



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

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

**Department Name:** Planning and  
Development  
**Department No.:** 053  
**For Agenda Of:** 10/2/2018  
**Placement:** Set Hearing for  
10/16/2018  
**Estimated Time:** 1 hour on 10/16/2018  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Dianne M. Black, Director, Planning and Development  
Director (805) 568-2086  
Contact Info: Daniel T. Klemann, Deputy Director, Long Range Planning  
(805) 568-2072  
**SUBJECT:** California Coastal Commission Certification of an Amendment to the Local  
Coastal Program – Gaviota Coast Plan, Third Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: No

**Other Concurrence:** N/A

As to form: No

**Recommended Actions:**

On October 2, 2018, set a hearing for October 16, 2018, to consider accepting the California Coastal Commission's certification with modifications of an amendment to the County's Local Coastal Program regarding the Gaviota Coast Plan.

On October 16, 2018:

- a) Receive notice of the California Coastal Commission's certification with 13 suggested modifications of an amendment to the County's Local Coastal Program (Coastal Commission Case No. LCP-4-STB-18-0039-1-Part B Gaviota Coast Plan) (Attachment 1);
- b) Adopt a resolution acknowledging receipt of the California Coastal Commission's certification with suggested modifications, accepting and agreeing to the modifications, agreeing to issue Coastal Development Permits for the total area included in the certified Local Coastal Program, and adopting the Local Coastal Program Amendment with the suggested modifications (Attachment 2);
- c) Determine that the Board of Supervisors' action is not subject to the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 20180.9. The County relied upon the Gaviota Coast Plan Final Environmental Impact Report (certified November 8, 2016) for

CEQA review of Case Nos. 13GPA-00000-00006, 13ORD-00000-00006, 13RZN-00000-00002, 13GPA-00000-00007, 13ORD-00000-00007, 13RZN-00000-00003; and

- d) Direct the Planning and Development Department to transmit the adopted resolution to the Executive Director of the California Coastal Commission.

**Summary Text:**

On August 10, 2018, the Coastal Commission certified the Gaviota Coast Plan (GCP) as an amendment to the County's Local Coastal Program (LCP) with 13 suggested modifications. The 13 suggested modifications are presented in Attachment 1 (Coastal Commission letter dated September 14, 2018). Additional information regarding the Coastal Commission's action, including the Coastal Commission staff report and staff suggested modifications are set forth in Exhibits 2 and 3 to the Coastal Commission staff report regarding the LCP Amendment and Revised Findings, dated August 28, 2018. The staff report and all exhibits can be found on the Coastal Commission website at <https://www.coastal.ca.gov/> (see September 13<sup>th</sup> meeting agenda – South Central Coast area).

Ongoing negotiations with Coastal Commission staff following delivery of the Board of Supervisors (Board) letter dated July 17, 2018 (Attachment 3), resulted in additional revisions to the Coastal Commission staff's suggested modifications (discussed further in the "Background" section below), which were ultimately certified by the Coastal Commission on August 10, 2018. However, the Coastal Commission did not grant several County requests regarding new agricultural cultivation and grazing, Policy NS-4 (regarding identification of "rare" chaparral types as environmentally sensitive habitat, or ESH), and Dev Std NS-2 (adjusting riparian habitat buffers downward on a case-by-case basis).

The Coastal Commission's conditional certification will expire on February 10, 2019, six months following the date of the Coastal Commission's action on August 10, 2018, unless prior to that date the Board acts to accept the modification.

The Board may choose to accept or reject the suggested modifications. If your Board chooses to accept the modifications, then following receipt of a Board resolution acknowledging and accepting the Coastal Commission's suggested modifications, the Coastal Commission's Executive Director will make a determination that the County's action is legally adequate to satisfy any specific requirements set forth in the Coastal Commission's certification order and report this determination to the Coastal Commission at its next regularly scheduled public meeting. If the Coastal Commission does not object to the Executive Director's determination, then notice of the certification will be filed with the Secretary of the Resources Agency and the certification will be deemed final and effective. However, if a majority of the Coastal Commission members object to the Executive Director's determination and find that the County's action does not conform to the provisions of the Coastal Commission's action to certify the amendment to the County's Local Coastal Program, then the Coastal Commission will review the County's action in a subsequent public hearing as if it were a re-submittal.

Once the amendment receives final certification from the Coastal Commission, the amendment as modified will become effective and will be incorporated into the County's certified Local Coastal Program.

The Board has the following options if it does not accept the suggested modifications:

- Adopt amendments to the suggested modifications and re-submit the amended Gaviota Coast Plan for certification as a new LCP Amendment.
- Reject the modifications without adopting any amendments to the suggested modifications and request that the Coastal Commission not certify the GCP.

- Allow the Coastal Commission's certification with the suggested modifications to expire by taking no action prior to February 10, 2019.

**Background:**

***A. Project Recap***

On November 8, 2016, the Board approved the Gaviota Coast Plan and associated amendments to Article II and certified an Environmental Impact Report for the project (15EIR-00000-00003). The GCP includes the following in the Coastal Zone:

- Resolution No. 16-267 (Case No. 13GPA-00000-00007) amending the text and maps of the Coastal Land Use Plan to adopt the GCP.
- Ordinance No. 4984 (Case No. 13ORD-00000-00007) amending the text of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code (Article II), to implement the GCP within the Coastal Zone.
- Ordinance No. 4985 (Case No. 13RZN-00000-00003) amending the zoning maps of Article II for the coastal portion of the GCP.
- Resolution No. 16-268 that adopts new Gaviota Coast Plan Design Guidelines.

On December 6, 2016, the Board authorized staff to submit the Gaviota Coast Plan and associated amendments to Article II for review and certification by the Coastal Commission. On April 24, 2018, the Coastal Commission staff issued a staff report with suggested modifications to the GCP.

On May 15, 2018, the Board considered the Coastal Commission staff report, received public testimony, and continued the hearing to July 17, 2018, establishing an Ad-Hoc Subcommittee consisting of Supervisor Hartmann and Supervisor Williams, and directed staff to schedule a community workshop on July 3, 2018. The community workshop was well attended by interested parties representing landowners and ranchers, coastal access advocates, and environmental groups who commented on the Coastal Commission staff's suggested modifications. Several Coastal Commission staff also attended and participated. The workshop focused on several issues that were subsequently discussed by the Board on July 17, 2018, resulting in the July 17, 2018, letter from the Board to the Coastal Commission.

Since the July 3 workshop, the July 17 hearing, and delivery of the Board's July 17, 2018, letter to the Coastal Commission, County staff and Coastal Commission staff have continued to discuss the outstanding concerns raised in the Board's letter. As a result, additional changes to the modifications were recommended by Coastal Commission staff and accepted by the Coastal Commission as part of certification of the GCP on August 10, 2018. However, as noted in this Board Letter's summary and discussed further below, the Coastal Commission was unwilling to grant all of the requests presented in the Board's letter.

***B. Coastal Commission Modifications Summary***

The Coastal Commission certified the LCP amendment regarding the GCP with 13 suggested modifications, which include the following:

- New text in the GCP labeling policies as "COASTAL" or "INLAND" (Modification No. 1).
- Nine new policies and development standards (Modification Nos. 2, 8, and 9, grouped by issue area and addressing natural resources stewardship, agriculture, parks, recreation and trails, land use, visual resources, and transportation, energy and infrastructure).

- Revisions to 29 individual policies, development standards, and actions (Modification Nos. 2, 3, 6, 8, 11, and 12, grouped by issue area and addressing natural resources stewardship, agriculture, parks, recreation and trails, land use, visual resources, and transportation, energy and infrastructure).
- Revision of six policies, development standards and actions, such that they would not apply in the Coastal Zone (i.e., they would only apply in the Inland Area where they are already in effect) (Modification Nos. 2, 3, 8, and 12, grouped by issue area and addressing natural resources stewardship, agriculture, land use, and transportation, energy and infrastructure).
- Addition of a note to all maps that depict the Coastal Zone Boundary (Modification No. 9).
- Additional text in Chapter 4: Parks, Recreation, and Trails, regarding trail designations and trail alignment narratives (Modification Nos. 4 and 5).
- Minor word change in Chapter 5: Land Use regarding the original Coastal Zone boundary adoption (Modification No. 7).
- Text revisions to the Site Design Hierarchy in Chapter 6: Visual Resources (Modification No. 10).
- Text revisions throughout the Article II amendments to implement the GCP (Modification No. 13).

**C. Outcome of County July 17, 2018, Letter Requests**

The following table summarizes the County’s requested modifications outlined in the July 17, 2018, letter to the Coastal Commission. Nine requests were granted, one request was partially granted or otherwise resolved, and three requests were not granted. (See Section D below.)

County Letter Request Number	Request Summary	Resolution
<b>1a</b>	Clarify in Article II modifications that removal of major vegetation for agricultural purposes shall not require a Coastal Development Permit if it complies with several defined standards.	Request not granted. See Section D below for more information.
<b>1b</b>	Revise Article II modifications to increase the historic timeframe for allowing the exemption for ongoing grazing and cultivation to 20 years.	Request granted.
<b>1c</b>	Revise Article II modifications to clarify and define what constitutes exempt activities pursuant to the historic/ongoing agriculture exemption, especially as they would incentivize regenerative agricultural practices rather than damaging ones (such as overgrazing).	While not specifically identifying “regenerative agriculture,” revised Article II modifications clarified that exempt activities include crop rotation, rangeland and soil enhancement, compost application, creation of pollinator habitat, irrigation and livestock watering system changes, rotational grazing, and pasture fencing. The increased timeframe also allows for greater flexibility to incorporate regenerative practices, including sustainable agricultural practices that promote the long-term health

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		and viability of the soil (GCP Policies AG-1.J and AG-1.K – both certified by the Coastal Commission as approved by the County).
<b>1d</b>	Revise Article II modifications to clarify the distinction between historic and new agricultural cultivation and grazing and provide consistency between Table 18-2 and the new Sections 35-430.D.2 and -4.	Request granted.
<b>2a</b>	Add low impact campgrounds and regenerative agriculture to examples of resource dependent uses in the second sentence of Policy NS-2, as modified for the Coastal Zone.	Low impact campgrounds added, regenerative agriculture not added.
<b>2b</b>	Add a definition of low impact campgrounds to Article II.	Request granted.
<b>3</b>	Restore “Rare” to Policy NS-4 regarding chaparral, and provide clarifying criteria to identify when stands of chaparral would be considered ESH.	Request not granted. See Section D below for more information.
<b>4 part 1</b>	Revise the modification to remove the detailed biological study requirements from the Article II amendment or, at the very least, relocate it to an appendix to Article II.	Request granted. Relocated to an appendix of Article II.
<b>4 part 2</b>	Revise Article II permit requirement modifications to: a. Allow County discretion to determine when a biological study is required. b. Limit biological study to the area of proposed disturbance. c. Not require biological study in areas of historic or ongoing grazing and cultivation.	Request granted.
<b>5</b>	Restore language to Dev Std NS-2 that would allow County full discretion to adjust riparian habitat buffers downward, case-by-case, consistent with Coastal Land Use Plan Policy 9-37.	Request not granted. See Section D below for more information.
<b>6</b>	Revise Article II modifications to identify ancillary residential accessory structures and home occupations as “principal permitted uses.”	Request granted.
<b>7</b>	Delete modified Policy LU-2 for the Coastal Zone and proposed process in Article II for making an economically viable use determination.	Request granted. Policy and regulations deleted.
<b>8</b>	Revise the modification to restore “to the extent feasible” to Policy REC-8 and strike language directing the county address implied dedications and prescriptive rights.	Request granted. Policy REC-8 was revised to reflect the language of the Coastal Act. The policy no longer mentions implied dedications or prescriptive rights.

**D. County July 17, 2018, Letter Requests Not Granted**

The following summarizes the County's requested modifications outlined in the July 17, 2018, letter, which the Coastal Commission did not grant.

**Request Number 1a.** *Clarify in Article II that the removal of major vegetation for agricultural purposes shall not require a CDP if it complies with the standards below, as determined by the Director of the Planning and Development Department.*

- *Does not occur on slopes of 30% 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 ESH areas (e.g., riparian corridors and wetlands).*
- *Does not result in the removal of protected trees.*

County staff testified at the Coastal Commission hearing that the request is intended to (1) provide balance between the three resources protected by the Coastal Act: environmentally sensitive habitats, agriculture, and public access to the coast, (2) support ongoing agriculture operations as new agriculture is most likely to be small expansions around existing operations rather than large new expansions of agriculture, which reduces the pressure to transition agricultural lands to other uses, and (3) acknowledge the good stewardship of Gaviota Coast landowners. In addition, because 92% of the Coastal Zone is located within the appeal jurisdiction, any Coastal Development Permit approved for new agricultural cultivation and grazing could be appealed to the Coastal Commission.

In 2010, the Coastal Commission adopted these standards as modifications to the County's LCP Amendment to reformat Article II into the Land Use and Development Code (LUDC). However, these modifications (along with other modifications to the LCP Amendment) were ultimately not accepted by the Board of Supervisors on February 1, 2011. Upon reconsideration of these standards at the August 10, 2018 Coastal Commission hearing, in response to the County's request, the Coastal Commission staff concluded that the action taken in 2010 was in error. According to Coastal Commission staff, these standards, if used to support a permit exemption, would essentially expand the definition of development in the Coastal Act, and is not supported by the Coastal Act. Therefore, the Coastal Commission staff concluded these standards are not consistent with the Coastal Act and would not recommend that the Coastal Commission approve them again. The Coastal Commission concurred.

However, the Coastal Commission and its staff discussed an alternative to the County's request regarding new agriculture: a narrow, focused Categorical Exclusion Order for new agriculture within the GCP planning area. The Coastal Commission Executive Director made a commitment on behalf of his staff to expeditiously process a focused, streamlined Categorical Exclusion Order, if applied for by the County which would exclude new agriculture meeting the standards listed above from the requirement to obtain a Coastal Development Permit. While a permit exemption allows a landholder to move forward with exempt land uses and development without a permit or consultation with County staff, a Categorical Exclusion Order requires a County process whereby a landowner requests a determination that a use or development is excluded before proceeding with the use or development. If carefully crafted, the Categorical Exclusion procedure for the landowner can be streamlined to minimize the procedure and avoid waiting periods or appeals. The ultimate decision to approve a Categorical Exclusion Order is made by the Coastal Commission. Few Categorical Exclusion Orders have been

approved by the Coastal Commission since the early years of the Coastal Act, and it is uncertain whether a streamlined Categorical Exclusion Order could be achieved for new agriculture in the Gaviota Coast Plan area. Staff is prepared to provide additional information should the Board wish to discuss this alternative further at the hearing.

***Request Number 3.*** Restore “Rare” to Policy NS-4 to clarify that the protections afforded to ESH only apply to “rare” native chaparral to reflect the County’s intent to protect the rare, and not the demonstrably secure, types of chaparral. In addition, the Board of Supervisors requests that the Coastal Commission provide clarifying criteria to identify when stands of chaparral would be considered ESH. Criteria should include the condition and integrity of the habitat, considering attributes such as patch size and connectivity, dominance by invasive/non-native species (the number of, and/or, percent cover of invasive/non-native plant species), the level of disturbance, the proximity to development, and the level of fragmentation and isolation.

The Coastal Commission did not restore “rare” to Policy NS-4, and did not add the requested criteria to the policy that would clarify when stands of chaparral would be considered ESH. Coastal Commission staff stated that the general language within the policy identifying common types of chaparral as ESH when “part of a large, contiguous area of native habitat” is appropriate, and more detailed descriptive criteria within the policy might be used to exclude chaparral that has been heavily disturbed by events such as fire, and which is still recovering. In addition, the biological study requirements, to be included within a new appendix, provides a list of required information to be included when assessing chaparral habitats that are similar to the criteria County staff requested to be added to the policy, including patch size and connectivity, presence of invasive/non-native species, area and type of disturbance, and proximity to development. Although the County’s specific request was not granted, revised findings approved by the Coastal Commission on September 13, 2018, provide several clarifications: (1) an area of a non-rare type of native chaparral and/or coastal sage scrub vegetation may be especially valuable because of its special nature or role in an ecosystem, and therefore constitute ESH, if it is part of a large, contiguous area of native habitat; (2) determinations of whether a particular area is ESH or not depends on site-specific characteristics and evidence, including whether a habitat area is so small and isolated or degraded that it is no longer sustainable; and (3) areas of vegetation clearance for the purpose of fuel modification required by the Santa Barbara County Fire Department for existing development would not constitute ESH and would be allowed to be maintained while fuel modification as part of new development would be allowed pursuant to Gaviota Coast Plan Policy LU-2 and Section 35-415. Staff believes the general criteria stated in the biological study requirements, together with the clarifications included in the revised findings, provides similar direction and flexibility for the County to assess when common types of chaparral would qualify as ESH.

***Request Number 5.*** Restore language to the policy that would allow the County full discretion to adjust riparian habitat (a.k.a. streams and creeks) buffers downward on a case-by-case basis, consistent with the buffer adjustment criteria of CLUP Policy 9-37 and Gaviota Coast Plan Dev Std NS-2, and make the corresponding revisions to Article II Section 35-440.E.

The Coastal Commission did not grant this request. However, the Coastal Commission clarified that riparian habitat buffers could be adjusted downward to allow reasonable use of a property if a strict application of the buffer would deprive a landowner of reasonable use. Such an adjustment could be made provided the County make a supplemental finding when approving a Coastal Development Permit that application of the policy would not provide an economically viable use of the property, that the proposed development is otherwise consistent with the applicable zoning, is the least environmentally damaging feasible alternative, and is the minimum use necessary to avoid a taking.

***E. New Modifications at August 10, 2018, Coastal Commission Hearing***

**Dev Std REC-3.** In the staff report dated July 26, 2018, Coastal Commission staff suggested a modification regarding public access at Hollister Ranch, specifically to add a new development standard Dev Std REC-3 to clarify that a fee shall be required as a condition of approval of a Coastal Development Permit for development of each parcel at Hollister Ranch, consistent with Sections 30610.3 and 30610.8 of the Public Resources Code (Coastal Act). The development standard would clarify an administrative practice that the County already implements to be consistent with these sections of the Coastal Act.

On August 7, 2018, Coastal Commission staff revised its suggested modification to require that the fee be paid for each Coastal Development Permit issued for development on Hollister Ranch. The revision would change the County's practice of requiring the fee only for permits for new single-family dwellings on vacant lots and instead require the fee for any development for which a permit is required, including accessory structures.

As this revision was made in the final days before the Coastal Commission hearing, the Board did not have an opportunity to review the change and offer comments. County staff requested at the Coastal Commission hearing that the Coastal Commission clarify whether the Commission intends for this fee to be required for all development, including agricultural development, or only for nonagricultural development.

In response to public comment over concerns that the fee would be used to support the recent proposed litigation settlement agreement regarding public access at the Hollister Ranch, the final sentence of the development standard was deleted by the Coastal Commission, such that the development standard would read as follows:

***Dev Std REC-3: Hollister Ranch Public Access.*** *In order to mitigate for the potential impacts to public access from the development of Hollister Ranch, a fee consistent with Sections 30610.3 and 30610.8 of the California Public Resources Code shall be required as ~~a each~~ a condition of ~~a each~~ coastal development permit issued for development in Hollister Ranch. ~~The required fee shall be paid to the California State Coastal Conservancy for use in implementing the public access program at Hollister Ranch.~~*

Since the Coastal Commission's hearing, legislation was introduced (Assembly Bill 2534) and passed by both houses of the California legislature proposing to amend the Public Resources Code to make clear that the fee assessed for development in Hollister Ranch is for each permit, not limited to development on vacant lots. The bill is awaiting signature by the Governor. The Governor has until September 30, 2018 to sign or veto the bill and P&D will provide an update to your Board at the October 16 hearing of the status of Assembly Bill 2534.

**Dev Std NS-2 and Article II Section 35-440.E.3.** Although the Coastal Commission did not grant the County the discretion to adjust riparian habitat buffers downward on a case-by-case basis, the Coastal Commission did grant a request by representatives of El Capitan Canyon Campground and Resort to recognize the existing creek and riparian setbacks that were approved under its Conditional Use Permit for all existing and approved development. This only applies to El Capitan Canyon Campground and Resort as it provides needed visitor serving accommodations on the Gaviota Coast.

**Fiscal and Facilities Impacts:**

Budgeted: Yes



Completion of the Coastal Commission certification process for the Gaviota Coast Plan is budgeted in the Board-approved Fiscal Year 2018-19 Long Range Planning Work Program. There are no facilities impacts.

**Special Instructions:**

P&D staff will fulfill noticing requirements.

The Clerk of the Board shall provide a copy of the executed resolution and the minute order to P&D, attention: David Villalobos.

**Attachments:**

1. Coastal Commission Action Letter dated September 14, 2018, Santa Barbara County Local Coastal Program Amendment No. LCP-4-STB-18-0039-1-Part B (Gaviota Coast Plan) with Modifications
2. Board of Supervisors Resolution Accepting the Coastal Commission's Certification of the Local Coastal Program Amendment with Modifications
3. County Letter to California Coastal Commission, dated July 17, 2018

**Authored by:**

Julie Harris, Senior Planner, Long Range Planning Division (805) 568-3543