

July 12, 2018

Via email

Honorable Das Williams  
Santa Barbara County Board of Supervisors  
105 East Anapamu Street  
Santa Barbara, California 93101

Subject: California Coastal Commission's Suggested Modifications to the Gaviota Coast Plan

Dear Chair Williams and Members of the Board of Supervisors,

The Nature Conservancy is the owner of The Jack and Laura Dangermond Preserve (Preserve), the approximately 25,000 acre cattle ranch formally known as the Bixby Ranch. The Preserve represents a true coastal wilderness, a last-of-its-kind representation of a fully functioning coastal ecosystem. The Conservancy's vision is to develop a world-class nature preserve that will focus on: 1) preservation and restoration of the irreplaceable natural, cultural and agricultural resources found on the site, 2) science and research, and 3) environmental education.

The unique resources on the Preserve necessitates that the Conservancy lead a science-based planning process that includes opportunity for stakeholder input, to ensure our vision is realized. The Conservancy is currently developing partnerships with the University of California, Santa Barbara and other scientific, academic, governmental and non-governmental organizations worldwide to bring together the expertise and capacity to achieve our ambitious vision.

The Preserve was purchased with the knowledge that the property is in the coastal zone and that a well-established regulatory environment exists in Santa Barbara County. Before closing, we carefully reviewed the proposed Gaviota Coast Plan submitted to the California Coastal Commission (CCC) in December 2016.

As a property owner in the Gaviota Plan Area, we are carefully reviewing the CCC staff's Suggested Modifications to the Gaviota Coast Plan. Some of the modifications present challenges to the Conservancy's work to build a new nature preserve, possibly resulting in complications that may increase permit requirements, project costs, delays in protection and restoration efforts and unrealistic stakeholder expectations. We look forward to continuing to work with the County and the CCC toward the preservation of the unique resources found across this region, and in that

spirit, we respectfully submit these comments to the CCC staff's Suggested Modifications to the Gaviota Coast Plan at this time for your consideration.

### **Suggested Modification No. 2**

#### **Policies NS-2 & NS- 4: Environmentally Sensitive Habitat (ESH) Protection.**

We support existing regulatory and other efforts to protect and enhance Environmentally Sensitive Habitat (ESH). However, the suggested modifications to Policy NS-2 and NS-4 have the potential to be perceived as punitive treatment for past stewardship, constrain effective management of diverse habitat types and possibly create disincentives for landowners and organizations to collaborate in the protection and restoration of ESH.

Our concerns include:

- To date no information, data or maps exist or are being developed regarding how much land these suggested modifications will impact. This modification has the potential to establish ESH areas over a large portion of the Planning Area and, hence, has new and major implications to existing or planned activities in these areas, including agricultural, research, education and resource management activities.
- The suggested modifications limit flexibility in mitigating disturbances to ESH. Furthermore, we believe this suggested modification will result in the requirement for a Coastal Development Permit (CDP) and/or a denial of a CDP application for most activities in the Coastal Zone.
- Combined with other modifications, this presents a scenario in which Preserve would be faced with vastly more and costlier regulatory compliance requirements, as compared to already high cost requirements, in carrying out activities to fulfill the Preserve's conservation vision.

We respectfully submit alternative language to Policy NS-2 for your Board to consider:

Environmentally Sensitive Habitat (ESH) areas shall be protected against any significant disruption of habitat values. Allowed uses within ESH areas shall be sited and designed to avoid ESH and ESH buffer areas to the extent feasible. If a use is allowed (including but not limited to existing roads or ongoing agriculture) or is dependent upon the ESH resource to function (including but not limited to nature study, environmental education, trails), or would preclude reasonable use of a parcel, then the alternative that would result in the fewest or least significant impacts shall be selected and impacts shall be mitigated.

Regarding NS-4, we agree with the County staff recommendation as proposed in their draft letter of May 15 to the Coastal Commission.

**Suggested Modification No. 2**  
**Policy NS-11: Restoration.**

A permanent conservation easement should not be required simply for the approval of a CDP that includes a restoration element. More importantly, this suggested modification does not provide a landowner the option of conducting a voluntary restoration project without the requirement of placing a permanent restriction over the restored lands.

We respectfully submit the inclusion of language to Policy NS-11 for your Board to consider:

Voluntary habitat restoration projects implemented by a landowner are not required to be preserved in perpetuity for conservation and/or open space purposes and a landowner is not required to place a recorded deed restriction or Notice to Property Owner on the subject area of restoration.

**Suggested Modification No. 2**  
**Dev Std NS-2: ESH Setbacks and Buffers.**

We understand that the Gaviota Project Area Committee (GavPAC) and your Board discussed this issue at length and agreed that on a case by case basis, an ESH setback or buffer could be adjusted upward or downward based on the site conditions and specific evidence provided by a biological report. We do not agree with the CCC staff's suggested modification that there can never be an opportunity to create a reasonable conclusion and appropriately adjust a buffer based on scientific evidence.

We respectfully submit the amended of language to Dev Std NS-2 for your Board to consider:

Required buffers for ~~for riparian~~ ESH may be adjusted upward or downward on a case-by-case basis for new development given site specific evidence provided by a biological report prepared by a qualified biologist. Where When adjusted, ~~upward~~ upward where necessary in order to prevent significant disruption of habitat values, the required minimum buffer but shall not preclude reasonable use of a parcel consistent with applicable law. This provision shall not be applied to compel alteration or increase in buffers for lawful nonconforming development, ongoing agriculture or development approved under the County's LCP prior to certification of the Gaviota Plan.

### **Suggested Modification No. 3**

#### **Policy AG-1.B: Long-Term Agricultural Production.**

This suggested modification presents a significant hurdle to agriculture and the Conservancy's stated mission. The modification as proposed does not allow for the conversion of lands zoned agriculture to another, nonagricultural land use even if the proposed use is compatible with agricultural operations, will help preserve natural resources and provide educational or scientific benefits, which are the Preserve's primary goals.

We respectfully submit the inclusion of language to Policy AG-1.B for your Board to consider:

If a parcel is designated for agricultural use, the parcel shall not be converted to a nonagricultural use, except for educational or research uses, unless the conversion is consistent with CLUP Policy 8-2.

### **Suggested Modification No. 4**

#### **Chapter 4: Parks, Recreation, and Trails**

##### **2. Proposed Trail**

It appears that this suggested modification greatly enhances the elements of the California Coastal Trail, including the statement that the CCT is a trail "system". We believe that proposed trails should account for the direct risks that they may create by exposing archaeological sites, the resource conflicts that trail segments may create, the proposed trail's carrying capacity, and the potential for damage to the sensitive ecological setting of proposed trails.

We respectfully submit additional language to Chapter 4 (PRT) 2. Proposed Trails for your Board to consider:

11. Segments of the public trails where important resources are located shall recognize conflicts to existing agricultural operations, fragile marine environments, coastal terraces, and the potential for exposure of archeological sites. These conflicts shall be accounted for and may result in trails being located away from these resources and/or the creation of an educational, scientific, and managed access programs to protect sensitive coastal resources.

### **Suggested Modification No. 6**

#### **Action REC 7. Trail and Access Completion**

CCC staff's suggested recommendation mandates that the County "should strive to acquire easements for the CCT from the eastern end of Hollister Ranch to Jalama Beach County Park." In addition to the significant financial burden being shifted to the County by the CCC, it provides an unrealistic expectation. That unrealistic expectation would also be directed at the Conservancy, as

it works to preserve one of the most ecologically and archeologically rich and sensitive properties along the California coastline, while carefully designing research, education and access opportunities.

The Gaviota Coast Plan has adopted language that addresses this matter in *PRT Section 4-10*: “Recognizing the unique value of the area, the County shall work with willing landowners and other agencies to explore options for future trails.”

We respectfully submit the inclusion of language to Action REC 7 for your Board to consider:

Segments of the public trails where important resources are located shall recognize conflicts to existing agricultural operations, fragile marine environments, coastal terraces, and the potential for exposure of archeological sites. These conflicts shall be accounted for and may result in trails being located away from these resources and/or the creation of an educational, scientific, and managed access program to protect sensitive coastal resources.

### **Suggested Modification No. 8**

#### **Policy LU-2: Policy Implementation**

The CCC staff’s requirement that an applicant must obtain an economic viability use determination before any exception from Plan standards may be granted is unreasonable burden placed on the landowner and negatively impacts the County’s local control over its own Local Coastal Plan. The Gaviota Coast Plan includes robust measures to avoid ESH and protect sensitive resources. An interpretation of public policy should not require a property owner to pay for a consultant to prove economic hardship to receive a CDP. We believe this suggested modification creates an unnecessary economic burden and is a disincentive for landowners to responsibly manage their lands.

We respectfully request that your Board consider:

Retaining the County’s original language of Policy LU-2 and remove all suggested modifications in the Gaviota Coast Plan by the CCC staff to require an Economic Viability Determination including Policy LU-2 and Sections 35-430, 35-440 and 35-480 of the Gaviota Plan’s Coastal Zoning Ordinance Amendments.

### **Suggested Modification No. 12**

#### **Policy TEI-10: Renewable Energy Production Facility Impacts. (COASTAL)**

This suggested modification may preclude a renewable energy production facility because of the potentially restrictive language that a facility must “avoid significant impacts...” The Conservancy does not envision a renewable energy production facility on the Preserve. However,

the State has mandated that 50% of its energy be generated from renewable sources and we do not know what technologies may come forward in the future. Any potential renewable energy project in the Planning Area should be carefully designed based on local and state regulations. We would request that language be adopted that would allow for the consideration of a renewable energy production facility within the Planning Area.

We respectfully submit additional language to Policy TEI-10 for your Board to consider:

Ensure through siting, design, scale, and other measures to the maximum extent feasible that all renewable energy production facilities are constructed to avoid significant impacts on public health, safety and welfare, public views, community character, natural resources, agricultural resources, and wildlife, including threatened or endangered species, bat populations, and migratory birds.

### **Suggested Modification No. 13**

#### **Section 35-430. Allowable Development and Planning Permit Requirements.**

##### **B. Allowable land uses.**

The suggested modification limits land uses that can be allowed. The CCC staff's suggested modification (and the modification to Policy NS-2) specifically identifies and limits potential allowed uses to a nature study, habitat restoration, and public trails.

We respectfully submit additional language to Section 35-430.B Allowable land uses, for your Board to consider:

B. Allowable land uses. Resource dependent uses (i.e., uses that are dependent on environmentally sensitive habitat in order to function), including educational or research uses and other uses not listed in Subsection E, are also allowed in each zone district.

##### **D. Exempt activities and structures.**

- 2. Cultivated agriculture, orchards, and vineyards, historic legal use.**
- 4. Grazing, historic legal use.**

If approved these modifications could have an adverse impact on historic and ongoing agricultural operations in the planning area. Agriculture should be supported, as it has been the economic land use most consistent with the preservation of the unique resources found within the Planning Area. The Plan should not present penalties for resting agricultural lands. The Conservancy agrees with the County's recommendation included in the draft letter of May 15th.

**E. Allowable land uses and permit requirements.**

**3. Accessory structures and uses.**

The Conservancy supports the County's request to revise the CCC staff's modification and agree that a broader range of accessory uses should be identified as allowed or principal permitted uses. The stated mission of the Preserve is science, research and environmental education and we request that education and research facilities be added as an allowed use.

The Nature Conservancy wishes to acknowledge the dedication and hard work by County staff to incorporate public comments into the Gaviota Coast Plan and into your response to the Coastal Commission. Thank you for the opportunity to provide these comments and I look forward to working with you to preserve and enhance this remarkable region of California.

Sincerely,



Michael Bell  
Director, The Jack and Laura Dangermond Preserve

Members of the Board of Supervisors:

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