

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

July 13, 2018

County of Santa Barbara
Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101

By email to sbcob@co.santa-barbara.ca.us

RE: Gaviota Coast Plan, 7/17/18 Agenda Item #3

Dear Chair Williams and Supervisors,

This office represents the Gaviota Coast Conservancy (GCC) and the Naples Coalition in this matter. The Gaviota Coast Plan (GCP) reflects the goals and objectives of the community developed with the input of a diverse range of stakeholders during the GavPac process, then refined with the expertise of County Staff and Planning Commissioners, and the input of the community at large. Now the California Coastal Commission (CCC) has weighed in, and as anticipated has proposed a series of modifications to the GCP's coastal zone policies and Coastal Zoning Ordinance (CZO) amendment. The Community Workshop convened by Chair Williams and Supervisor Hartmann was productive, and CCC Staff indicated a genuine willingness to work with the County in addressing the remaining issues of concern.

Throughout the long process of developing, refining, and perfecting the GCP, perhaps the most difficult task has been figuring out how to maintain and enhance the viability of coastal agriculture, while simultaneously ensuring that the Gaviota Coast's uniquely valuable biological resources are protected. This tension was evident at the Workshop, where the most significant outstanding issues concerned permitting for agriculture and how environmentally sensitive habitats (ESH) are defined. In our letter dated May 10, 2018, we proposed some modest solutions to address these issues that do not require carving out a new exemption for agriculture or changing the ESH definition favored by the Coastal Commission. We are encouraged that CCC and County staff are working on some changes, including clarifications to the definition of especially valuable native Chaparral, the exemption for historical agriculture and biological survey requirements, that help address the concerns we raised in our May 10th letter. We are eager to see the specific language being considered, and if possible provide specific feedback at the July 17th hearing.

In particular, we are eager to see proposed revisions to the suggested modifications as described under Issue 1 (permitting requirements for agriculture), Requests 2 and 3 (p. 5) to: (2) provide additional clarification and definition as to what constitutes exempt activities pursuant to the historic/ongoing agriculture exemption, especially as they would incentivize regenerative agricultural practices rather than damaging ones, and (3) clarify the distinction between historic and new agricultural cultivation and grazing.

Below is some clarifying language that GCC proposed in our May 10th letter on this issue, that may be helpful in this process of crafting at clarifying language.

Cultivated agriculture, orchards, and vineyards, historic legal use. Cultivated agriculture, orchards, and vineyards, where the agricultural activities occur within existing areas of ongoing cultivated agriculture, orchards, and vineyards and where there is evidence of ongoing agricultural use on the site within the previous 10* year period do not constitute “development” and therefore do not require a permit. The historic legal use encompasses associated agricultural activities within areas of historic use including crop rotation, soil enhancement, compost application, creation of pollinator habitat, irrigation system changes, and similar agricultural activities that support the historic legal use and enable the operation to respond to changing conditions. New or expanded cultivated agriculture, orchards, and vineyards are not exempt and shall be subject to the permit requirements of Table 18-2 (Allowed Land Uses and Permit Requirements for the Gaviota Coast Plan Area).

Grazing, historic legal use. Grazing, when located in existing areas of ongoing grazing, including the normal rotation of livestock from one pasture to another, and where there is evidence of ongoing grazing use on the site within the previous 10* year period does not constitute “development” and therefore does not require a permit. The historic legal use encompasses associated agricultural activities within areas of historic use including fencing for pastures¹, rangeland enhancement, compost application, livestock watering system changes, and similar agricultural activities that support the historic legal use and enable the operation to respond to changing conditions. New or expanded grazing areas are not exempt and shall be subject to the permit requirements of Table 18-2 (Allowed Land Uses and Permit Requirements for the Gaviota Coast Plan Area).

**we are open to the use of different time periods other than 10 years*

Additional clarity defining the scope of agricultural activities that are considered exempt as a historic legal use, particularly on historic grazing operations, is necessary to provide clarity to agriculturalists and their operations regarding when permits may be, or are not required.

We cannot overstate the importance of avoiding a repeat of the failed LUDC/CZO update process, in which years of effort and resources were tossed out with no resolution to conflicts between County practice and the existing certified LCP that were identified in the process, including the County’s uncertified practice of exempting new agriculture from permitting requirements. When the previous Board rejected the CZO as modified by the Commission, it did so with full knowledge that the same thorny issues, including the agricultural exemption, would re-arise with the then-draft GCP, and potentially in the context of a permit appeal or enforcement action (in which the existing

¹ Note the existing certified LCP exempts fences, walls, gates and gateposts in agricultural zones (CZO § 35-123.2).

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certified LCP, as interpreted by the CCC, controls). For this reason, retaining the status quo does not mean that the County can simply continue its past uncertified practice of exempting agriculture in the coastal zone.

We strongly urge the Board to direct County staff to continue to work diligently with CCC staff in resolving the remaining issues of concern, with a goal of achieving certification and final implementation of the Gaviota Coast Plan.

Respectfully submitted,

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/s/ Ana Citrin

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