

#### **Board of Supervisors response to Grand Jury Report Code Compliance Division**

Caitlin Smith < Caitlin. Smith@santacruzcountyca.gov>

Tue, Oct 3, 2023 at 2:25 PM

Good Afternoon,

Please see attached for the Board of Supervisors' response to the 2022-2023 Grand Jury report "Code Compliance Division - Out of Compliance".

Best,

Caitlin C. Smith

County Supervisors' Analyst

Santa Cruz County Board of Supervisors

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To email all five members of the Board of Supervisors at once,

please use: <a href="mailto:boardofsupervisors@santacruzcountyca.gov">boardofsupervisors@santacruzcountyca.gov</a>



# **County of Santa Cruz**

#### **BOARD OF SUPERVISORS**

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069 (831) 454-2200 • FAX: (831) 454-3262 TDD/TTY - Call 711

MANU KOENIG FIRST DISTRICT ZACH FRIEND SECOND DISTRICT JUSTIN CUMMINGS
THIRD DISTRICT

FELIPE HERNANDEZ
FOURTH DISTRICT

BRUCE MCPHERSON FIFTH DISTRICT

September 29, 2023

The Honorable Syda Cogliati Santa Cruz Courthouse 701 Ocean Street Santa Cruz, CA 95060

RE:

Response to the 2022-2023 Grand Jury Report "Code Compliance

Division - Out of Compliance"

Dear Judge Cogliati:

The purpose of this letter is to formally transmit the Santa Cruz County Board of Supervisors' response to the 2022-2023 Grand Jury Report "Code Compliance Division – Out of Compliance".

Sincerely,

ZACH FRIEND, Chair Board of Supervisors

ZF: cs

Attachment

CC: Clerk of the Board

Santa Cruz County Grand Jury



The 2022–2023 Santa Cruz County Civil Grand Jury Requires the

## **Santa Cruz County Board of Supervisors**

to Respond by September 21, 2023

to the Findings and Recommendations listed below which were assigned to them in the report titled

# **Code Compliance Division – Out of Compliance**

It's not easy, but it shouldn't be impossible

Responses are **required** from elected officials, elected agency or department heads, and elected boards, councils, and committees which are investigated by the Grand Jury. You are required to respond and to make your response available to the public by the California Penal Code (PC) §933(c).

Your response will be considered **compliant** under <u>PC §933.05</u> if it contains an appropriate comment on **all** findings and recommendations **which were assigned to you** in this report.

Please follow the instructions below when preparing your response.

### Instructions for Respondents

Your assigned <u>Findings</u> and <u>Recommendations</u> are listed on the following pages with check boxes and an expandable space for summaries, timeframes, and explanations. Please follow these instructions, which paraphrase <u>PC §933.05</u>:

- 1. For the Findings, mark one of the following responses with an "X" and provide the required additional information:
  - a. AGREE with the Finding, or
  - b. **PARTIALLY DISAGREE with the Finding** specify the portion of the Finding that is disputed and include an explanation of the reasons why, or
  - c. **DISAGREE with the Finding** provide an explanation of the reasons why.
- 2. For the Recommendations, mark one of the following actions with an "X" and provide the required additional information:
  - a. HAS BEEN IMPLEMENTED provide a summary of the action taken, or
  - b. **HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** provide a timeframe or expected date for completion, or
  - c. **REQUIRES FURTHER ANALYSIS** provide an explanation, scope, and parameters of an analysis to be completed within six months, or
  - d. **WILL NOT BE IMPLEMENTED** provide an explanation of why it is not warranted or not reasonable.
- 3. Please confirm the date on which you approved the assigned responses:

We approved these re	esponses in a regular public meeting as shown
in our minutes dated	September 19, 2023
•	——————————————————————————————————————

4. When your responses are complete, please email your completed Response Packet as a PDF file attachment to both

The Honorable Judge Syda Cogliati Syda.Cogliati@santacruzcourt.org and

The Santa Cruz County Grand Jury <a href="mailto:grandjury@scgrandjury.org">grandjury@scgrandjury.org</a>.

If you have questions about this response form, please contact the Grand Jury by calling 831-454-2099 or by sending an email to <a href="mailto:grandjury@scgrandjury.org">grandjury@scgrandjury.org</a>.

# **Findings**

F1.	Understaffing over a long period of time in the Code Compliance Department means that Code Compliance Investigators are unable to complete cases in a timely manner, causing a huge backlog of cases some of which are up to 40 years old.
_x_	AGREE
_	PARTIALLY DISAGREE
	DISAGREE
Respo	nse explanation (required for a response other than Agree):

F2.	The Code Compliance Department and the Planning Department do not
	routinely revise and update their departmental procedures and policies,
	which leads to lack of accountability to the public and inconsistent
	implementation and interpretation of findings in investigations.

	AGREE
_x_	PARTIALLY DISAGREE
	DISAGREE

While the Code Compliance Section of the Community Development and Infrastructure Department does not routinely update procedures and policies, it does have standard methodology implemented set forth by the County Code to ensure all individuals have access to due process. Code Compliance has policies and procedures associated with intake and processing of complaints, timeframes for addressing complaints based upon prioritization of the types of complaints, methods for obtaining inspection warrants, preparation of case packets, and notification procedures have been consistently implemented. In addition, current Code Compliance investigators have a collective 50+ years between the three investigators in this section.

Regarding written procedures in the Code Compliance Section, the Code Compliance Process Handout was last updated in 2016 and includes milestones at 20-days, 90-days, 120-days, 180-days, and 200-days.

The Development Review and Building Sections' permit intake and public counter related procedures are up to date, which has been challenging in that the department has been subjected to a variety of emergency related events over the course of the past three years, including the COVID-19 pandemic, 2020 CZU lightning complex fires, and 2022-2023 atmospheric river storms. These events required the department to rework the permitting and project review procedures to include a new electronic submittal system and remote counter consultations via email and telephone. Other procedures, such as those that address the Recovery Permit Center operations and interdepartmental coordination with various divisions and departments are in process. Further, through the establishment of the Unified Permit Center, customer service and permitting procedures will continue to be updated to reflect the department's goal of streamlining the permitting process and providing consistently excellent customer service.

The Board of Supervisors, Planning Division and Code Compliance Section recognize some procedures need updating; however, Planning's implementation of the code investigation, permit submittal, and permit review procedures has not been inconsistent.

x PARTIALLY DISAGREE

DISAGREE

The Code Compliance Section tracks complaints by type, and on an annual basis presents each Board member with a summary of the number and type of complaints that have come in, how many were found valid, how many were resolved without citation or posting a notice of violation, how many were posted with a notice of violation, and how many were brought to hearing.

The success of the Code Compliance Section does not only rely on quantitative and qualitative measures of effectiveness to build credibility and confidence in the program. Code Compliance success relies on the engagement of the property owner in teaming to take corrective action. Property owners often have barriers that form barriers to their own success. Good code enforcement starts with education, building enabling relationships, and being accountable to the community.

Code Compliance staff prioritize initial response time for new complaints based upon established response goals for low, medium, and high priority determinations for various types of violations. These priorities are implemented based on public health, life safety, and environmental degradation.

Code Compliance staff are evaluated on an annual basis by the section manager through a review of their overall caseload, the number of cases brought into compliance, the number of cases brought to hearing, the number of service requests resolved without a formal citation, and an evaluation of an investigator's response to that final category. The annual review also includes discussions of any interpersonal conflicts that may come up between staff and with members of the public and is documented in the confidential annual evaluation.

1 4.	public. It is frustrating to the public to be unable to readily communicate with the staff required to assist in dealings with building, planning, and code compliance matters.
_	AGREE
_x_	PARTIALLY DISAGREE

DISAGREE

The Planning Division is open weekdays from 8 AM to 5 PM, with the public counter open to the public by appointment Monday through Thursday mornings from 8 AM until noon. To optimize customer service, appointments are available in-person, by video, or by phone. While customers are encouraged to schedule appointments in advance, it is rare that the same day appointment is unavailable. To date, the volume of appointments has not demonstrated a need to expand counter service hours. Regarding code compliance-related inquiries, customers who visit the counter wishing to either file a code complaint or follow up on a code complaint, are assisted on a walk-in basis. Code Compliance staff are consistently available on a walk-in basis. In addition to counter appointments, all sections in the division maintain a general inquiry email box. Detailed information regarding permitting codes and applications is also available on the Planning website at <a href="https://www.sccoplanning.com">www.sccoplanning.com</a>.

Department policy is that all email inquiries shall be returned within 24 hours. In the past, during periods of understaffing, email responses were sometimes delayed; however, responding to customer inquiries is consistently the top priority and, in most circumstances, the 24-hour response expectation is met. This policy also applies to phone messages. Planning has a live operator who staffs the general information line Monday through Friday from 8 AM to 5 PM. In situations where a member of the public seeks to speak with a specific staff member, responses may be impacted by workload and sickness or vacation time.

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_	AGREE
_x_	PARTIALLY DISAGREE
	DISAGREE

The regulations can be complex, and members of the public are encouraged to work with Planning staff prior to submitting their development project permit applications. (Note that the building code is established by the International Code Council and the State of California.) Planning offers 30-minute counter appointments and email assistance, and there is no limit to the number of appointments or inquiries one may make. In that appointment, Planning and Building staff are available to provide general guidance on the applicable policies and regulations and to review and provide early feedback on project plan completeness.

Projects are often complex with many unique parameters and characteristics. For more complex projects, it is recommended that prospective applicants apply for a preapplication consultation and/or a pre-development site review, the deliverable of which is a letter that contains written analysis of the project that lays out the permit path/next steps in the review process. Issuance of the letter is often preceded by a meeting with the applicant to review the findings in the letter. Unfortunately, these options are not often used.

The public perception of varying interpretations of the code is based in part upon receiving different responses due to the customer's presentation of the project at the time of the appointment. For example, with respect to the question of "do I need a permit for a 6-foot-tall fence?", the answer is generally "no," unless it is in the front yard. However, fences on coastal bluffs or near sensitive areas may have different requirements that can affect a seemingly straight-forward response. Appointments are intended to provide general information in response to the inquiry presented; the more detailed the question, the more detailed (and accurate) the answer will be.

A considerable volume of inquiries is fielded daily, by telephone, email and appointment.

F6.	The Conflict-of-Interest policy does not include conflicts regarding family,
	friends, or prior relationships of a personal nature. This omission, and the
	optics in some situations, lead to misunderstanding and mistrust between
	the public and the Code Compliance Department as well as increasing the
	risk of liability to the County.

	AGREE
_	PARTIALLY DISAGREE
_x_	DISAGREE

Code Compliance works with all members of the public and is bound by Santa Cruz County Code Chapter 3.40 Conflicts of Interest and Incompatible Activities.

The standard practice with regards to family and friends who ask that Planning staff investigate something is to direct them to file a complaint, to be handled according to standard practice. Allegations of collusion between complaining parties or property owners and enforcement staff are common, especially in cases where the complaining party assists in providing evidence, or in cases where staff determines there is no violation, and a complaining party disagrees.

When investigating a complaint, Planning staff have been instructed to recuse themselves from the case if they have a personal relationship. As the identity of a complaining party is confidential, an investigator may not know of a personal relationship unless the complaining party discloses their identity. If the relationship becomes known, the case is transferred to one of the other two investigators.

	focused department, yet it operates in ways that discourage communications, undermining the public's trust in the department.
	AGREE
	PARTIALLY DISAGREE
v	DISAGREE

The Planning Department is by its nature supposed to be a customer-

**Response explanation** (required for a response other than **Agree**):

F7.

The Planning Division has consistently prioritized customer service. Whether it be in a code enforcement, building permit, development permit, or policy related function, assisting the public is the division's primary duty. As mentioned in an earlier response, staff are available by phone during business hours, with a live receptionist fielding and directing calls Monday through Friday. In addition, customers with general inquiries have several options by which to contact staff, including by email, phone, or in-person appointments. Staff are available on a walk-in basis. The division's policy is to return emails and phone calls within 24 hours. As noted above, detailed information regarding permitting codes and applications is also available on the Planning Division website.

Due to the complex regulatory environment inherent to the nature of the work that the Planning staff do, the information the public receives regarding the permit requirements or process is not what they were hoping to hear. The rules and regulations are put in place to protect public safety and the quality of life of residents and visitors to the County. This focus often conflicts with the wants and needs of the individual. This can leave individuals feeling as though the level of service received was less than expected when the hoped-for response is not heard.

### Recommendations

R1.	The Planning Department should fill vacant code compliance positions by the end of the calendar year 2023. (F1)
_	HAS BEEN IMPLEMENTED – summarize what has been done
_x_	HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE – summarize what will be done and the timeframe
_	<b>REQUIRES FURTHER ANALYSIS –</b> explain the scope and timeframe (not to exceed six months)
_	WILL NOT BE IMPLEMENTED – explain why

### Required response explanation, summary, and timeframe:

The new Code Compliance Manager position was filled provisionally in June 2023 and permanently in August 2023. The Code Compliance Investigator position for short-term rentals will be filled in September 2023. With filling the Code Compliance Manager position, the Planning Division is currently recruiting for an additional investigator.

- **R2.** The Personnel Department should reclassify the job description and requirements for the Code Compliance Supervisor to allow the de-facto supervisor to become the department supervisor by the end of this calendar year 2023. (F1)
- **HAS BEEN IMPLEMENTED –** summarize what has been done
- HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS explain the scope and timeframe (not to exceed six months)
- \_x\_ WILL NOT BE IMPLEMENTED explain why

The Personnel Department created a new position of Code Compliance Manager that was approved by the Board of Supervisors, taking the place of the current Principal Planner role as manager of that section. The "de-facto supervisor" was a Code Compliance Investigator IV, who is also responsible for code compliance for south county. This position will continue in this lead role.

- R3. The Planning Department should, by the end of 2023, determine what steps and staff are needed to close out the backlog of code compliance cases within a two-year time frame. (Consider including the County Auditing Department to assist with this process.) (F1)
   HAS BEEN IMPLEMENTED summarize what has been done
   HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE summarize what will be done and the timeframe
   REQUIRES FURTHER ANALYSIS explain the scope and timeframe (not to exceed six months)
- \_x\_ WILL NOT BE IMPLEMENTED explain why

While a high percentage of cases would benefit from more dedicated staff time to work toward resolution, and from more abatement funds to address cases where a property owner cannot be compelled to comply, the goal of closing out all backlogged cases within two years is not feasible based on the judicial system and due process, the limited authority vested in the Code Compliance Section, and the cost of abatement. Unlimited discretionary funds and sufficient dedicated staff would be required to reduce the backlog by as much as 90% over 10 years. It would also require the County to mitigate several hundred cases through public expenditures with limited ability to recover costs through the tax bill and would result in the displacement of hundreds of individuals and families from unpermitted structures.

The compliance process begins with notification of a complaint and potential violation, and an effort to resolve a confirmed violation without penalty in most cases. If a property owner refuses to comply, Code Compliance staff seek an order from a hearing officer. This order may be appealed through the Santa Cruz Superior Court up to the California Supreme Court, which can and has taken more than a decade. If the property owner does not appeal, and still refuses to comply, staff can refer the case to County Counsel, which can take the case to Superior Court, again with all appeal rights. Even when a judgment is found against the homeowner, and more significant penalties are levied beyond the \$10,000 limit the hearing officer is bound by, the property owner may not comply, potentially facing jail time and liens. In addition, permit fees may be doubled in some cases where unpermitted construction was stopped until permits could be obtained.

The County may obtain an order to abate a nuisance and can seek to recover the costs of abatement on a tax lien. Properties that have accumulated dozens to hundreds of vehicles, materials and trash can cost several hundred thousand dollars to clean up and resolve a violation. If the property has value, the court can appoint a receiver to take control of the parcel and clear violations. If it does not, the cost is borne by the public. If the concern expressed in this report is for the perception by the public of the Planning Division and Code Compliance Section, the effort to resolve violations where housing was built without permits and where it cannot be made legal would be counter-productive, as the resolution would entail removing occupied housing and putting families in an unhoused situation.

Compliance Department should be completely reviewed, updated as prescribed in the policy and procedures manual, and digitized. Each section should be dated, and all future revisions should include date markings for any changes. This process should be completed by the end of 2023. (F2)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain the scope and timeframe (not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

The policies and procedures manuals for the Planning Department and Code

#### Required response explanation, summary, and timeframe:

R4.

Once the Code Compliance Section is fully staffed, the new manager can take on the effort involved in this manual update. The Planning Division is in the process of creating a Unified Permit Center (UPC), which will be fully operational by the end of 2024 and provide the public comprehensive access to multiple county departments and their staff. The creation of the UPC will drive the creation of various new policies and procedures for permitting once established. In addition, a new website for the Community Development and Infrastructure Department is under construction and will provide a venue for these documents to be available to the public by the end of 2024.

R5. The Code Compliance Department should create a log system that ensures that all Planning Department and Code Compliance desk interactions, phone calls, emails, text messages, complaints, and any other interactions with the public are entered into a searchable database by the end of 2023. (F3)
 HAS BEEN IMPLEMENTED – summarize what has been done HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE – summarize what will be done and the timeframe
 REQUIRES FURTHER ANALYSIS – explain the scope and timeframe (not to exceed six months)
 WILL NOT BE IMPLEMENTED – explain why

#### Required response explanation, summary, and timeframe:

Code Compliance cannot be responsible for creating a log system for the entire Community Development and Infrastructure Department. The department has hundreds, possibly thousands, of interactions with the public every day. Creating a searchable log of all phone calls, emails, text messages and verbal interactions is beyond the expertise of the Code Compliance Section. Each Code Compliance Investigator has been trained in using the current database (INFOR) to track phone calls, e-mails, case notes, parcel information/history, case status, case attachments, site visits, and other correspondence. The Code Compliance Section also maintains an extensive data drive with additional documentation such as photos, administrative hearing packets, recordations, County Counsel referrals, receiverships, and other public records.

All counter appointments are saved to a searchable database, including the "staff notes" section which is intended to memorialize determinations made during the appointment and/or to track meaningful information that could be useful in a subsequent appointment. Consistent with Code Compliance staff, Development Review staff track all complex determinations made at the counter or via email in INFOR (Log Notes). Countywide, all emails are retained for a period of 60 days.

Data regarding public complaints about Code Compliance Investigators actions should be discussed at staff meetings. Data collected by the log system should be reviewed by Code Compliance Department management no less than quarterly. This should be instituted by October 1, 2023. (F3)
 HAS BEEN IMPLEMENTED – summarize what has been done
 HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE – summarize what will be done and the timeframe
 REQUIRES FURTHER ANALYSIS – explain the scope and timeframe (not to exceed six months)
 WILL NOT BE IMPLEMENTED – explain why

#### Required response explanation, summary, and timeframe:

Discussion of formal complaints can be inserted as a standard line item for Code Compliance staff meetings by the end of 2023. Public complaints that allege a violation of procedural or ethical standards can be noted and tracked by the Code Compliance Manager; however, it must be noted that the Code Compliance Investigator role is to inform a person they are in violation of an ordinance and staff are often the target of rage, anger, frustration and even aggression. When staff are subject to verbal abuse and physical intimidation, they are encouraged to step away or hang up. Though uncommon, most informal complaints received in the past five years regarding Code Compliance staff stem from this type of interaction.

R7. The Code Compliance Department should institute monthly staff meetings by October 1, 2023. Meetings should include relevant educational materials, data regarding monthly activity, new challenges such as policy changes, and resolution of or issues regarding active complaints about the department. (F2)
 LAS BEEN IMPLEMENTED – summarize what has been done
 HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE – summarize what will be done and the timeframe
 REQUIRES FURTHER ANALYSIS – explain the scope and timeframe (not to exceed six months)
 WILL NOT BE IMPLEMENTED – explain why

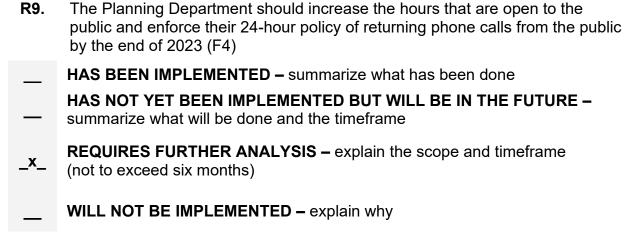
#### Required response explanation, summary, and timeframe:

The Code Compliance Manager position was filled in August 2023, and monthly (or biweekly) staff meetings will be established by the end of 2023.

- R8. The Code Compliance Department should formalize training and staff development requirements of Code Compliance Investigators through California Association of Code Enforcement Officers (CACEO), use staff meetings to encourage cross training and continuing education, document staff development in employee files, and formalize it in the employee evaluation protocol by October 1, 2023. (F2)
- \_x\_ HAS BEEN IMPLEMENTED summarize what has been done
  - HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE summarize what will be done and the timeframe
  - REQUIRES FURTHER ANALYSIS explain the scope and timeframe (not to exceed six months)
- \_\_\_ WILL NOT BE IMPLEMENTED explain why

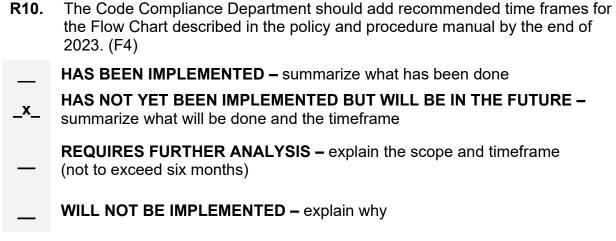
California Association of Code Enforcement Officers (CACEO) training has been standard in the Code Compliance Section since it became available, and investigators are encouraged to (and do) regularly attend.

Training outside of California Association of Code Enforcement Officers (CACEO) on other aspects of Code Compliance or career advancement are discussed annually and set as goals through the confidential annual employee evaluations. This is currently documented in those records. Additionally, Code Compliance staff regularly organize and provide training on specific topics to other code staff and/or other department sections. Recent trainings include stop-work procedures, data entry into INFOR, and receiverships.



The Planning Division is open from 8 AM to 5 PM daily, and the counter is open from Monday through Thursday from 8 AM to 12 PM. To date, the volume of appointments has not demonstrated a need to expand counter service hours. By the end of 2023, the division will evaluate the demand for increasing in-person appointment hours and staffing levels to ensure same-day appointments are available. The intent is also to add afternoon appointments one or more days per week.

Planning intends to retain the current practice of staffing a general inquiry phone line Monday through Friday from 8 AM to 5 PM as well as general inquiry email service Monday through Friday from 8 AM to 5 PM. Current division policy is that response times for initial calls and emails from a member of the public shall be 24 hours. Planning staff will continue to make every effort to continue to meet this requirement. To date, there have been short periods of time where response times have been more than 24 hours due to staffing issues. Follow-up calls from the same member of the public will be addressed as staff availability allows, based upon the nature of the call and staff workload.

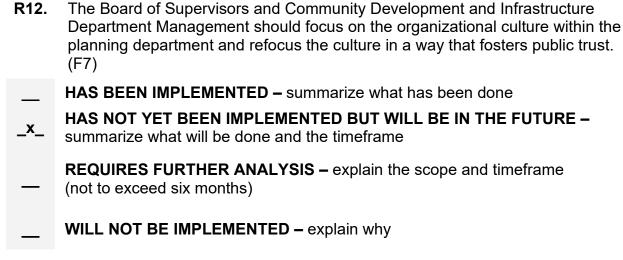


A flow chart with timeframes currently exists. It will be added to the revised procedural manual with the review of the entire manual in 2024.

R11. Conflict of Interest policy should be rewritten to include relationships of a personal nature by the end of 2023. Use the counties of Mendocino and San Bernardino policies as a reference. (F6)
 HAS BEEN IMPLEMENTED – summarize what has been done HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE – summarize what will be done and the timeframe
 REQUIRES FURTHER ANALYSIS – explain the scope and timeframe (not to exceed six months)
 WILL NOT BE IMPLEMENTED – explain why

#### Required response explanation, summary, and timeframe:

As discussed in the response to F6, the County has standard practices for addressing personal relationships, and the Board does not believe revisions are needed to Santa Cruz County Code Chapter 3.40 Conflicts of Interest and Incompatible Activities.



The Board of Supervisors and Community Development and Infrastructure (CDI) Department are bound by the policies and directives that have been developed and implemented through public engagement and transparent public processes. This includes federal, state, and local laws and requirements that require uniform and equal application. Under this environment, one of CDI's primary focuses is fostering public trust. The department is dedicated and motivated to improve the customer experience. To that end, one major process improvement CDI is in the process of implementing is the Unified Permit Center (UPC), which will be fully operational by the end of 2024.

One of the primary goals of the UPC is to improve responsiveness and continuity of the information provided at the public counter. Over the course of the past few years, several process improvements have already been implemented to make way for the UPC and improve customer service more immediately. These include a staff training program, updated procedures and public information documents, web site improvements, flexible Counter appointment options, increased accessibility to public meetings, an electronic submittal system, and more.