. See Policy 6.4.9.

6.4.33 Abatement of Unsafe Site or Structure

(LCP) If coastal hazards result in an unsafe site or unsafe structure, dangerous conditions shall be abated in accordance with County regulations and Orders of the Chief Building Official. If all or any portion of improvements are deemed uninhabitable, the improvements shall be removed, and the affected area restored, unless an alternative response is approved by the County of Santa Cruz, and by the California Coastal Commission if the project is within the Coastal Commission's original jurisdiction. Alternative responses to coastal hazards may include (1) pursuit of a Coastal Development Permit consistent with County Code regulations in Chapter 13.20 (Coastal Zone Regulations) and Chapter 16.10 (Geologic Hazards); and/or (2) pursuit of an alternative consistent with an adopted shoreline management plan.

6.4.34 Bluff or Beach Erosion Trigger for Technical Report

(LCP) If the mean high tide line or the blufftop edge migrates to within 15 feet of a principal structure or to any other point where the site or structure is deemed unsafe by County regulations and/or the County Geologist, Civil Engineer, or Chief Building Official, the property owner shall retain a licensed geologist or civil engineer with experience in coastal processes and hazard response to prepare a geotechnical investigation and Coastal Hazards Report that addresses whether all or any portions of the residence principal structure and related development are threatened by coastal hazards, and that identifies actions that should be taken to ensure safe use and occupancy, which may include removal or relocation of all or portions of the threatened development and improvements, or other alternate responses. The property owner shall undertake activities to pursue an appropriate response in accordance with adopted and applicable County of Santa Cruz and California Coastal Commission regulations. The geotechnical investigation and Coastal Hazards Report shall be submitted to the Executive Director of the California Coastal Commission, and to the County's Planning Director, Chief Building Official and County Geologist of Santa Cruz County. If the residence or any portion of the residence is proposed to be removed, the Applicant shall submit a Removal and Restoration Plan. In the event that any structure in the future is located below mean high tide on state lands and subject to a state lease, strive to retain local control of any lease revenue.

6.4.35 Removal and Restoration

(LCP) If an appropriate government agency so orders, or as a result of the above-referenced geotechnical investigation and Coastal Hazards Report, it is determined that any portion of the approved development must be removed due to coastal hazards, or if removal is required pursuant to Policies 6.4.9 or 6.4.32 or 6.4.33, a Removal and Restoration Plan shall be submitted to the County for review and approval. No removal activities shall commence until the Removal and Restoration Plan and all other required plans and permits are approved. The plan shall specify that in the event that portions of the development fall off of the bluffs or into ocean before they are removed/relocated, the landowner will remove all recoverable debris associated with the development from the bluffs and ocean and lawfully dispose of the material in an approved disposal site. If it is determined that separate grading and coastal development permits are required in order to authorize the activities, the application shall be submitted as soon thereafter as immediately feasible, including all necessary supporting information to ensure it is complete. The Removal and Restoration Plan shall clearly describe the manner in which such development is to be

Comment [DGO89]: As currently drafted, this provision (if accepted by a property owner as a permit condition) could be construed as the property owner's waiver of the right to challenge (in an administrative and/or court process) the purported removal "requirement" by the public agency. As such, CPOA-SC objects to this language and requests that it be revised to clarify that no such waiver will result from this condition (if accepted).

Comment [DGO90]: See redline revision below from "residence" to "principal structure" made for consistency.

Comment [DGO91]: The CPOA-SC objects to the County ceding its statutorily-granted jurisdiction (per Coastal Act § 30519(a)) or any portion thereof to the CCC.

Comment [DGO92]: See previous comment.

removed and the affected area restored so as to best protect coastal resources and/or public safety, and shall be implemented immediately as soon thereafter as feasible upon County approval, or County approval of required permit applications, as may be required.

6.4.36 Repetitive Loss Properties

(LCP) Repetitive loss properties shall be subject to the requirements of Policy 6.4.13 and 6.4.17 regarding damage due to coastal bluff erosion and storm wave impacts and inundation. A Repetitive Loss property is any habitable building on a coastal bluff for which two or more coastal hazard storm cycle events within any 10-year period cause damage, the repair of which requires modification/reconstruction of 50% or more of the habitable building's major structural components for projects on coastal bluffs, as defined in SCCC 16.10, or work that equals or exceeds 50% of the market value of the habitable building existing structure for projects on beaches in coastal high hazard areas, as defined in SCCC 16.13. Multiple losses at the same location within 10-60 days of each other are counted as one loss. The loss history includes all work on the coastal bluff property beginning the date the 2020 Public Safety Element of the GP/LCP is adopted by the County and certified by the California Coastal Commission.

Comment [DGO93]: This LUP policy needs to be reviewed and reconciled with IP section 16.10.070(H)(3) for consistency, including by adding (as redlined here) the "within any 10-year period" (as exists in IP section 16.10.070(H)(3)).

Comment [DGO94]: CPOA-SC objects to the 10-day cycle, as recovery ("dry out") from a storm cycle often lasts longer than 10 days. Unless revised to at least 60 days, a single storm season could result in "repetitive loss" and make this section onerous, given the potential length and severity of a storm cycle.

6.4.37 Shoreline Management Plan(s)

(LCP) Seek funding to assist with more specific planning that would assess alternatives and identify preferred strategies for how various segments of the urbanized area shoreline/coastal bluffs could transition to more comprehensive modern approaches to shoreline protection if such approaches were implemented by the County and/or private property owners through Geologic Hazard Abatement District(s) or County Service Area(s); rather than property-by-property measures. Consistent with Policy 6.4.1, the shoreline and coastal bluff policies of this Safety Element shall be considered to be in effect until the year 2040, by which time the expectation is that shoreline management plan(s) and/or an updated set of policies within a Safety Element Amendment will have been adopted. Should a future Shoreline Management Plan(s) become effective, all future proposed development shall be found to be substantially consistent with the provisions of the approved Shoreline Management Plan. Shoreline Management Plan(s) would identify any subareas that would be designated as Shoreline Protection Exception Areas, would identify the nature of planned improvements, would identify appropriate adaptation options to implement if and when shoreline and coastal bluff armoring is no longer a feasible solution, would identify triggers for when other adaptation options should be implemented, and would identify priority areas for future adaptation responses.

Programs

(LCP) a. Relocate if feasible, essential public facilities such as sewer lines and sanitation pump stations to locations outside of coastal hazard areas when they are due for expansion or replacement or major upgrade. (Responsibility: Public Works)

(LCP) b. Develop and implement a program to correct existing erosion problems along coastal bluffs caused by public drainage facilities and monitor and enforce compliance of private drainage facilities with approved designs and applicable standards. (Responsibility: Public Works)

(LCP) c. Review existing public coastal protection structures to evaluate the presence of adverse impacts such as pollution problems, loss of recreational beach area, and fish kills and implement feasible corrective actions. (Responsibility: Public Works, Environmental Health, Planning Department)

(LCP) d. Support, encourage, and seek funding from FEMA and other appropriate agencies for the initiation of a review of all shoreline protective structures to evaluate their effectiveness and potential for becoming public hazards. Shoreline armoring can become public hazards, for example, if they are in such a state of disrepair that portions have fallen or are in imminent danger of falling onto beaches. Where it is determined that such structures are public hazards or where they provide ineffective protection due to

inadequate maintenance, notify the property owner and require the property owner to either maintain the structure to a reasonable level or remove and replace the structure as feasible consistent with applicable policies and regulations. Consider County action to maintain or remove and replace the structure and recover costs by a lien against the property if the property owner does not act within one year of such notice. (Responsibility: Planning Department, Board of Supervisors)

(LCP) e. Notify private property owners in areas subject to coastal hazards they are responsible for costs of responding to property damage due to coastal erosion, coastal flooding, and wave run-up hazards, including but not limited to repair, replacement, relocation and/or removal of a portion or all of damaged structures. Encourage property owners to create a contingency fund to cover future costs to modify, relocate and/or remove development that may become threatened in the future by sea level rise and/or when removal triggers are met. Costs for removal and restoration may be based on estimates provided by a licensed building moving/demolition contractor for the amount of contingency funds necessary to remove the structure, including any seawall and restore the site. The amount of contingency funds should be reviewed every ten years and adjusted to account for changed site conditions, inflation and other conditions that affect the amount of future contingency funds needed. (Responsibility: Planning Department)

Comment [DGO95]: Only if such responsibility currently exists (e.g., via permit condition).

(LCP) f. Support, encourage, seek funding, and cooperate with the Coastal Conservancy, Coastal Commission, State Lands Commission, and the Army Corps of Engineers for the establishment and maintenance of a permanent survey monument monitoring network along the coast. Utilize existing monuments set by Caltrans, other public agencies, geologic consultants, and others to the greatest degree possible. Incorporate the use of these monuments into all future planning for shoreline protective structures. Provide geo-reference (latitude and longitude) for each monument and structure. (Responsibility: Planning Department, Public Works)

(LCP) g. Explore, with regional, state and federal agencies as appropriate, whether it is desirable or feasible to create a program that would exclude certain areas of the coast and/or certain types of projects, from being eligible for FEMA insurance or other programs that involve shifting costs of private property repair, replacement or abatement to public agencies or to insurance ratepayers in general.

(LCP) h. Consider the best available and most recent scientific information with respect to the effects of coastal hazards and long-range sea level rise when establishing sea level rise maps, scenarios, and assumptions for use in geologic, geotechnical, hydrologic and engineering investigations, including coastal hazards analyses. Support scientific studies that increase and refine the body of knowledge regarding potential sea level rise in the County, and possible responses to it.

Comment [DGO96]: The “most recent” data may not necessarily be accurate.

(LCP) i. Research and identify a range of financing mechanisms to support the implementation of adaptation strategies, including through grant programs (e.g. State Coastal Conservancy Climate Ready grants, NOAA Coastal Resilience grants, FEMA/Cal OES Hazard Mitigation funding) and utilization of in-lieu fees collected as mitigation for shoreline armoring.

(LCP) j. Work with entities that plan or operate infrastructure, such as Public Works, Santa Cruz County Sanitation District, Water Districts, the Regional Transportation Commission, Caltrans and PG&E, to plan for potential realignment of public infrastructure impacted by sea level rise, with emphasis on critical accessways.

(LCP) k. Support efforts to develop and implement innovative design alternatives that reduce or eliminate flood damage, especially those which would qualify through FEMA as acceptable alternatives to elevation under the National Flood Insurance Program (NFIP). Encourage homeowners to implement voluntary floodproofing measures in conjunction with development that is not required to be elevated.

(LCP) l. **Shoreline Management Plan(s)** Pursue grant funding to enable creation of Shoreline Management Plan(s) for the shoreline areas within the Urban and Rural Services Lines, where such Plans would be structured around sections of the shoreline with similar existing conditions and potential hazards. Shoreline Management Plans will need to address potential effects of development, shoreline armoring, at-grade and elevated buildings, especially on beaches and at lagoon areas, and could identify potential opportunities to improve public access to the coast, protection of coastal resources, and adaptation of public roads and infrastructure. Shoreline ~~m~~Management ~~p~~Plans ~~would-should~~ include the short- and long-term goals for the specified area, the management actions and policies necessary for reaching hazard reduction, environmental and public access goals, and necessary monitoring and maintenance of existing shoreline armoring to ensure its effectiveness. Shoreline Management Plan(s) ~~would-should~~ examine priorities for shoreline management, timelines, options, specific projects to be implemented, phasing and action triggers. As components of the Shoreline ~~m~~Management ~~p~~Plans, assess seasonal and long-term shoreline changes and the potential for flooding or damage from erosion, sea level rise, waves, and storm surge. Shoreline Management Plans ~~should>would~~ provide requirements for adapting existing development, public improvements, coastal access, recreational areas, and other coastal resources. Shoreline Management Plans ~~should>would~~ assess the impact of existing and future development, and evaluate the feasibility of hazard avoidance, managed retreat, restoration of the sand supply and beach nourishment in appropriate areas. Shoreline Management Plans ~~should>would~~ incorporate strategies necessary to manage and adapt to changes in wave, flooding, and erosion hazards due to sea level rise.

(LCP) m. The County will work with coastal property owners to seek funding for preparation of Shoreline Management Plan(s), which would identify specific objectives for defined (sub) area(s) of the County's coastline. Any subareas would be defined geographically where multiple adjacent properties would be managed toward the same objective, with policies that apply in the areas.

Comment [DGO97]: See funding from whom? The CPOA-SC objects to passing SMP preparation costs onto coastal property owners.

This is an issue of great importance to the CPOA-SC. During the CPOA-SC's meeting with Kathy Molloy and David Carlson on 1-10-20, Ms. Molloy and Mr. Carlson explained that the "only one time" rule meant that property owners could build one new home or redevelop (in excess of 50%) one time in the same location on the property within the next 20 years without "triggering" the GH requirements of the LCP (e.g., compliance with LUP policies 6.4.2, 6.4.5, 6.4.9, 6.4.11).

At the meeting, Ms. Molloy and Mr. Carlson also explained that the 50% threshold for "redevelopment" (thereby constituting "development" requiring a CDP) is measured in 5-year periods and resets every 5 years (i.e., can do 49% remodel every 5 years without triggering GH requirements).

However, as currently written, these proposed LCP amendments do not support those explanations. Nor do the GH requirements of the LUP (e.g., 6.4.2, 6.4.5, 6.4.9, 6.4.11) say anything to the effect of, "After the one time only project for a new or redeveloped structure, the applicant/permittee shall..." As such, the LCP amendments need further revisions to clearly accord with Ms. Molloy's and Mr. Carlson's explanation.

Also, the "only one time" language applicable to properties outside the Shoreline Protection Exception Area ("SPEA") is unclear and potentially inconsistent with 6.4.11 (para. 3), which appears to potentially allow a 2nd redevelopment/replacement, stating "allow one redevelopment/replacement"... but if repetitive loss occurs... then do not allow a second..." It should simply say "allow one" (i.e., delete "only") "if repetitive loss occurs." Further redevelopment/replacement should be permitted so long as the GH requirements (and other LCP requirements) are satisfied.

EXHIBIT B

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 16.10 OF THE COUNTY CODE REGARDING
GEOLOGIC HAZARDS**

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

SECTION I

Chapter 16.10 of the Santa Cruz County Code is hereby amended to read:

Chapter 16.10

GEOLOGIC HAZARDS

Sections:

- 16.10.010 Purpose.**
- 16.10.020 Scope.**
- 16.10.022 Statutory authorization.**
- 16.10.025 Reserved.**
- 16.10.030 Amendment procedure.**
- 16.10.035 Conflict with existing regulations.**
- 16.10.037 Severability.**
- 16.10.040 Definitions.**
- 16.10.050 Requirements for geologic assessment.**
- 16.10.060 Assessment and report preparation and review.**
- 16.10.070 Permit conditions.**
- 16.10.080 Project density limitations.**
- 16.10.090 Project denial.**
- 16.10.100 Exceptions.**
- 16.10.105 Notice of geologic hazards in cases of dangerous conditions.**
- 16.10.110 Appeals.**
- 16.10.120 Violations.**
- 16.10.130 Fees.**

16.10.010 Purpose.

The purposes of this chapter are:

(A) Policy Implementation. To implement the policies of the State of California Alquist-Priolo Earthquake Fault Zoning Act, the Santa Cruz County General Plan, and the Land Use Plan of the Local Coastal Program.

(B) Public Health and Safety. To minimize injury, loss of life, and damage to public and private property caused by the natural physical hazards of earthquakes, floods, landslides, and coastal processes.

(C) Development Standards. To set forth standards for development and building activities that will reduce public costs by preventing inappropriate land uses and development in areas where natural dynamic processes present a potential threat to the public health, safety, welfare, and property.

(D) Notice of Hazards. To ensure that potential buyers are notified of property located in an area of geologic hazard, and to ensure that ~~these property owners~~ who, as a condition of approval of permits for Development/Development Activity within ~~occupy~~ areas of geologic hazard, assume responsibility for their ~~Development/Development Activity actions~~.

Comment [DGO1]: This “responsibility” must be limited to conditions of approval of development permits; it cannot retroactively impose such liability on coastal property owners. See comments below regarding “Development/Development Activity.”

16.10.020 Scope.

This chapter sets forth regulations and review procedures for development and construction activities including grading, septic systems installation, development permits, changes of use as specified in SCCC 16.10.040(N)(13), building permits, minor land divisions, and subdivisions throughout the County. These regulations and procedures shall be administered through a system of geologic hazard assessment, technical review, development and building permits.

16.10.030 Amendment procedure.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to the hearing and notification provisions of SCCC 13.03 and shall be subject to approval by the California Coastal Commission.

16.10.035 Conflict with existing regulations.

This chapter is not intended to repeal, nullify, or impair any existing easements, covenants, or deed restrictions. If this chapter and any other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

16.10.037 Severability.

This chapter and the various parts hereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

16.10.040 Definitions.

For the purposes of this chapter, the following definitions apply:

(A) “Active fault” means a fault that has had surface displacement within Holocene time (about the last 11,000 years).

(B) “Active landslide” means a landslide that is presently moving or has recently moved as indicated by distinct topographic slide features such as sharp, barren scarps, cracks, or tipped (jackstrawed) trees.

(C) “Addition” means improvement to an existing structure that increases its area, measured in square feet. The use of breeze ways, corridors, or other non-integral connections between structures shall not cause separate buildings or structures to be considered additions to an existing structure.

(D) “Adjacent/contiguous parcel” means a parcel touching the subject parcel and not separated from the subject parcel by a road, street or other property.

(E) “Beach erosion” means temporary or permanent reduction, transport or removal of beach sand by littoral drift, tidal actions, storms or tsunamis.

(F) “Coastal bluff” means a bank or cliff along the coast subject to coastal erosion processes, including historic wave erosion. “Coastal bluff” refers to the top edge, face, and base of the subject bluff.

(G) “Bluff line or edge” means the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.

(H) “Coastal dependent uses” means any development or use which would not function or operate unless sited on or adjacent to the ocean.

(I) “Coastal erosion processes” means natural forces that cause the breakdown and transportation of earth or rock materials on or along beaches and bluffs. These forces include, but are not limited to, landsliding, surface runoff, wave action and tsunamis.

(J) “Coastal hazard areas” means areas which are subject to physical hazards as a result of coastal processes such as landsliding, erosion of a coastal bluff, and inundation or erosion of a beach by wave action.

(K) “County geologist” means a County employee who is a California licensed Professional Geologist who has been authorized by the Planning Director to assist in the administration of this chapter, or a California licensed Professional Geologist under contract by the County who has been authorized by the Planning Director to assist in the administration of this chapter.

(L) “County geologic advisor” means an individual who is a California licensed Professional Geologist who may be employed by the County to provide geologic services.

(M) “Critical structures and facilities” means structures and facilities which are subject to specified seismic safety standards because of their immediate and vital public need or because of the severe hazard presented by their structural failure. These structures include hospitals and medical facilities, fire and police stations, disaster relief and emergency operating centers, large dams and public utilities, public transportation and communications facilities, buildings with involuntary occupancy such as schools, jails, and convalescent homes, and high occupancy structures such as theaters, churches, office buildings, factories, and stores.

(N) Development/Development ~~Activities~~. For the purposes of this chapter, any project that includes activity in any of the following categories is considered to be development or ~~development activity~~. This chapter does not supersede SCCC 13.20.040 for purposes of determining whether a certain activity or project is considered development that requires a coastal development permit. ~~The following ~~some~~ activities and projects constitute Development/Development Activity will requiring a coastal development permits although they do not fall under the following specific definition:~~

Comment [DGO2]: Please consider this revision. Also, for further clarity and consistency, this capitalized defined term should be used wherever applicable throughout the entire LCP. Generally, the first letters of all words in a defined term are capitalized so as to signal to the reader that the term is specifically defined earlier in the document.

Comment [DGO3]: Consistent with above recommended revision to the defined term.

(1) The construction or placement of any habitable structure, including a manufactured home and including a non-residential structure occupied by property owners, employees and/or the public;

(2) ~~Modification, reconstruction or replacement of 50 percent or more of the major structural components—consisting of the foundation, floor framing, exterior wall framing, and roof framing—of an existing habitable structure within any consecutive five-year period, or modification, reconstruction or replacement of 50 percent of the major structural components of an existing critical structure or facility, as defined by this chapter, within any consecutive five year period, whether the work is done at one time or as the sum of multiple projects. For the purpose of this Chapter, the following are not considered major structural components: exterior siding; nonstructural door and window replacement; roofing material; decks; chimneys; and interior elements including but not limited to interior walls and sheetrock, insulation, kitchen and bathroom fixtures, mechanical, electrical and plumbing fixtures. The extent of alterations to major structural components will be calculated in accordance with administrative guidelines adopted by resolution of the Board of Supervisors;~~

Comment [DGO4]: The proposed amended LUP repeatedly refers to “redevelopment/replacement” (which constitutes “Development/Development Activity” as defined). If that is the preferred term, then for further clarity and consistency, it should be defined here as such and used wherever applicable throughout the entire LCP.

Comment [DGO5]: For consistency, and pursuant to Mr. Molloy’s and Mr. Carlson’s recent interpretation of this definition, this language needs to be added to the “Objective” section and policy 6.4.11 of the proposed updated LUP (and elsewhere as applicable).

Comment [DGO6]: See previous comment.

(3) The addition of habitable square footage to any structure, where the addition increases the habitable square footage by more than 50 percent or 500 square feet, whichever is greater, over the existing habitable space ~~within any consecutive five-year period~~. This allows a total increase of up to 50 percent of the original habitable space of a structure, whether the additions are constructed at one time or as the sum of multiple additions ~~over any consecutive five-year period;~~

Comment [DGO7]: See previous comment.

Comment [DGO8]: See previous comment.

(4) An addition of any size to a structure that is located on or adjacent to a coastal bluff, on a dune, or in the coastal hazard area, that extends the existing structure in a seaward direction;

(5) A division of land or the creation of one or more new building sites, except where a land division is accomplished by the acquisition of such land by a public agency for public recreational use;

(6) Any change of use from nonhabitable to habitable, according to the definition of “habitable” found in this section, or a change of use from any noncritical structure to a critical structure;

(7) Any repair, alteration, reconstruction, replacement or addition affecting any structure that meets either of the following criteria:

(~~1a~~) Posted “Limited Entry” or “Unsafe to Occupy” due to geologic hazards, or

(~~2b~~) Located on a site associated with slope stability concerns, such as sites affected by existing or potential debris flows;

(~~3c~~) Defined as a critical structure or facility;

(8) Grading activities of any scale in the 100-year floodplain or the coastal hazard area, and any grading activity which requires a permit pursuant to SCCC 16.20;

(9) Construction of roads, utilities, or other facilities;

(10) Retaining walls which require a building permit, retaining walls that function as a part of a landslide repair whether or not a building permit is required, shoreline and coastal bluff protection structures, sea walls, rip-rap erosion protection or retaining structures, and gabion baskets;

(11) Installation of a septic system;

(12) Any human-made change to developed or undeveloped real estate in the special flood hazard area, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials. This is in addition to any activity listed in subsections (N)(1) through (N)(11) of this section;

(13) Any other project that is defined as development under SCCC 13.20.040, and that will increase the number of people exposed to geologic hazards, or that is located within a mapped geologic hazard area, or that may create or exacerbate an existing geologic hazard, shall be determined by the Planning Director to constitute development for the purposes of geologic review.

(O) “Development envelope” means a designation on a site plan, parcel map or grading plan indicating where buildings, access roads and septic systems, and other development are to be located.

(P) “Fault zones” are areas delineated by the State Geologist, pursuant to the Alquist-Priolo Earthquake Fault Zoning Act (Public Resources Code Section 2621 et seq.) which encompasses the traces of active faults; as well as a zone or zones of fracture designated in the General Plan or

Local Coastal Program Land Use constraints maps, or other maps and source materials authorized by the Planning Director.

(Q) “Fault trace” is that line formed by the intersection of a fault and the earth’s surface and is the representation of a fault as depicted on a map, including maps of earthquake fault zones.

(R) “Fill” means the deposition of earth or any other substance or material by artificial means for any purpose, or the condition resulting from a fill taking place.

(S) “Flood insurance rate map (FIRM)” means the map adopted by the Board of Supervisors and used for insurance purposes on which the Federal Insurance Administration has delineated the special flood hazard areas, base flood elevations and the risk premium zones applicable to the community. The FIRM became effective on April 15, 1986, for insurance purposes.

(T) “Geologic hazard” means a threat to life, property, or public safety caused by geologic or hydrologic processes such as flooding, wave inundation, landsliding, erosion, surface fault ground rupture, or ground cracking, ~~and-or~~ secondary seismic effects such as including liquefaction, landsliding, tsunami ~~and-or~~ ground shaking.

(U) “Geologic hazards assessment” means a summary of the possible geologic hazards present at a site conducted by the County Geologist or a California licensed Professional Geologist.

(V) “Geologic report, full” means a complete geologic investigation conducted by a professional geologist hired by the applicant and completed in accordance with the County geologic report guidelines.

(W) “Geotechnical investigation / report” means a report prepared by a Professional Engineer, hired by the applicant, and completed in accordance with the requirements of this Chapter and County soils (geotechnical) report guidelines. This term is synonymous with the term “soils investigation” or “soils report.”

(X) “Grading” means excavating or filling land, or a combination thereof.

(Y) “Habitable” means, for the purposes of this chapter, any structure or portion of a structure, whether or not enclosed, that is usable for living purposes, which includes working, sleeping, eating, recreation, or any combination thereof. The purpose and use of the space, as described above, defines the habitable nature of the space. The term “habitable” also includes any space that is heated or cooled, humidified or dehumidified for the provision of human comfort, and/or is insulated and/or finished in plasterboard, and/or contains plumbing other than hose bibs.

(Z) “Hardship” means, for the purposes of administering SCCC 16.10.100, the exceptional hardship that would result from failure to grant the requested exception. The specific hardship must be exceptional, unusual, and peculiar to the property involved. Economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, personal preferences, or the disapproval of neighbors also cannot qualify as exceptional hardship, as these problems can be resolved through means other than granting an exception, even if those alternative means are more expensive, require a property owner to build elsewhere, or put the parcel to a different use than originally intended or proposed.

(AA) “High and very high liquefaction potential areas” means areas that are prone to liquefaction caused by ground shaking during a major earthquake. These areas are designated on maps which are on file with the Planning Department.

(BB) “Hydrologic investigation” means a report prepared by a professional geologist or civil engineer with expertise in hydrology which analyzes surface hydrology and/or groundwater conditions.

(CC) “Littoral drift” means the movement of beach sand parallel to the coast due to wave action and currents.

(DD) “Liquefaction” means the process whereby saturated, loose, granular materials are transformed by ground shaking during a major earthquake from a stable state into a fluid-like state.

(EE) “Multiple-residential structure” means a single structure containing four or more individual residential units.

(FF) “Natural disaster” means any situation in which the force or forces of nature causing destruction are beyond the control of people.

(GG) “Nonessential public structures” means public structures which are not integral in providing such vital public services as fire and police protection, sewer, water, power and telephone services.

(HH) “Planning Director” means the Planning Director of the County of Santa Cruz or their designee.

(II) “Professional Engineer” means an engineer who is licensed by the State of California to practice engineering.

(JJ) “Professional Geologist” means a geologist who is licensed by the State of California to practice geology.

(KK) “Public facilities” means any structure owned and/or operated by the government directly or by a private corporation under a government franchise for the use or benefit of the community.

(LL) “Recent” means a geologic feature (fault or landslide) which shows evidence of movement or activity within Holocene time (about the last 11,000 years).

(MM) “Shoreline or coastal bluff armoring” means any structure or material, including but not limited to rip-rap ~~or~~ and seawalls, placed in an area where coastal processes operate.

(NN) “Soils investigation / report” means a report prepared by a Professional Engineer, hired by the applicant, and completed in accordance with the County soils report guidelines. This term is synonymous with the term “geotechnical investigation.”

(OO) Special Flood Hazard Area (SFHA). The land in a flood plain subject to a 1 percent or greater annual chance of flooding in any given year. Special flood hazard areas are in general shown on a FIRM as Zones A, AO, A1-A30, AE, A99, AH, V1-V30, VE and V, but can also be determined by the Floodplain Administrator to occur where not shown on the FIRM. Also known as the flood hazard area, FHA, area of special flood hazard, or area of the 1% annual chance flood.

(PP) "Structure" means anything constructed or erected which requires a location on the ground, including, but not limited to, a building, manufactured home, gas or liquid storage tank, or facility such as a road, retaining wall, pipe, flume, conduit, siphon, aqueduct, telephone line, electrical power transmission or distribution line.

(QQ) "Subsurface geologic investigation" means a geologic report prepared by a professional geologist that provides information on subsurface materials through trenching, test pits, borings or other methods acceptable to the County Geologist.

16.10.050 Requirements for geologic and geotechnical assessment.

(A) Following the "one time only" Development/Development Activity [currently: "Activities"] exception applicable to all developable coastal properties, All subsequent Development/Development Activity is required to comply with the provisions of this chapter.

(B) Hazard Assessment Required. A geologic hazards assessment shall be required for all development activities, and foundation replacements or upgrades, in the following designated areas: fault zones, sites with suspected instability, and coastal hazard areas. The County Geologist may waive the requirement for a hazard assessment based upon a determination that there is adequate information on file. A geologic hazards assessment shall also be required for development located in other areas of geologic hazard, as identified by the County Geologist or designee, using available technical resources, from environmental review, or from other field review.

(C) Geotechnical (Soils) Report Required. A geotechnical report shall be required when determined to be necessary by civil engineering staff, the County geologist, or the California Building Code (CBC).

(D) Geologic Report Required. A full geologic report shall be required for the following:

- (1) For all proposed land divisions and critical structures and facilities in the areas defined as earthquake fault zones on the State Alquist-Priolo Earthquake Fault Zoning Act maps;
- (2) Whenever a significant potential hazard is identified by a geologic hazards assessment;
- (3) For all new reservoirs to serve major water supplies;
- (4) Prior to the construction of any critical structure or facility in designated fault zones;
- (5) When a property has been identified as "Unsafe to Occupy" due to adverse geologic conditions, no discretionary approval or building permit (except approvals and permits that are

Comment [DGO9]: Added/revised for consistency with the explanation provided by Kathy Molloy and David Carlson during their meeting with CPOA-SC representatives on 1-10-20. See further related comments in "Objective" section (and elsewhere) in the proposed update to LUP section 6.4.

Comment [DGO10]: For clarity, use the defined term (see IP § 16.10.040(N)).

necessary solely to mitigate the geologic hazard) shall be issued prior to the review and approval of geologic reports and the completion of mitigation measures, as necessary;

(6) For all new water tanks in excess of 10,000 gallons which are located in an area of geologic hazards as identified by the County Geologist.

(E) Potential Liquefaction Area. A site-specific soil investigation (with input from a Professional Geologist, when required by civil engineering staff or the County Geologist) shall be required for all development applications for more than four residential units, in areas of high or very high liquefaction potential, or when required by the California Building Code. Development applications for four units or less, one story structures and nonresidential projects shall be reviewed for liquefaction hazard through environmental review and/or geologic hazards assessment. When a significant hazard may exist, a sitespecific soils investigation shall be required.

(F) Additional Report Requirements. Additional information (including but not limited to full geologic, subsurface geologic, hydrologic, geotechnical or other engineering investigations and reports) shall be required when a hazard or foundation constraint requiring further investigation is identified.

16.10.060 Assessment and report preparation and review.

(A) Timing of Geologic Review. Any required geologic, soil, or other technical report shall be completed, reviewed and accepted pursuant to the provisions of this section before any public hearing is scheduled and before any discretionary development application or building permit is approved or issued. The County Geologist may agree to defer the date for completion, review, or acceptance of any technical report where the technical information is unlikely to significantly affect the size or location of the project, and the project is not in the area of the Coastal Zone where decisions are appealable to the Coastal Commission. In no event shall the date be deferred until a time after the approval or issuance of a building permit.

(1) An application for a geologic hazards assessment shall include a plot plan showing the property boundaries and location of proposed ~~Development/Development Activities~~. Any other information deemed necessary by the County Geologist (including but not limited to topographic map, building elevations or grading plans) shall be submitted upon request.

Comment [DGO11]: See previous comments regarding consistent use of defined terms for clarity throughout the entire LCP.

(2) An application for a geologic hazards assessment or a technical report review constitutes a grant of permission for the Planning Director, or agents, to enter the property for the purposes of responding to the application.

(B) Geologic Hazards Assessment Preparation. The geologic hazards assessment shall be prepared by County staff. Alternately, the assessment may be conducted by a private Professional Geologist at the applicant's choice and expense. Such privately prepared assessments shall, however, be subject to review and acceptance as specified in this section. Application for review of a geologic hazards assessment is not an application for a development permit.

(C) Report Acceptance. All geologic, soils, engineering, and hydrologic reports or investigations submitted to the County as a part of any development application must be found by the County

to conform to State and County report guidelines and requirements. The Planning Director may require an inspection in the field of all exploratory trenches, test pits, and borings excavated for a technical report.

(D) Geologic Hazard Assessment and Report Expiration. A geologic hazards assessment and all recommendations and requirements given therein shall remain valid for three years from the date of completion. Geotechnical and geologic reports shall remain valid and all recommendations therein shall remain in effect for three years from the date of completion of the report unless a shorter period is specified in the report by the preparer. An exception to the three-year period of validity is where a change in site conditions, development proposal, technical information or County policy significantly affects the technical data, analysis, conclusions or requirements of the assessment or report; in which case the Planning Director may require a new or revised assessment or report.

(E) Change or Cancellation of Professional in Responsible Charge. When the professional in responsible charge of a report accepted by the County is changed or is no longer involved in the project, notice shall be given by the professional and the property owner to the County within 7 days of such change or cancellation.

16.10.070 Permit conditions.

The recommendations of the geologic hazards assessment, full geologic report, and/or the recommendations of other technical reports (if reviewed and accepted by the Planning Director), shall be incorporated into the project plans or included as permit conditions of any permit or approvals subsequently issued for the development. In addition, the requirements described below for specific geologic hazards shall become standard conditions for development, building and land division permits and approvals. No development, building and land division permits or approvals shall be issued, and no final maps or parcel maps shall be recorded, unless such activity is in compliance with the requirements of this section.

(A) General. If a project is not subject to geologic review because the structure is nonhabitable and is not otherwise considered to be development under this chapter, a declaration of restrictions for the nonhabitable structure shall be recorded on the property deed that includes an acknowledgment that any change of use to a habitable use, or physical conversion to habitable space, shall be subject to the provisions of this chapter.

(B) Notice and Acknowledgement of Hazards. The developer and/or subdivider of a parcel or parcels in an area of geologic hazards shall be required, as a condition of development approval and building permit approval, to record a Notice of Geologic/Coastal Hazards, Acceptance of Risk, Liability Release, and Indemnification with the County Recorder. The Notice shall be in a form approved by the County of Santa Cruz and shall include a description of the hazards on the parcel, and the level of geologic and/or geotechnical investigation conducted, and shall include acknowledgements and agreements, as applicable to the specific project.

(C) Fault Zones.

(1) Location. Development shall be located away from potentially hazardous areas as identified by the geologic hazards assessment or full geologic report.

(2) Setbacks. Habitable structures shall be set back a minimum of 50 feet from the edge of the area of fault induced offset and distortion of active and potentially active fault traces. This setback may be reduced to a minimum of 25 feet from the edge of this zone, based upon paleoseismic studies that include observation trenches. Reductions of the required setback may only occur when both the consulting Professional Geologist preparing the study and the County Geologist observe the trench and concur that the reduction is appropriate. Critical structures and facilities shall be set back a minimum of 100 feet from the edge of the area of fault induced offset and distortion of active and potentially active fault traces.

(3) Other Conditions. Other permit conditions, including but not limited to project redesign, elimination of building sites, and the delineation of development envelopes, building setbacks and foundation requirements, shall be required as deemed necessary by the Planning Director.

(D) Groundshaking.

(1) New Dams. Dams shall be constructed according to high seismic design standards of the Dam Safety Act and as specified by structural engineering studies.

(2) Public Facilities and Critical Structures and Facilities. All new public facilities and critical structures shall be designed to withstand the expected groundshaking during the design earthquake on the San Andreas fault or San Gregorio fault.

(3) Other Conditions. Other permit conditions including but not limited to structural and foundation requirements shall be required as deemed necessary by the Planning Director.

(E) Liquefaction Potential.

(1) Permit Conditions. Permit conditions including, but not limited to, project redesign, elimination of building sites, delineation of development envelopes and drainage and foundation requirements shall be required as deemed necessary by the Planning Director.

(F) Slope Stability.

(1) Location. All ~~dDevelopment/~~Development ~~a~~Activities shall be located away from potentially unstable areas as identified through the geologic hazards assessment, full engineering geologic report, soils (geotechnical) report or other environmental or technical assessment.

(2) Creation of New Parcels. Allow the creation of new parcels in areas with potential slope instability as identified through a geologic hazards assessment, full geologic report, soils (geotechnical) report or other environmental or technical assessment only under the following circumstances:

(a) New building sites, roadways, and driveways shall not be permitted on or across slopes exceeding 30 percent grade.

(b) A full engineering geologic report and any other appropriate technical report shall demonstrate that each proposed parcel contains at least one building site and access

which are not subject to significant slope instability hazards, and that public utilities and facilities such as sewer, gas, electrical and water systems can be located and constructed to minimize potential for landslide damage and not cause a health or safety hazard.

(c) New building sites shall not be permitted which would require the construction of engineered protective structures such as retaining walls, diversion walls, debris walls or slough walls, or foundations designed to mitigate potential slope instability problems such as debris flows, slumps or other types of landslides.

(3) Drainage. Drainage plans designed to direct runoff away from unstable areas (as identified from the geologic hazards assessment or other technical report) shall be required. New drainage improvements shall not adversely affect slope stability and not increase the danger that any other property or public improvements will be impacted by potentially unstable slopes or landsliding. Drainage plans shall be completed by a Professional Engineer and reviewed by both the Professional Geologist (if required by the County Geologist) and other Professional Engineers as part of the design team. Such plans shall be reviewed and accepted by the County Geologist.

(4) Leach Fields. Septic leach fields shall not be permitted in areas subject to landsliding as identified through the geologic hazards assessment, environmental assessment, or full geologic report.

(5) Road and Driveway Reconstruction. Where washouts or landslides have occurred on public or private roads and driveways, road and driveway reconstruction shall meet the conditions of appropriate geologic, soils (geotechnical) and/or engineering reports and shall have adequate geologic, soils, and other engineering supervision and permits as required by the County Code.

(6) New Road and Driveway Construction. New roads and driveways shall be located away from potentially unstable areas as identified through the geologic hazards assessment, full engineering geologic report, soils (geotechnical) report or other environmental or technical assessment.

(7) Other Conditions. Other permit conditions including but not limited to project redesign, building site elimination and the development of building and septic system envelopes, building setbacks and foundation and drainage requirements shall be required as deemed necessary by the Planning Director.

(G) Floodplains. The provisions of SCCC 16.13 Floodplain Management Regulations shall apply to all development, as defined in that chapter, that is wholly within, partially within, or in contact with any flood hazard area, or other areas as identified by the Floodplain Administrator, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, replacement, repair, relocation or demolition of any building or structure; placement, installation, or replacement of manufactured homes; installation or replacement of tanks; placement of temporary structures and temporary storage; installation of swimming pools; and miscellaneous and utility structures.

(H) Coastal Bluffs and Beaches.

(1) Criteria in Areas Subject to Coastal Bluff Erosion. Projects in areas subject to coastal bluff erosion shall meet the following criteria:

Comment [DGO12]: No exception for SPEA, as exists in proposed LUP policy 6.4.7.

(a) All ~~d~~Development/Development ~~a~~Activities, including those which ~~are-is~~ cantilevered, and nonhabitable structures for which a building permit is required, shall be set back a minimum of 25 feet from the top edge of the bluff. A setback greater than 25 feet may be required based on conditions on and adjoining the site. The setback shall be sufficient to provide a stable building site over the expected design life of the structure, as determined through geologic, geotechnical, hydrologic, or other engineering reports. A new or redeveloped residential or commercial structure has an expected design life of 75 years. A critical structure or facility has an expected design life of 100 years.

(b) The determination of the minimum setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed protection measures, such as shoreline or coastal bluff armoring structures, retaining walls, or deep piers.

Comment [DGO13]: This is important language that needs to be recognized and included throughout the entire LCP. It is inconsistent to say (as it currently does in the proposed LCP) that the setback shall not be based on existing armoring if the site is currently protected by existing armoring because such existing armoring is part of the "existing site conditions."

(c) Within the Urban and Rural Services Lines, the calculation of the 75 or 100-year geologic/coastal setback, or reduced setback requested under an exception procedure, ~~may-shall~~ take into consideration the effect of a legally established shoreline or coastal bluff armoring. However, armoring installed under an emergency coastal permit shall not be factored into the setback calculation unless a regular Coastal Development Permit is issued, and all conditions of the permit are met. In addition, technical reports prepared for sites within the Urban and Rural Services Lines shall also include analysis based upon an alternative calculation of the 75 or 100-year setback that neglects any effect of ~~an~~ existing shoreline or coastal bluff armoring, in order to provide a measure of the effects of the existing protection measure on the site conditions.

Comment [DGO14]: Must be "shall" to comport with (b), as legally established shoreline armoring on a parcel is part of that parcel's "existing site conditions." See previous comment.

(d) Outside the Urban and Rural Services Lines the calculation of the 75 or 100-year geologic/coastal hazards setback shall ~~not~~ take into consideration the effect of any existing or proposed shoreline or coastal bluff armoring.

Comment [DGO15]: An "alternative calculation... that neglects the effects of" existing shoreline armoring should be limited to existing armoring that is "unsafe" due to the property owner's failure to maintain and repair it. Otherwise, this "alternative calculation" is an additional unnecessary expenditure for applicants and ignores the "existing site conditions" which "shall" be considered when calculating the minimum setback. See previous comments.

(e) Foundation replacement and/or foundation upgrades that meet the definition of development activity in SCCC 13.20 Coastal Zone Regulations shall meet the 25-foot minimum or the 75 or 100-year geologic/coastal hazard setback requirements. An exception to the setback requirement may be granted for existing structures that are wholly or partially within the setback if the property owner agrees to record a Notice of Geologic/Coastal Hazard prior to issuance of the building permit, and if the Planning Director determines that:

Comment [DGO16]: This is inconsistent with (b) requiring that the minimum setback "shall be based on the existing site conditions." See previous comments.

(i) The structure will be relocated to maximize the setback from the coastal bluff or shoreline; or

(ii) The structure cannot be relocated to meet the setback because of inadequate parcel size.

(f) Additions, including second story and cantilevered additions, which extend the existing structure in a seaward direction, shall comply with the minimum 25-foot and 75 or 100-year setback.

(g) Acceptance of drainage and landscape plans for the site by the County Geologist. Drainage plans shall be prepared by a Professional Engineer and reviewed by both the project Professional Geologist and other Professional Engineer when part of the design team.

(h) Service transmission lines and utility facilities are prohibited unless they are necessary to serve existing development or public facilities.

(i) New swimming pools, spas and similar in-ground and above-ground water recreation or fishpond types of features shall be located landward of the applicable geologic/coastal hazard setback. Any new water-containing features of this nature shall have double-wall construction with leak detection systems and drains to facilities and locations approved by the County.

(j) Accessory structures must include a condition of approval that requires the property owner and all successors in interest to remove the structure if the County Geologist, the Building Official or a Professional Engineer determines that the accessory structure is at risk of failure due to erosion, landslide or other form of bluff collapse or geologic/coastal hazard. In the event that portions of the development fall to the bluffs or ocean before they are removed/relocated, the landowner will remove all recoverable debris associated with the development from the bluffs and ocean and lawfully dispose of the material in an approved disposal site.

(k) All other required local, State and Federal permits shall be obtained.

(2) Exemption.

(a) Any project which does not specifically require a building permit pursuant to SCCC 12.10.315 (exempted work) of the County Code is exempt from subsection (H)(1) of this section, with the exception of: nonhabitable accessory structures that are located within the minimum 25-foot setback from the coastal bluff where there is space on the parcel to accommodate the structure outside of the setback, above-ground pools, water tanks, projects (including landscaping) which would unfavorably alter drainage patterns, and projects involving grading.

For the purposes of this section, “the unfavorable alteration of drainage” is defined as a change that would significantly increase or concentrate runoff over the bluff edge or significantly increase infiltration into the bluff. “Grading” is defined as any earthwork other than minor leveling, of the scale typically accomplished by hand, necessary to create beneficial drainage patterns or to install an allowed structure, that does not excavate into the face or base of the bluff.

Examples of projects which may qualify for this exemption include: decks which do not require a building permit and do not unfavorably alter drainage, play structures, showers

(where runoff is controlled), benches, statues, landscape boulders, benches, and gazebos which do not require a building permit.

(b) If a structure that is constructed pursuant to this exemption subsequently becomes unstable due to erosion or slope instability, the threat to the exempted structure shall not qualify the parcel for a coastal bluff retaining structure or shoreline protection

structure. If the exempted structure itself becomes a hazard it shall either be removed or relocated, rather than protected in place at the direction of the County.

(3) New Sshoreline and coastal bluff armoring shall be governed by the following:

(a) New Sshoreline and coastal bluff protection structures shall only be allowed (i) on parcels where both adjacent parcels are already similarly protected, (ii) ~~or~~ where necessary to protect existing structures from a significant threat, (iii) ~~or~~ on vacant parcels which, through lack of protection threaten adjacent developed lots, and/or (iv) to protect public roads and infrastructure, public beaches, and or coastal dependent uses.

(b) New shoreline and coastal bluff protection structures shall not be allowed where the existing structure proposed for protection was granted an exemption pursuant to subsection (H)(2) of this section.

(c) Application for new shoreline and coastal bluff protective structures shall include thorough analysis by a Professional Engineer or Professional Geologist of all reasonable alternatives to such structures, including but not limited to the following:

(i) Relocation or partial removal of the threatened structure;

(ii) Protection of the upper bluff and blufftop (including through planting appropriate native or non-invasive vegetation and removing invasive plant species, and better drainage controls) or the area immediately adjacent to the threatened structure;

(iii) Natural or “green” infrastructure (like vegetated beaches, dune systems, and wetlands);

(iv) Engineered shoreline or coastal bluff armoring (such as beach nourishment, revetments, or vertical walls);

(v) Other engineered systems to buffer coastal areas;

(vi) Combinations or hybrids of the above; or

(vii) Consistency with an approved shoreline management plan, if applicable.

(d) Shoreline and coastal bluff protection structures shall be placed as close as possible to the coastal bluff or structure requiring protection and must be designed to

Comment [DGO17]: This does not contain the exception for properties located within SPEA (as exists in the companion proposed LCP § 6.4.25(c). Please revise accordingly.

Comment [DGO18]: Added for consistency with (3)(a)-(b) below. Also, “new” should be added

Comment [DGO19]: As noted in the comments to proposed LUP section 6.4, this is an important allowance based on the technical reality noted in the “Information and Intent” section (§8) of the proposed LUP update: “focused erosion can occur at the ends of the armoring.” As such, this allowance should be added to the LUP policy 6.4.25(a).

minimize adverse impacts. Design considerations include but are not limited to the following:

(i) Minimize the footprint of the armoring on the beach;

(ii) Provide for public recreational access **where physically and economically feasible**;

Comment [DGO20]: Important limitations.

(iii) Provide for future access for maintenance of the armoring;

(iv) Strive for a continuous lateral pedestrian access as physically **and economically** feasible;

Comment [DGO21]: Important limitations.

(v) Minimize visual intrusion by using materials that blend with the color or natural materials in the area, contouring to match nearby landforms as much as possible, and using vegetation for screening;

(vi) Meet approved engineering standards and applicable County Code provisions for the site as determined through the coastal development, building, and grading permit process;

(vii) Base design on detailed technical studies to accurately define geologic, hydrologic and oceanographic conditions affecting the site;

(viii) Eliminate or mitigate adverse impacts, **if any**, on local shoreline sand supply; and

(ix) For armoring structures, incorporate permanent survey monuments for future use in establishing a survey monument network along the coast for use in monitoring seaward encroachment or slumping of armoring and erosion trends.

(e) For **development activities to an existing principal structure** protected by existing shoreline and coastal bluff armoring, the coastal permit application shall include:

Comment [DGO22]: See comments re proposed LCP policy 6.4.25(e). Also, this subsection (e) does not contain the exceptions in 6.4.25(e) ("Unless the existing armoring...").

(i) **Re-assessment of the need for the armoring**;

Comment [DGO23]: Revised for clarity, as "development activities" are not "protected by" armoring... the existing and/or resulting structure is.

(ii) A report on the need for any repair or maintenance of the device;

(iii) Evaluation of the stability and condition of the armoring and recommendations for maintenance, repair, or modification, and **potential for removal** based on changed conditions;

Comment [DGO24]: For the reasons stated in comments to the proposed companion LCP policy 6.4.25(e), CPOA-SC strongly objects to this "re-assessment" condition.

(iv) A report on changed geologic and hydrologic site conditions including but not limited to changes relative to sea level rise;

Comment [DGO25]: See comments in proposed LCP policy 6.4.25(e).

(v) **If the existing armoring is addressed in an approved Geologic Hazard Abatement District Plan of Control, or other joint maintenance agreement,**

consider the status of implementation of the Plan of Control or maintenance agreement requirements;

(vi) Assessment of impacts to sand supply and public access and recreational resources;

(vii) Recommendation to avoid or mitigate impacts to sand supply and public access and recreational resources; and

(viii) If approved, such development associated with existing shoreline or coastal bluff armoring shall meet all the other applicable requirements of this policy, including with respect to the impact mitigation requirements.

(f) For development activities protected by existing rip rap, require that the applicant submit a report at the time of filing an application for a coastal development permit, including an evaluation of the stability and condition of the armoring and recommendations for maintenance, repair, or modification, and potential for removal based on changed conditions. The report shall include a Recovery Plan for the maintenance and repair and potential removal of all or a portion of the existing rip rap revetment, to recover migrated rip rap and to provide for least disturbance of the beach and shoreline while also functioning as necessary to protect the structures on and adjacent to the parcel. The Recovery Plan must incorporate Best Management Practices for maintenance and repair to address potential impacts to sensitive species and environmental resources, as well as Best Management Practices for construction during maintenance and repair activities.

(g) ~~S~~New shoreline or coastal bluff armoring should be the least environmentally damaging feasible alternative to serve coastal-dependent uses or to protect a structure or a public beach in danger from erosion:

(i) Hard armoring (such as seawalls and revetments, etc.) shall only be allowed if soft alternatives (such as managed retreat/relocation, beach nourishment, vegetative planting, and drainage control, etc.) are not feasible, or are not the least environmentally damaging feasible alternative.

(ii) Shoreline or coastal bluff armoring shall only be permitted if nonstructural measures are infeasible from an engineering standpoint or not economically viable.

(iii) Hard armoring is limited as much as possible to avoid coastal resource impacts. Alternatively, an approved Shoreline Management Plan may authorize hard armoring for identified sections of the coast.

(h) No new shoreline or coastal bluff armoring shall be allowed for the sole purpose of protecting an accessory structure.

(i) All new Ss shoreline and coastal bluff armoring shall be sited and designed to eliminate or mitigate adverse impacts on coastal resources. All unavoidable coastal

Comment [DGO26]: This is inconsistent with proposed LCP policy 6.4.25(e), in that 6.4.25(e) uses this language to except the requirements in (i)-(viii), whereas here it is an additional requirement.

Comment [DGO27]: See comment to proposed LCP policy 6.4.25(e)(7).

Comment [DGO28]: See comment above stating that "development activities" are not "protected by existing rip rap..." Proposed LCP policy 6.4.25(f) says, "For sites protected by existing rip rap..."

Comment [DGO29]: See previous comments in proposed LCP policies regarding CPOA-SC's objections to this proposed "re-assessment" condition.

Comment [DGO30]: See previous comment.

Comment [DGO31]: Added for clarity. See previous comments above and in proposed LUP section 6.4.

Comment [DGO32]: This is an important clarification to stave off future attempts by the Commission (consistent with past and ongoing arguments advanced by the Commission) that the absence of any existing structure is grounds for demanding removal of the existing armoring.

resource impacts shall be appropriately mitigated. Any approved new, replacement, reconstructed or redeveloped shoreline protection structure must not result in unmitigated impacts to coastal resources including:

- (i) Reduced or restricted public beach access;
- (ii) Adverse effects on shoreline processes and sand supply;
- (iii) Increased erosion or flooding on adjacent properties; or
- (iv) Adverse impacts on coastal visual or recreational resources, or harmful impacts on wildlife and fish habitats or archaeological or paleontological resources.

(j) Mitigation Programs. Require mitigation of unavoidable adverse impacts on coastal resources, including payment of in lieu fees where in-kind options are not possible.

(k) **All-New** shoreline and coastal bluff armoring shall include a permanent, County approved, monitoring, maintenance, and repair program. The Program shall include, but is not limited to the following elements:

- (i) Monitoring by a professional engineer or geologist familiar and experienced with coastal structures and processes;
- (ii) Report to the County upon completion of construction of the armoring and every five years or less thereafter, as determined by either the County Geologist or a qualified professional, for as long as the armoring remains authorized;
- (iii) The report shall detail the condition of the structure and list any recommended maintenance and repair work;
- (iv) The monitoring plan and periodic report shall address impacts to shoreline processes and beach width, public access, and availability of public trust lands for public use;
- (v) The monitoring, maintenance and repair program shall be recorded on the title/deed of the property;
- (vi) The program shall allow for County removal or repair of shoreline or coastal bluff armoring, at the owner's expense, if its condition creates a public nuisance or if necessary, to protect the public health and safety;
- (vii) The program shall include any other monitoring, maintenance, and repair activities the County determines necessary to avoid or mitigate impacts to coastal resources.

Comment [DGO33]: If "all" then changes terms and conditions of existing permitted armoring. As provided in the proposed LCP policy (e.g., "guiding principles", 24th bullet point, sub 3; and 6.4.11, 2nd paragraph) requires (in connection with a "triggering" event) that existing armoring be monitored, maintained, and repaired as a condition of a CDP.

(l) Applications for shoreline or coastal bluff armoring shall include a construction and staging plan that minimizes disturbance to the beach, specifies the access and staging areas, and includes a construction schedule that limits presence on the beach, as much as possible, to periods of low visitor demand. The plan for repair projects shall include recovery of rock and other material that has been dislodged onto the beach.

(m) All other required local, State and Federal permits shall be obtained.

(4) Modification, Reconstruction, or Replacement of Damaged Structures on Coastal Bluffs. If structures located on or at the top of a coastal bluff are damaged as a result of coastal hazards, including slope instability and seismically induced landslides, and where the loss involves 50 percent or more of ~~M~~major ~~S~~structural ~~C~~omponents, allow repair (development activities) if all applicable regulations can be met, including the minimum 25-foot and the applicable 75 or 100- year geologic/coastal setbacks, or alternate setback authorized by an approved setback exception.

For structures involuntarily damaged by ~~n~~natural forces other than coastal hazards (fire, for example), where the loss involves 50 percent or more of the ~~M~~major ~~S~~structural ~~C~~omponents, allow repair in kind, but encourage relocation to increase the setback if feasible.

Allow other than in-kind reconstruction or replacement of ~~i~~nvolutarily damaged structures in accordance with all applicable LCP policies and regulations.

Exceptions: Public beach facilities and replacements consistent with Coastal Act Section 30610(g).

(5) Reconstruction or Replacement of Damaged Structures due to Storm Wave Inundation. If structures located in areas subject to storm wave inundation are damaged as a result of any ~~n~~natural cause and the loss meets or exceeds 50 percent of the value of the structure before the damage occurred (substantial damage), allow such repair (substantial improvement) only if all applicable regulations in SCCC 16.13 Floodplain Management Regulations and all applicable LCP policies can be met.

Exceptions: Public beach facilities and replacements

(6) Coastal High Hazard Area Development Criteria. The provisions of SCCC 16.13 Floodplain Management Regulations shall apply to all development, as defined in that chapter, that is wholly within, partially within, or in contact with any coastal high hazard area, or other areas as identified by the Floodplain Administrator, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, replacement, repair, relocation or demolition of any building or structure; placement, installation, or replacement of manufactured homes; installation or replacement of tanks; placement of temporary structures and temporary storage; installation of swimming pools; and miscellaneous and utility structures.

(7) New and Expanded Critical Structures and Facilities. Construction of critical structures and facilities, including the expansion of existing critical structures and facilities, and nonessential public structures shall be located outside areas subject to coastal hazards unless

Comment [DG034]: Probably should not be capitalized unless it is a defined term (in 16.10.040), which it currently is not. Again, generally, the first letters in all words in a defined term are capitalized so as to signal to the reader that the term is specifically defined earlier in the document.

Comment [DG035]: Pursuant to Coastal Act section 30610 and Commission regulation 13252(b), a CDP is not required to replace 50% or more of a single family residence, seawall or other similar shoreline armoring structure "destroyed by natural disaster." Coastal Act section 30610(g)(2)(A) defines "disaster" as "any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner." The LCP should be no more restrictive.

Comment [DG036]: See previous comment.

Comment [DG037]: By nature? See previous comment and revise/clarify.

Comment [DG038]: See previous comments.

such facilities are necessary to serve existing uses, there is no other feasible location, and construction of these structures will not increase hazards to life and property within or adjacent to coastal inundation areas.

(8) Creation of New Parcels and Location of New Building Sites. New parcels or building sites created by minor land divisions, subdivisions or development approvals or permits, and multi-residential structures in coastal hazard areas shall conform to the following criteria:

(a) Demonstration by a full geologic report that each proposed building site on the parcel is not subject to any potential hazards and that each site meets the minimum setback given in subsection (H)(1) of this section;

(b) Determination by the Planning Director based on the geologic report that the long-term stability and safety of the development does not depend on or require shoreline or coastal bluff armoring;

(c) The proposed development does not reduce or restrict public access and the proposed development does not require the construction of public facilities, structures, or utility transmission lines in coastal hazard areas or within the 25-foot or 75 or 100-year stability (whichever is greater) setback; and

(d) The developer and/or the subdivider of a parcel or parcels in an area subject to geologic hazards shall be required, as a condition of development approval and building permit approval, to record on the property title/deed a Notice of Geologic/Coastal Hazards, Acceptance of Risk, Liability Release, and Indemnification with the County Recorder. The Notice shall include a description of the hazards on the parcel and the level of geologic and/or geotechnical investigation conducted, and additional acknowledgements and agreements as applicable to the specific project.

(9) Removal Conditions/Development Duration. Development/development activities on private property located in areas subject to coastal hazards shall be conditioned to require that it be removed, and the affected area restored if:

(a) Any government agency has ordered that the structures are not to be occupied due to coastal hazards, or if any public agency requires the structures to be removed;

(b) Essential services to the site can no longer feasibly be maintained (e.g., utilities, roads);

(c) The development is no longer located on private property due to the migration of the public trust boundary; or

(d) Removal is required pursuant to an adopted Shoreline Management Plan.

Such condition shall be recorded on a deed restriction against the subject property.

(10) Abatement of Unsafe Site or Structure. If coastal hazards result in an unsafe site or unsafe structure, dangerous conditions shall be abated in accordance with County regulations and

Comment [DGO39]: What input/rights does a property owner have in determining whether his/her/its/their property's existing shoreline armoring might be slated for removal? Please clarify/explain.

Orders of the Chief Building Official. If all or any portion of improvements are deemed uninhabitable, the improvements shall be removed and the affected area restored, unless an alternative response is approved by the County of Santa Cruz, and by the California Coastal Commission if the project is within the Coastal Commission's primary jurisdiction. Alternative responses to coastal hazards may include (1) pursuit of a Coastal Development Permit consistent with SCCC 13.20 (Coastal Zone Regulations) and this chapter; and/or (2) pursuit of an alternative consistent with an adopted shoreline management plan.

(11) If the mean high tide line or the blufftop edge migrates to within 10 feet of a principal, habitable structure to a point where the site or structure is deemed unsafe by County regulations and/or the County Geologist, Civil Engineer, or Chief Building Official, the property owner shall retain a Professional Engineer with experience in coastal processes and hazard response to prepare a geotechnical investigation and Coastal Hazards Report (with input from a Professional Geologist, when required by civil engineering staff or the County Geologist) that addresses whether all or any portions of the residence and related development are threatened by coastal hazards, and that identifies actions that should be taken to ensure safe use and occupancy, which may include removal or relocation of all or portions of the threatened development and improvements, or other alternate responses. The property owner shall undertake activities to pursue an appropriate response in accordance with adopted and applicable County of Santa Cruz and California Coastal Commission regulations. The geotechnical investigation and Coastal Hazards Report shall be submitted to the Executive Director of the California Coastal Commission, and to the Planning Director, Chief Building Official and County Geologist of Santa Cruz County. If the residence or any portion of the residence is proposed to be removed, the Applicant shall submit a Removal and Restoration Plan.

(12) If an appropriate government agency so orders, or as a result of the above-referenced geotechnical investigation and Coastal Hazards Report, it is determined that any portion of the approved development must be removed due to coastal hazards, a Removal and Restoration Plan shall be submitted to the County for review and approval. No removal activities shall commence until the Removal and Restoration Plan and all other required plans and permits are approved. The plan shall specify that in the event that portions of the development fall to the bluffs or ocean before they are removed/relocated, the landowner will remove all recoverable debris associated with the development from the bluffs and ocean and lawfully dispose of the material in an approved disposal site. If it is determined that separate grading and coastal development permits are required in order to authorize the activities, the application shall be submitted as soon as immediately feasible, including all necessary supporting information to ensure it is complete. The Removal and Restoration Plan shall clearly describe the manner in which such development is to be removed and the affected area restored so as to best protect coastal resources, and shall be implemented immediately upon County approval, or County approval of required permit applications, as may be required.

(13) Repetitive loss properties shall be subject to the requirements of SCCC 16.10.070(G)(4) and 16.10.070(G)(5) regarding damage due to coastal bluff erosion and storm wave impacts and inundation. Repetitive loss property is any habitable building for which two or more coastal hazard events within any ten-year rolling period cause damage, the repair of which meets or exceeds the definition of development activities. Multiple losses at the same location

Comment [DGO40]: This section needs to be reviewed and reconciled with LUP policy 6.4.36 for consistency.

Comment [DGO41]: This language needs to be added to LUP policy 6.4.36 for consistency.

within ~~ten-sixty (60)~~ days of each other are counted as one loss. The loss history includes all ownership of the property within the ten-year rolling period.

Comment [DG042]: As noted in the comments to LUP policy 6.4.36, CPOA-SC objects to the 10-day cycle, as recovery (“dry out”) from a storm cycle often lasts longer than 10 days. Unless revised to at least 60 days, a single storm season could result in “repetitive loss” and make this section onerous, given the potential length and severity of a storm cycle.

(14) Other Conditions. Other permit conditions including, but not limited to, project redesign, building site elimination, delineation of building and septic system envelopes, building elevation, foundation requirements and drainage plans shall be required as deemed necessary by the Planning Director, or other decision-making body.

16.10.080 Project density limitations.

The following requirements shall apply to density calculations for new building sites created through minor land division, subdivision, or other development approval or permit:

(A) Fault Zones.

(1) Exclusion from Density Calculations. The portion of a property within 50 feet of the edge of the area of fault induced offset and distortion of an active or potentially active fault trace shall be excluded from density calculations.

(2) Creation of New Parcels and/or New Building Sites. The following standards shall apply to the creation of new parcels and/or building sites within State Alquist-Priolo earthquake fault zones and County seismic review zones:

(a) All new structures shall meet setbacks as specified in SCCC 16.10.070(C)(2).

(b) Outside of the urban services line and the rural services line, a 20-gross-acre minimum parcel size shall be required, and a 10-gross-acre minimum parcel size shall be required for parcels within the portions of the County seismic review zones that are not also part of a State Alquist-Priolo earthquake fault zone, and are outside the Coastal Zone, if at least 25 percent of the perimeter of the original parcel to be divided is bounded by parcels of one acre or less in size.

(B) Landslides and Steep Slopes. The portion of a property with slopes over 30 percent in urban areas and 50 percent in rural areas, and the portion of a property within recent or active landslides, shall be excluded from density calculations. Landslide areas determined by a geologic report to be stable and suitable for development shall be granted full density credit.

(C) Special Flood Hazard Area. The portion of a parcel within the special flood hazard area shall be excluded from any density calculations.

(E) Coastal Hazards. The portions of a property subject to coastal inundation, as determined by a geologic hazards assessment, geologic report, or adopted flood insurance rate map (FIRM), as well as bluff faces, sandy beach areas, and areas subject to the public trust, shall be excluded from density calculations.

16.10.090 Project denial.

A development permit or the location of a proposed development shall be denied if the Planning Director determines that geologic hazards cannot be adequately mitigated, or the project would conflict with National Flood Insurance Program regulations. Development proposals shall be

approved only if the project density reflects consideration of the degree of hazard on the site, as determined from the technical information as reviewed and approved by the Planning Director or the decision-making body.

16.10.100 Exceptions.

(A) Request for Exception. A request for an exception to the provisions of this chapter or the permit conditions may be considered by the Planning Director, or decision-making body, if the exception is

necessary to mitigate a threat to public health, safety and welfare or if the exception is necessary to avoid an unconstitutional taking of private property without just compensation pursuant to General Plan Policy 6.4.10.

(B) Reason for Request. A request for an exception shall state in writing the reason why the exception is requested, the proposed substitute provisions, when the exception would apply, or the threat to public health, safety, or welfare that would be mitigated.

(C) Required Findings. In granting an exception, the Planning Director or decision-making body shall make the following findings:

(1) That hardship, as defined in SCCC 16.10.040(27), exists;

(2) The project is necessary to mitigate a threat to public health, safety, or welfare or to avoid an unconstitutional taking of private property without just compensation pursuant to Policy 6.4.10;

(3) The request is for the smallest amount of variance from the provisions of this chapter as possible; and

(4) Measures will be taken to ensure consistency with the purposes of this chapter and the County General Plan to the maximum extent feasible.

16.10.105 Notice of geologic hazards in cases of dangerous conditions.

Whenever a site inspection, geologic hazards assessment or full geologic report identifies the presence of a geologic hazard that causes a site, building, structure, or portions thereof to be rendered unsafe or dangerous, then pursuant to the Uniform Code for the Abatement of Structural and Geologic Hazards as amended by SCCC 12.10.425, the Planning Director may issue a notice of geologic hazard and order thereon, and may record a notice of geologic hazard with the County Recorder. The Planning Director may also initiate abatement procedures pursuant to the Uniform Code for the Abatement of Structural and Geologic Hazards as amended by SCCC 12.10.425. [Ord. 4518-C § 2, 1999; Ord. 4392A § 1, 1996; Ord. 4336 § 1, 1994; Ord. 3808 § 4, 1986].

16.10.110 Appeals.

Except as otherwise provided herein, appeals pursuant to the provisions of this chapter shall be made in conformance with the procedures of SCCC 18.10, including appeal of the requirement for geologic hazard assessment or technical report. All appeals concerning the decision to issue and record a notice of geologic hazard pursuant to the provisions of SCCC 16.10.105 shall be

governed by the procedures commencing with Section 501 of the Uniform Code for the Abatement of Structural and Geologic Hazards as amended by SCCC 12.10.425. [Ord. 4518-C § 2, 1999; Ord. 4392A § 2, 1996; Ord. 4336 § 2, 1994; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982; Ord. 2281, 1976; Ord. 2088, 1975].

16.10.120 Violations.

(A) Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with all the provisions of this chapter and other applicable regulations. Nothing herein shall prevent the taking of lawful action as necessary to prevent or remedy any violation.

(B) Actions Constituting Violation. In the event of a violation of this chapter or of the provisions of permit conditions as specified in this chapter, or if the permit has been exercised in a manner which creates a nuisance or is otherwise detrimental to the public health, safety and welfare, the permittee shall be given notice of such violation, and a reasonable time shall be specified for its correction. [Ord. 4518-C § 2, 1999; Ord. 4392A § 3, 1996; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

16.10.130 Fees.

Fees for the geologic hazards assessment, other field reviews, applications for exceptions, and the review of technical reports shall be set by resolution by the Board of Supervisors. [Ord. 4518-C § 2, 1999; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

SECTION II

This Ordinance shall take effect on the 31st day following adoption, or upon certification by the California Coastal Commission, whichever is later.

PASSED AND ADOPTED this _____ day of _____, 2019 by the Board of Supervisors and the County of Santa Cruz by the following vote:

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

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: _____
Clerk of the Board

APPROVED AS TO FORM:

Office of the County Counsel