



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 East Anapamu Street, Room 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** Planning & Development  
**Department No.:** 053  
**For Agenda Of:** 9/7/2010  
**Placement:** Departmental  
**Estimated Tme:** 60 minutes  
**Continued Item:** Yes  
**If Yes, date from:** 4/6/10, 7/6/10, 7/13/10, 7/27/10, 8/3/10  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Director Glenn Russell, Ph.D. (805.568.2085)  
Contact Info: Dianne Black, Development Services Director (805.568.2086)  
**SUBJECT:** Coastal Commission Suggested Modifications to County and Montecito Land Use and Development Codes - Coastal Commission hearing of August 12, 2010

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**County Counsel Concurrence**

As to form: N/A

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrences:** N/A

**Recommended Actions:**

That the Board of Supervisors:

- A. Receive a report on the Coastal Commission's August 12, 2010 hearing on the County and Montecito Land Use and Development Codes; and,
- B. Continue this hearing to November 9, 2010.

**1.0 BACKGROUND**

Your Board has considered the Coastal Commission staff's suggested modifications to the County and Montecito Land Use and Development Code at several hearing, including July 6<sup>th</sup>, July 13<sup>th</sup>, July 27<sup>th</sup> and August 3<sup>rd</sup>.

At your Board hearing on August 3, 2010, you authorized the Chair of the Board of Supervisors to sign and send a letter to the Coastal Commission as revised by the Board of Supervisors commenting on the suggested modifications recommended by the Coastal Commission staff, and selected Supervisor Farr and Supervisor Wolf to represent the County at the Coastal Commission hearing on August 12, 2010. Your Board also continued the hearing to September 7, 2010 for Planning and Development staff to update the Board regarding the results of the August 12<sup>th</sup> hearing and the schedule for further efforts to inform the public regarding the scope of the suggested modifications.

**2.0 DISCUSSION/ANALYSIS**

**Summary of Coastal Commission hearing**

At the August 12<sup>th</sup> hearing of the Coastal Commission, the Commission took testimony from the

County representatives and members of the public, and, as requested by the County, continued the item to a later hearing.

The Commissioners appeared to understand the concerns of the County regarding the suggested modifications, but did not provide specific direction to their staff regarding the suggested modification language. However, in regards to the prohibition against locating new schools in agricultural zones, based on comments made by some of the Coastal Commissioners it appears that it may be possible to create a permit path for the Vista del Mar School District should they decide to move back into their original facility located in the Coastal Zone. Also, from comments made by the Coastal Commission staff, it appears that they may be agreeable to allowing existing, lawful blufftop stairways to be reconstructed if they are destroyed by a natural disaster.

Attachment A provides the language of the modifications that the County still has issues with as currently proposed by Coastal Commission staff.

### **Public Workshops**

The Planning and Development Department is planning to hold workshops/informational sessions to provide the public additional opportunities to review and comment on the suggested modifications proposed by the Coastal Commission staff. Planning and Development staff is planning to schedule the workshops to occur in September/early October. Additional options regarding the number and location of the workshops will be provided to your Board for discussion at your September 7<sup>th</sup> meeting.

### **Board of Supervisors Options**

The purpose of requesting that the Coastal Commission not take action on this amendment to the County's Local Coastal Program was to provide the County with additional time to (a) conduct public workshops regarding the effect of the suggested modifications and (b) continue to try to resolve the remaining issues with the Coastal Commission staff, and then return to the Coastal Commission at their November hearing. By statute, the Coastal Commission must act on this amendment to the County's Local Coastal Program by January 18, 2011. This would require action by the Coastal Commission not later than their December hearing unless the Board chose to withdraw and resubmit the amendment to provide additional time.

Following the Coastal Commission decision on the County and Montecito LUDCs, the Board will have six months from the date of the Coastal Commission's action to evaluate the modifications as adopted by the Coastal Commission and decide whether or not to accept the modifications. If the Board chooses not to accept the modifications, then the existing Coastal Zone zoning regulations as contained in existing Article II zoning ordinance will remain in effect. This has significant downsides as the County and Montecito LUDCs would have to be amended to remove all Coastal Zone specific zoning regulations, and the following recently approved amendments to the County and Montecito LUDCs would have to be reprocessed as amendments to Article II and resubmitted to the Coastal Commission for certification, further delaying their implementation:

- Eastern Goleta Valley Residential Design Guidelines (County LUDC)
- Isla Vista Master Plan (County LUDC)
- Santa Barbara Ranch Naples Townsite Zone (County LUDC) and Transfer of Development Rights Program (County and Montecito LUDCs)
- Process improvements regarding permit applications for overall sign plans, road naming, septic systems within Special Problem Area, solar energy systems, special care facilities, and time extensions (County and Montecito LUDCs)
- Time extensions due to economic hardship considerations (County and Montecito LUDCs).

Rejecting the approved modifications would have the positive aspect of maintaining the existing regulatory scheme for the Coastal Zone that does not have all the controversial aspects contained in the suggested modifications. However, it is likely that the Coastal Commission staff will propose very similar modifications in the review and certification process of any future amendments to Article II that the County may wish to make. This is a future decision for the Board of Supervisors to make once the Coastal Commission acts on the proposed LUDCs and the County evaluates the effects of their action.

**Fiscal and Facilities Impacts:**

Budgeted: Yes.

**Fiscal Analysis:**

Funding for this ordinance amendment work effort is budgeted in the Planning Support program of the Administration Division on page D-324 of the adopted Planning and Development Department's budget for fiscal year 2010-2011. There are no facilities impacts.

**Special Instructions:**

The Clerk of the Board will send a copy of the Minute Order to the Planning and Development Department, attention Noel Langle.

**Attachments:**

A. Summary of Suggested Modifications As Currently Proposed by Coastal Commission Staff

Authored by:

Noel Langle (805.568.2067)

## ATTACHMENT A:

### Summary of Suggested Modifications As Currently Proposed by Coastal Commission Staff (as of 8/11/2010)

**1. Modification 9: Requirement for Coastal Development Permit for all intensifications of agriculture.**

Revised suggested modification proposed by Coastal Commission staff (7/28/2010 CC staff report pages 107 and 108 and 8/11/2010 addendum page 1): The language of Modification 11 (Exemptions) as revised by the Coastal Commission staff would provide that, in addition to the previous exemption from a Coastal Development Permit for cultivated agriculture that occurs within existing areas of cultivation, new or expanded cultivated areas would also be exempt from a Coastal Development Permit if the cultivation:

- Does not occur on slopes of 30 percent or greater or require any cut or fill that exceeds three feet in vertical distance or require grading over 50 cubic yards.
- Is not located within 100 feet of the top of bank of any creek, stream or watercourse.
- Is not located within 100 feet of environmentally sensitive habitat areas, riparian areas, or wetlands.
- Does not result in the removal of native or non-native protected trees.
- The Director provides specific written confirmation that the proposed new or expanded agricultural operation conforms to the exemption criteria above, prior to implementing the new or expanded operation.

As part of this revision Coastal Commission staff is also proposing to add the following definitions:

**Native Protected Tree.** A native tree that is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped).

**Non-native Protected Tree.** A non-native tree that is at least 25 inches in diameter as measured 4.5 feet above level ground (or as measured on the uphill side where sloped). Non-native trees, regardless of size, may be subject to the ESH Overlay in compliance with Section 35.28.090 (Environmentally Sensitive Habitat Area (ESH) Overlay) where such trees comprise habitat for sensitive species such as monarch butterflies, raptors, or other protected species.

The requirement that the Director provide specific written confirmation that the proposed new or expanded agricultural operation conforms to the exemption criteria would mean that an agriculturalist would have to apply to and receive from the Planning and Development Department an exemption from a Coastal Development Permit prior developing the new or expanded cultivated area.

Regarding grazing operations, the exemption language has been revised to simply state that grazing located in existing grazing areas, including the normal rotation of livestock from one pasture to another, is exempt from the requirement for a Coastal Development Permit. This revision eliminates (1) the qualifier language regarding grazing that does not increase the intensity of use, and (2) the development standards referenced above for cultivated agriculture.

**2. Modification 9: Requirement for Coastal Development Permit for keeping of animals.**

Revised suggested modification proposed by Coastal Commission staff (7/28/2010 CC staff report pages 106 and 107): The suggested modifications primarily designate the keeping of large animals and livestock as a Principal Permitted (PP) use in the agriculture zones and in all other zones (where allowed) as a non-Principal Permitted (P) use. Under this scenario the keeping of large animals and livestock would require a Coastal Development Permit without hearing in the agricultural zones, and a Coastal Development Permit with hearing in all other zones, unless the animal keeping qualifies for an exemption from a Coastal Development Permit.

**3. Modification 9: Restrictions on school facilities allowed by Conditional Use Permit in agricultural zones.**

Revised suggested modification proposed by Coastal Commission staff (7/28/2010 CC staff report, Exhibit 4, pages 1 and 2): The Coastal Commission staff incorporated additional language that specifies that the expansion of school facilities on a lot adjacent to the existing school that is owned by the school may also be allowed by Conditional Use Permit, and that existing, legally permitted schools are considered conforming uses.

**4. Modifications 9 and 13: Requirement for Coastal Development Permits for voluntary mergers of existing, separate legal lots.**

Suggested modification proposed by Coastal Commission staff (7/28/2010 CC staff report page 112): The suggested modification specifies that all voluntary mergers are required to be approved with a Coastal Development Permit, and, since they are not designated as a principal permitted use, are subject to a public hearing and potential appeal to the Coastal Commission.

**5. Modification 10: Restrictions on primary residences located in agricultural zones in order to qualify as a principal permitted use.**

Revised suggested modification proposed by Coastal Commission staff (7/28/2010 CC staff report page 96): Coastal Commission staff revised their original modification to:

- Allow either the operator of the principal permitted primary agricultural use of the property, or the owner of the lot, to occupy the primary dwelling; the requirement that there is an existing principal permitted primary agricultural use of the property is retained.
- Increased the size of the primary dwelling to 5,000 square feet.

The originally proposed 10,000 square foot development area for the primary dwelling and all structures and landscaping accessory to the primary dwelling was not changed.

**6. Modification 10: Restrictions on accessory uses designated as principal permitted uses in all zones.**

Revised language proposed by Planning and Development Department staff: Staff requested that the modification be revised to state that.

Revised suggested modification proposed by Coastal Commission staff (7/28/2010 CC staff report pages 95 through 100): Coastal Commission staff revised their original modification to provide that any structure and/or use that is customarily incidental and secondary to the principal permitted use, and that does not change the character of the principal permitted use, may be allowed as a principal permitted accessory use, except for artist studios, guest houses and residential second units are still designated as a non-principal permitted use.

**7. Modification 21: Restrictions on minor improvements located near coastal bluffs and bluff staircases and access ways.**

Revised suggested modification proposed by Coastal Commission staff (7/28/2010 CC staff report page 125): As it is now written the suggested modification would:

- Allow visually permeable and visually compatible fences required for safety purposes and public access ways (e.g. public trails) that qualify as minor improvements to be located closer than 15 feet from the bluff edge but in no case closer than five feet from the bluff edge.
- Provide that lawfully established public bicycle paths located closer than 15 feet from the bluff edge may be repaired and maintained, including structural repairs.
- Provide that lawfully established staircases and access ways that provide beach access and are not available for use by the general public may be repaired and maintained, including structural repairs, provided that cumulatively no more than 50 percent of the structural underpinnings (including foundations, pilings, and support beams but not including individual stairs and railings) are reconstructed or replaced over the life of the structure. The revised language also states that the reconstruction or replacement of 50 percent or more of a staircase is not repair and maintenance but instead constitutes a replacement structure.