

CERTIFIED FOR PUBLICATION
IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

CALIFORNIA NATIVE PLANT
SOCIETY et al.,

Plaintiffs and Appellants,

v.

CITY OF SANTA CRUZ et al.,

Defendants and Respondents.

H032502

(Santa Cruz County
Super. Ct. No. CV154966)

**ORDER MODIFYING OPINION
AND DENYING REHEARING**

NO CHANGE IN THE JUDGMENT

On the court's own motion, the opinion filed on August 20, 2009, and ordered published September 18, 2009, is ordered modified.

The paragraph that begins at the bottom of page 43 is modified to read as follows:

At this final stage of project approval, the agency considers whether "[s]pecific economic, legal, social, technological, or other considerations . . . make infeasible the mitigation measures or alternatives identified in the environmental impact report." (§ 21081, subd. (a)(3).) Broader considerations of policy thus come into play when the decision-making body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives.

There is no change in the judgment.

Petition for rehearing is denied.

Date:

McAdams, J.

Mihara, Acting P.J.

Duffy, J.