

# LAW OFFICE OF MARC CHYTILO

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ENVIRONMENTAL LAW

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

*By hand delivery and by email to  
[sbcob@co.santa-barbara.ca.us](mailto:sbcob@co.santa-barbara.ca.us)*

RE: Las Varas Ranch Project, 4/17/12 Board Hearing, Item No. 2

Dear Chair Farr and Members of the Board,

This office represents the Gaviota Coast Conservancy (GCC) in this matter. During its consideration of the Las Varas Ranch Project, the Planning Commission reached an impasse regarding one question – specifically whether the County could require that the Applicant dedicate a trail easement somewhere other than where she has offered it. As explained by County Counsel at the last Planning Commission hearing, to answer this question the decision maker (be it the Planning Commission or the Board) must determine whether there is sufficient evidence in the record to support the exaction of a trail easement. As explained below, there is sufficient evidence to support the exaction of a bluff-top trail easement in this case, however that determination is premature because not all of the relevant evidence has been captured in the record and the EIR's analysis of the Project's impacts linked to the exaction is flawed and incomplete. Moreover, the exaction determination should not be made in isolation from the remainder of the Project, nor before the resolution of significant issues, including the need to recirculate the EIR due to new information introduced by the Applicant. Accordingly, we urge the Board to **send the Project back to Staff with direction to revise and recirculate the EIR** to address a) significant new information the applicant has introduced since the public comment period, b) fundamental errors in the EIR's analysis pertaining largely to the Project's impacts to recreational resources, and c) the impacts of alternative trail alignments located South of Highway 101.

The Applicant has taken the position that she will not fund additional environmental review of alternative trail alignments, however alternative trail alignments is only one of many issues that must be addressed in a revised EIR pursuant to the requirements of CEQA. The EIR requires revision and recirculation to address fundamental changes to the project objectives that the Applicant herself introduced to the Planning Commission, after the close of the DEIR public comment period. The project objectives serve a core function in the environmental review process of setting the range of alternatives that is the heart of CEQA. The Applicant's counsel disclosed that the principle objective of the project is estate planning, specifically to allow one or more parcels to be sold to meet anticipated estate tax payments while keeping the rest of the

ranch intact. The DEIR examined a Project with different objectives that included adjusting lot lines, designating residential development envelopes, and maintaining long-term continued agricultural use of the ranch, but not this broader estate planning purpose. The result of this overly narrow statement of objectives was an overly narrow range of alternatives identified and evaluated in the EIR. Alternative land use strategies to address the Applicant's estate planning objectives that avoid significant impacts are potentially feasible. Correcting these fundamental flaws, revealed by the Applicant's disclosure of significant new information, necessitates revision and recirculation of the EIR. Additionally, the EIR requires revision and recirculation to address other defects, including serious flaws in the recreational impact analysis. Finally, additional environmental review of alternative trail alignments is relevant to the determination of whether rough proportionality exists between the Project's impact and the dedication of a public trail easement. Accordingly, revision and recirculation of the EIR is plainly required to fulfill CEQA's mandates. If the Applicant refuses to fund this necessary additional review, the Board should direct Staff to prepare findings for denial.

The Santa Barbara trails community has proposed an alternative alignment for a trail easement that would connect to the vertical beach access trail easement offered by the Applicant, and would be as close to the ocean as feasible, consistent with adopted guidelines for completing the California Coastal Trail. GCC supports this alternative trail alignment, and believes it can be accomplished without significant adverse impacts to agricultural or biological resources. The lateral trail easement offered by the Applicant is located north of Highway 101, largely outside the coastal zone, does not connect to the vertical beach access trail offered by the Applicant, and is contingent on the County Parks Department funding and constructing a pedestrian bridge over Gato Creek. The Applicant-proposed alignment does not comport with the California Coastal Act, the County's Local Coastal Plan (LCP), or the California Coastal Trail guidelines.

Regardless of whether the Board prefers one alignment over another at this juncture, the Board should not make a determination regarding the legality of an exaction before reviewing the Project comprehensively and addressing the myriad defects in the EIR or incorporating significant new information that has arisen since the public comment period. If the Board were to determine now that an exaction is not legally justified, not only would that foreclose the possibility of *any* trail at Las Varas other than what the Applicant has offered, but it would set a precedent diminishing the County's ability to site Coastal Trail segments on private land elsewhere on the Gaviota Coast and throughout the County.

#### 1. The Exaction Determination Is Premature

The exaction question that the Board is being asked to consider arose in the midst of the Planning Commission's consideration of the Las Varas Ranch Project. The Commission had heard testimony on myriad issues, and at least three of the five Commissioners articulated significant concerns regarding the adequacy of the EIR, Project Findings, and Conditions with respect to issues both related and unrelated to trail alignment. Additionally, the Applicant

requested changes to the Conditions including that the Project Description be modified to include a Cabana at the mouth of Gato Creek, that development envelopes be expanded, and other significant modifications. The Applicant also disclosed significant new information regarding the Project's underlying purpose and core objective, which directly affects the adequacy of the EIR's alternatives analysis. Before resolving any of these critical issues, the Planning Commission reached an impasse regarding the question of whether the County is legally justified in exacting a trail easement in a location other than where the Applicant has offered it. A majority of the Commissioners articulated a preference to having a coastal trail segment south of Highway 101 (as opposed to North of Highway 101 where the Applicant has proposed it). A majority of the Commissioners also struggled with the exaction question because they felt they lacked adequate information.

The Board is in no better position than the Planning Commission to make a determination regarding the exaction question at this juncture. In fact the Board is in an even worse position because it lacks the benefit of having reviewed the Project in a comprehensive fashion, and having heard the specific concerns articulated during public comment and in Commission deliberations. Discussed further below, an informed decision on the exaction question can only be made after understanding these broader issues. Moreover, it is illogical for the Board to base the highly-fact specific determination regarding whether or not an exaction is warranted on an EIR and other project documents that are still evolving. In short, the Board would prejudice the integrity of its own finding were it to determine the exaction question in isolation, before being presented with the Planning Commission's recommended Project conditions and a complete and accurate EIR.

a. The EIR Is Flawed and Must Be Recirculated Before the County Determines the Exaction Question

The EIR's "purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made," protecting the environment as well as informed self-government. (*Citizens for Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52 Cal. 3d 553, 564 (emphasis in original)). Pursuant to this fundamental CEQA mandate, the Board must not make a decision regarding a fundamental component of this Project before fundamental defects, significant new information, and information central to the exaction determination are addressed in a revised and recirculated EIR. We urge the Board to send the EIR back to Staff with specific direction regarding these necessary revisions.

i. Newly Articulated Primary Project Objective

The Project Objectives articulated in the EIR do not reflect the primary purpose of the Project, as was subsequently defined by the Applicant before the Planning Commission. Thus the EIR conflicts with CEQA's requirement that the EIR contain clearly written statement of

objectives, including the underlying purpose of the project, to guide the development of a reasonable range of alternatives. (See CEQA Guidelines § 15124 (b)). Defining the objectives of the project too narrowly has the potential to result in the EIR evaluating an inadequate range of alternatives. (See e.g. *City of Santee v. County of San Diego* (1989) 214 Cal. App. 3d 1438). “A major function of an EIR ‘is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.’ (See *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal. App. 4th 1437, 1456). The alternatives analysis is the core of CEQA, and forms the foundation for CEQA’s “substantive mandate” which prohibits approval of projects “if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” (*Citizens for Goleta Valley*, 52 Cal. 3d at 564-565; Pub. Res. Code § 21002).

The Project Objectives articulated in the EIR’s Project Description are as follows:

- Reduce the total number of existing lots from nine to seven and designate a residential development envelope or potential development area for each lot;
- Reconfigure the boundaries of the lots to achieve a suitable balance between residential, agricultural, open space and natural resource values;
- Allow for coastal recreational opportunities;
- Maintain long-term continued agricultural use of the ranch property;
- Incorporate a site design that reflects and is compatible with the scenic and rural character of the historic Las Varas Ranch and the Gaviota Coast;
- Minimize potential visibility of residential development areas from public transportation corridors;
- Minimize environmental impacts and preserve and/or restore wildlife habitats, wildlands, and other coastal resources; and
- Allow upper canyon wildland areas to remain intact and largely undisturbed.

(FEIR p. 2-1). The applicant subsequently revised a central component of the Project Objective by adding estate planning as the primary objective of the Project. In letters and testimony submitted to the Planning Commission, the Applicant identifies the purpose of the Project as estate planning – specifically that the Applicant proposed the Project in order to create lots that could be sold to meet the anticipated estate tax obligations, keeping the remainder of the ranch intact. (See e.g. Petrovich PC Letter<sup>1</sup>, pp. 2, 11; Petrovich PC Trails Letter p. 1).

Here, omitting the primary project objective from the EIR resulted in the identification of an inadequate range of alternatives. Specifically, alternatives including imposing an

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<sup>1</sup> The Applicant’s Attorney, Susan Petrovich of Brownstein, Hyatt, Farber, Shreck, submitted two letters to the Planning Commission in advance of the 1/18/12 hearing dated 1/13/12 (referred to herein as “Petrovich PC Letter” and “Petrovich PC Trails Letter”) that detail the Applicant’s position on a range of issues.

agricultural conservation easement over all or most of the Project site is a well-established and recognized estate planning tool for reducing estate tax liability and simultaneously preserving the family farm. (See Exhibit 1, Conservation Options for Heirs to Land). Specifically, pursuant to section 2055(f) of the Internal Revenue Code, a landowner can donate a perpetual conservation easement to a public charity such as a land trust or to a governmental entity, and deduct its value from the taxable value of the estate. (*Id.*) Further, Internal Revenue Code section 2031(c) creates another benefit for donation of easement that can reduce the taxable value of an estate by an additional amount up to \$500,000. (*Id.*) Reducing the value of the land through such an encumbrance reduces its basis for estate tax purposes, so the tax bill is less and the ranch can survive as a whole. State, federal and private funds are available to compensate landowners for part or all of the value of conservation easements, to either compensate the current generation or fund future tax expenses. The Land Trust for Santa Barbara County holds conservation easements to protect agricultural land throughout Santa Barbara County. (Exhibit 2). The Land Trust's website describes this process as follows:

Our easements make sure the land is kept in open space for agricultural use, and prevent it from being converted for residential or commercial development. Each easement is negotiated with the landowner. Some easements are purchased by the Land Trust. Others are donated, qualifying the owner for federal and state tax incentives. The Land Trust works with ranch and farm owners to prepare qualifying easements, and we are then responsible for annual monitoring to ensure that easements are followed by the current and future owners of the land.

Examples of conservation easements the Land Trust holds on the Gaviota Coast include the Freeman Ranch, Rancho Las Cruces, Rancho Dos Vistas, La Paloma Ranch, and El Capitan Ranch. (Exhibit 2).

A conservation easement approach at Las Varas appears to be a feasible means of satisfying the primary project objective, as well as a majority of the remaining project objectives presented in the EIR, while avoiding or reducing impacts to agricultural, biological, cultural, and visual resources. While the revised EIR might ultimately conclude the conservation easement alternative is infeasible<sup>2</sup>, the EIR is required to identify and evaluate it. (See *In re Bay-Delta* (2008), 43 Cal. 4th 1143, 1165 (“[A]n EIR should not exclude an alternative from detailed consideration merely because it “would impede to some degree the attainment of the project objectives”. . . [and] need not study in detail an alternative that is infeasible or that the lead agency has reasonably determined cannot achieve the project's underlying fundamental purpose.”).

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<sup>2</sup> It is worth noting that “[t]he agency may not simply accept at face value the project proponent's assertions regarding feasibility. . . . [and t]he applicant's feeling about an alternative cannot substitute for the required facts and independent reasoning.” (*Save Round Valley Alliance*, 157 Cal. App. 4th at 1458).

The EIR's omission of a conservation easement alternative and other potentially feasible alternatives that satisfy the newly revealed primary project objective is particularly troubling because none of the alternatives that the EIR analyzes in detail are capable of reducing the Project's significant impacts to acceptable levels, in part because they all retain the proposed lot configuration. A legally adequate EIR "must produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned." (*San Bernardino Valley Audubon Society v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750-751). The narrow range of alternatives discussed in the EIR fails to meet this standard for adequacy, and precludes the County from effectuating CEQA's substantive mandate that agencies may not approve a project with significant environmental impacts if there is a feasible alternative that avoids or substantially lessens those impacts. (Pub. Res. Code § 21002).

CEQA compels recirculation of a revised EIR for public comment to analyze the agricultural conservation easement alternative because it is a new feasible alternative considerably different from others previously analyzed that would clearly lessen the significant environmental impacts of the project. (*See* CEQA Guidelines § 15088.5 (a)(2)). CEQA also compels recirculation to correct fundamental flaws including the EIR's failure to articulate the project's underlying purpose, overly narrow statement of project objectives, and overly narrow range of alternatives. (*See Id.*, subd (a)(4); *see also Save Round Valley Alliance*, 157 Cal. App. 4th at 1465).

#### ii. Fundamental Errors in the Recreational Impact Analysis

The EIR incorrectly concludes that the Project, including the eventual construction of houses on the coastal bluff, will not result in significant unmitigable impacts to recreation. (*See* FEIR pp. 4.10 -11 – 4.10 – 15). The EIR's analysis and conclusions regarding these impacts however is premised largely on erroneous assumptions, including assumptions regarding the adequacy of proposed mitigation measures, and generally lack robust and independent analysis as required by CEQA.

##### 1. Impact REC-1: Conflicts with Established Recreational Uses

The EIR erroneously concludes that Impact REC-1, Conflicts with Established Recreational Uses, is not significant. First, the EIR improperly diminishes the impact to existing public access and recreational use of Edward's Point by stating that the use is "unauthorized". (*See* FEIR p. 4.10-11). CEQA requires that a Project's impacts be evaluated on the physical conditions present on the ground – the legal status of a particular condition is not relevant to the EIR's analysis and must not be used to alter the baseline from which impacts are assessed. (*See Riverwatch v. County of San Diego* (1999) 76 Cal. App. 4<sup>th</sup> 1428, 1452 (The baseline must describe the existing conditions in the project area. "How those conditions came to exist, and whether the past actions of third parties were properly authorized, may be of interest to resource

agencies for enforcement actions but *are not pertinent to the proposed project.*” (emphasis added)). The EIR must be revised to clarify that the legal status of existing public use is irrelevant for purposes of the impact assessment, and revise the impact analysis accordingly.

The FEIR admits that “[t]here is no data indicating the total number of surfers that access this beach in any given year” and instead relies on anecdotal evidence largely from the Applicant. (*Id.*). In fact observations that we have conducted from the beach at and near Edward’s Point, and at the informal parking area used by members of the public to access the Project site for recreational purposes, show that public use is more substantial than the EIR recognizes, and that not only surfers make use of this informal beach access route, but fishermen, hikers, and even family picnickers do as well. Discussed in the following section, the EIR must be revised to accurately characterize existing use, which will require that Staff gather evidence independent of the Applicant.

The EIR also incorrectly concludes, relying on a number of erroneous assumptions and without factual support, that the Applicant’s proposed vertical access easement mitigates the loss of the existing beach access routes. The EIR acknowledges that “[r]elying upon the County to fund and construct the necessary improvements [for beach access] would potentially result in a temporal loss of beach access due to a lack of funding, as residential development on the two coastal lots before construction and operation of the trail would curtail the ability for surfers to continue accessing Edwards Point as they do currently.” (FEIR p. 4.10-12). Indeed due to current funding shortfalls at the County, this temporal loss of beach access is likely to last for many years or even decades, and may in fact be permanent. In addition to securing funding, it also requires discretionary approval of an easement by UPRR, which may be denied or experience prolonged delays<sup>3</sup>. With sea level rise, it is conceivable the beach may largely disappear before the beach trail is perfected, and at least there will be increased periods of time when the beach is impassible due to higher tides. Additionally, even assuming that the vertical access trail is completed and open to the public before construction begins, the EIR acknowledges that “[d]uring winter months, the beach would potentially be impassible during periods of high tides due to its narrow width in places, though this would not prevent surfers from reaching the point through the water instead.” (FEIR p. 4.10-12).

It is obvious the EIR is uninformed about both the pattern of public use of Edwards Point for surfing (where the long walk from the access point necessitates walking several miles in and out with a surfboard and dry clothing) and ignorant of the physical effort, risk and logistics of long distance paddling of a surfboard suited to the wave at Edwards Point. The EIR’s analysis and conclusions fail to consider is that Edwards Point is most heavily used in the winter months on big-surf days when the beach is most likely to be impassible, that paddling nearly a mile against the current and through high-surf is a very significant obstacle to the public’s ability to

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<sup>3</sup> Although the County may be able to condemn access through the culvert, given the aforementioned funding shortfalls, this is an unlikely outcome.

surf Edward's, and that moreover surfers would need to leave their belongings on the beach nearly a mile from where they will be surfing, increasing the risk of property theft, damage, and/or loss along with increased risks from surfing large waves in a remote area far removed from safety supplies, dry clothes, food and water. Additionally, the non-surfing public would need to hike  $\frac{3}{4}$  of a mile from the proposed parking area to the beach (EIR p. 2-7) and then, during low and medium tidal conditions, hike nearly a mile from the railroad undercrossing to Edwards Point (EIR p. 4.10-12), so even during summer months public access to Edward's Point is substantially impeded. During higher tidal conditions, non-surfer access is prohibited since the sand and beach cobbles are under the water during any season.

With respect to Impact REC-1, the EIR must be revised to clarify that the Applicant's proposed vertical access trail is patently insufficient to mitigate the Project's impacts on existing coastal access and recreational use of Edward's Point, properly characterize the residual significant impact, and incorporate the dedication of an easement that would ensure that future residential development will not significantly impact that use.

## 2. Impact REC-2: Effects on the Quality and Quantity of Existing Recreational Opportunities

The EIR's analysis of Impact REC-2, Effects on the Quality and Quantity of Existing Recreational Opportunities erroneously concludes that mitigation limiting the siting, bulk, mass, color, etc. of the bluff-top development mitigates the significant impact resulting from diminishing the quality of the recreational experience at El Capitan State Beach and Edward's Point surf-break and adjacent beaches. As acknowledged in the EIR, residential development on the coastal bluff has the potential to conflict with the existing rural, minimally developed character of this portion of the coast. (FEIR p. 4.10-13). It appears obvious that constructing a series of two-acre residential compounds on an undeveloped coastal bluff will cause significant and unavoidable impacts to the existing rural minimally developed character of the coast, however the EIR concludes otherwise. This conclusion is specious and must be reevaluated. Additionally, the analysis of Impact REC-2 fails to discuss the additional significant adverse impact to the quality and quantity of existing recreational opportunities at Edward's Point and beach fronting the Project site caused by future occupants of the Project site. These future occupants include residents of the seven single family residences and associated structures, their visitors, guests, and employees, as well as agricultural employees working on the site and inhabiting agricultural employee dwellings that are not limited by the currently proposed Project. Adding this number of additional people utilizing the beach and surfing at Edward's Point could easily overwhelm the surf break which can only accommodate several surfers at any given time, and significantly alter the existing experience of the public recreating on the beaches fronting the Project site. The EIR must be revised to identify, analyze, and mitigate this additional significant recreational impact.



### 3. Impact from Inconsistency with Public Access and Recreation Policies

The EIR's policy consistency analysis with respect to recreational impacts is flawed, and the EIR is fatally flawed for failing to identify and mitigate the Project's significant unmitigated impacts resulting from conflicts with public access and recreation policies in the County's certified LCP and the Coastal Act. (*See Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4<sup>th</sup> 903). First, as a general matter, the Project does not maximize public access consistent with the overarching public access mandate of the Coastal Act, derived from the California Constitution. (*See* Pub. Res. Code § 30210; Cal. Constitution, Article 10, § 4). Specifically it includes a lateral trail easement largely outside the coastal zone that is contingent on the County Parks Department funding a pedestrian bridge, a vertical access easement that does not connect to the lateral easement, and which is linked to construction of the first residence and reliant on various approvals and County-funded improvements. The Project also clearly conflicts with specific requirements in the County's LCP. CLUP Policy 7-3 and CLUP Policy 7-25 are the clearest examples:

CLUP Policy 7-3: For all new development between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory. In coastal areas, where the bluffs exceed five feet in height, all beach seaward of the base of the bluff shall be dedicated. In coastal areas where the bluffs are less than five feet, the area to be dedicated shall be determined by the County, based on findings reflecting historic use, existing and future public recreational needs, and coastal resource protection. At a minimum, the dedicated easement shall be adequate to allow for lateral access during periods of high tide. In no case shall the dedicated easement be required to be closer than 10 feet to a residential structure. In addition, all fences, no trespassing signs, and other obstructions that may limit public lateral access shall be removed as a condition of development approval.

In our DEIR comments we noted that this policy requires an easement sufficient to allow passage during high tide, which on this property would require a bluff-top easement. In response to our comment, the FEIR included a requirement that the applicant dedicate a lateral easement along the beach, however failed to include an easement along the bluff. The Responses to Comment (RTC) explains that *although the policy technically requires the dedication of a bluff-top easement in cases such as this, the County's practice has been not to require bluff-top easements.* (*See* RTC 17-23). The RTC adds that in this case, there is not a sufficient nexus to exact a bluff-top easement. The EIR however includes no explanation of this conclusory statement in violation of CEQA's standards for responses to comment. (*See* Guidelines § 15088 (c) (specifying with respect to responses to comment that "[t]here must be a good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.")). Contrary to the RTC's bare assertion that there is no nexus to exact a bluff-top easement, in the case of Las Varas Ranch, an adequate nexus does exist for exacting a bluff-top

trail, as discussed at length below. Regardless of the exaction question, a policy conflict exists and must be recognized in the EIR and mitigated to the extent feasible.

For Adopted PRT Trails: CLUP Policy 7-25: Easements of trails shall be required as a condition of project approval for that portion of the trail crossing the parcel upon which the project is proposed.

Discussed at length in our DEIR comments, this policy requires the dedication of an easement along proposed parcels 1 and 2, which are the parcels that the PRT trail crosses. RTC 17-21 wholly ignores the requirement that the easement cross the *parcel* crossed by the PRT mapped trail. Instead the RTC and Planning Commission Staff Report erroneously concludes that “Given the coarseness of the PRT map showing the general location of the coastal trail, the intent of CLUP Policy 7-25 can be met by siting a lateral trail along another portion of the project site where fewer impacts to agricultural and biological resources would result.” (Planning Commission Staff Report, p. 39). The policy language of CLUP Policy 7-25 is clear and unambiguous, and accordingly there is no basis for Staff’s creative interpretation. (*See Terminal Plaza Corp. v. City and County of San Francisco* (1986) 186 Cal. App. 3d 814, 826 (while agencies charged with enforcing their own policies are entitled to great weight, courts are bound to give effect to statutes according to the usual, ordinary import of the language employed in framing them)).

The Project’s conflicts with the above policies can be resolved by requiring the applicant to dedicate a lateral trail easement across the coastal bluffs. Clearly the siting of this easement must be carefully done and analyzed to avoid significant impacts to biological and agricultural resources, but the County cannot avoid its obligation to mitigate significant impacts and avoid policy inconsistencies based on the above unsubstantiated assertions.

### iii. Environmental Review of Alternative Trail Alignments

It is undisputed that the EIR does not adequately describe or analyze the impacts of alternative trail alignments. Specifically, at the 2/8/12 hearing, the Planning Commission unanimously agreed, as did Dianne Black, that if the County were to consider locating a trail easement somewhere other than where the Applicant has offered them, revision and recirculation of the EIR would be required. Moreover, the precise location and scope of the easement (i.e. a narrow earthen path to accommodate hikers, mountain bikers, and equestrians vs. a wide paved trail to accommodate road bikes and be ADA accessible), are relevant to the rough proportionality analysis required by *Dolan* that the County make an individualized determination that the required dedication is related in both nature *and extent* to the impact of the proposed development. (*Dolan v. City of Tigard* (1994) 512 U.S. 374, 391 (emphasis added)). Accordingly, alternative trail alignments including the bluff-top alignment proposed by the trails community, must be specifically identified and thoroughly analyzed in a revised EIR.

b. The Exaction Issue Must Be Evaluated Comprehensively after the EIR Is Revised and Project Description and Conditions are Resolved

Making an informed decision on the exaction question requires that the Board understand the whole of the Project, which cannot occur if the exaction question is looked at in isolation. Specifically, the Board must understand the impacts of the Project to make a determination as to whether a nexus exists between those impacts and a trail easement condition. Understanding the Project's impacts in turn requires that the Board understand the Project Description. Unlike the typical development proposal, in this case what constitutes "the Project", and accordingly its impacts, are frequently mischaracterized and subject to misunderstanding. For example, the Applicant asserts that there is no basis for an exaction of *any* public trail, "[b]ecause these projects are of such low impact upon the environment, merging the total number of parcels from nine (9) to seven (7) and placing a size limit upon the residential building envelope, there is no rational basis or rough proportionality upon which to base a requirement that the applicant offer to dedicate any public trail through this agricultural land." (Petrovich PC Letter, p. 3). This statement reflects the fact that the Applicant does not view future residential development as part of the Project. The EIR however demonstrates, and County Counsel has clarified, that the Project necessarily includes residential development because it is the reasonably foreseeable future consequence of the Project which, among other things, designates residential development envelopes and includes infrastructure to serve future residential development. (*See Laurel Heights Improvement Ass'n v. UC Regents* (1988) 47 Cal. 3d 376, 396.) Additionally, while the Project reduces the overall number of lots, it increases the number of developable lots in the Coastal Zone (where the proposed alternative trail alignments would be located). (*See Board Letter*, p. 2 "the project would have the effect of shifting one developable lot from the north side of the highway to the south side of the highway.") Finally, it should be noted that the vertical access trail touted by the Applicant as a key public benefit of this Project is itself expressly linked to the construction of the first home on the coast. (FEIR p. 2-8 (construction of the parking lot which enables the public to utilize the vertical access trail "would occur concurrent with construction of the first residential development south of the highway.")).

Not only is the Project Description frequently mischaracterized, it is actually still in flux. For example there are various modifications to the Project Description and Conditions discussed at the Planning Commission that the Commission has not yet deliberated, and may or may not ultimately recommend. In fact the Applicant has requested extensive revisions to the Conditions of Approval including a request for a cabana near the mouth of Gato Creek and the expansion of development envelopes (*see Petrovich PC Letter*, pp. 4-5 and attached Requested Revisions to Conditions of Approval) which bear on the Project's impacts and thus the determination of whether a nexus exists between those impacts and a trail easement condition. For example, the EIR determines that "future residential development of the ranch south of U.S. Highway 101, especially along the two bluff top/ocean front parcels, would likely hinder routes previously used by the public to access the point due to heightened human presence associated with the residences" (FEIR p. 4.10-11), and "[f]uture residential development on some of the more visible

parcels from this location, including Parcel 1, Parcel 6, and Parcel 7, would have the potential to degrade the quality of the experience of the recreating public at El Capitan State Beach” (FEIR p. 4.10-13). Locating a cabana at the mouth of Gato Creek in the immediate vicinity of Edward’s Point, and increasing the size of the development envelopes which could shift development closer to the bluff and/or into more visible locations, would further hinder existing routes used by the public to access the beach, and further diminish the quality of the recreational experience.

## 2. Exaction of a Bluff-top Trail Easement Is Legally Justified

Pursuant to the *Nollan/Dolan* test, the County can legally exact a trail easement if it determines that substantial evidence in the record supports a determination that the easement is related in both nature and scope to the impacts of the Project. (*See Dolan*, 512 U.S. at 391; *Ocean Harbor House Homeowners Ass’n v. CCC* (2008) 163 Cal. App. 4<sup>th</sup> 215, 229). As we articulated above, the Board would be better positioned to make a determination on the exaction question after the County makes necessary revisions to the EIR and the Planning Commission concludes its process. However, we believe the record as it stands does contain substantial evidence that the Project will impact recreation and public access, and that the dedication of a bluff-top trail easement is sufficiently related in both nature and extent to that impact. Specifically, the Project will have several impacts that would be mitigated by the dedication of a bluff-top trail easement. First, members of the public undisputedly use the beach fronting the Project site, many of them accessing it by informal access across Las Varas Ranch from the El Capitan underpass located West of the Project site. The EIR describes this access as follows:

Historical access to this local surfing destination has been by means of unauthorized access through private ranch property since there is currently no established public access to the beach in the vicinity of the project site. This commonly involves parking on the ocean side of the El Capitan Ranch interchange and walking east along the railroad tracks before dropping down to Edwards Point near Gato Creek.

(FEIR p. 4.10-11).

Notwithstanding the inadequate evidence in the EIR regarding the number of users and types of use discussed above, the EIR does provide an evidentiary basis for a finding that the Project impacts recreation. For example, the EIR states that “future residential development of the ranch south of U.S. Highway 101, especially along the two bluff top/ocean front parcels, would likely hinder routes previously used by the public to access the point due to heightened human presence associated with the residences.” (FEIR p. 4.10-11). Additionally the EIR states that “[r]elying upon the County to fund and construct the necessary improvements would potentially result in a temporal loss of beach access due to a lack of funding, as residential development on the two coastal lots before construction and operation of the trail would curtail the ability for surfers to continue accessing Edwards Point as they do currently.” (FEIR p. 4.10-

12). These statements identify an impact of the Project on existing public recreation, that is directly mitigated by the dedication of a trail easement along the bluff that allows for continued public access to Edward's Point from the El Capitan underpass area to the West.

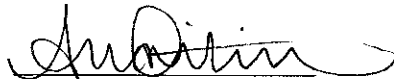
Moreover, the Project site is located a mere 1 ½ miles east of El Capital State Beach. (FEIR p. 4.1-1). As stated above, the EIR provides that “[f]uture residential development on some of the more visible parcels from this location, including Parcel 1, Parcel 6, and Parcel 7, would have the potential to degrade the quality of the experience of the recreating public at El Capitan State Beach” (FEIR p. 4.10-13). The EIR concludes this impact is potentially significant but mitigable. (See FEIR p. 4.10-13). The EIR identifies a similar impact with respect to members of the public using the beach fronting the Project site, Eddie's surf-break, as well as kayakers, which the EIR also concludes is potentially significant but mitigable. (See FEIR 4.10-14). Mitigation for these impacts is described in Mitigation Measure REC-2, which relies on siting, massing, building materials, color, and similar requirements for future residential development, to be reviewed by CBAR prior to the issuance of Coastal Development Permits. (See *Id.*, pp. 4-10- 4-11). GCC and others sharply criticized the adequacy of this measure to mitigate the enormous visual (and associated recreational) impact of placing two acres of contiguous residential development atop the coastal bluff in a highly scenic rural and largely undeveloped area. It is well within the Board's discretion to conclude that this mitigation is insufficient to resolve the impact, and that additional mitigation in the form of a bluff-top trail easement is required. (See *Ocean Harbor House*, 163 Cal. App. 4<sup>th</sup> at 232).

### 3. Conclusion

For the reasons stated above, and the additional reasons stated in our DEIR comment letter and letters to the Planning Commission, the EIR is flawed and requires revision and recirculation. While we believe that the exaction of a coastal bluff trail is legally authorized, at this point in time, the only action we believe the Board should take is directing revision and recirculation of the EIR. Once the EIR is complete, the Planning Commission can conclude its deliberations and make any appropriate recommendations to the Board.

Sincerely,

LAW OFFICE OF MARC CHYTILO



Ana Citrin

Marc Chytilo

For Gaviota Coast Conservancy



1660 L St NW, Suite 1100, Washington, DC 20036  
TEL 202-638-4725 FAX 202-638-4730 EMAIL rshay@lta.org

## Conservation Options for Heirs to Land

The donation of a conservation easement by a landowner can be an effective means to reduce estate taxes on lands. Section 2055(f) of the Internal Revenue Code (I.R.C.) allows donations of qualifying easements to a public charity such as a land trust to be deducted from the taxable value of an estate.

Section 508 of Public Law 105-34 (the Taxpayer Relief Act of 1997) created another benefit for donations of easements, I.R.C. section 2031(c). This benefit can reduce the taxable value of an estate an additional amount, up to \$500,000. This section of the code can be confusing because of the way it is worded. But it does work, and the Internal Revenue Service (IRS) has confirmed its operation in letter rulings and in practice. Taken together, 2055(f) and 2031(c) create a powerful incentive for conservation which no one who owns land with public value for open space, agricultural preservation, wildlife habitat or recreation should ignore.

Section 6007(g) of the Internal Revenue Service Reform Act (H.R. 2676), signed into law on July 22, 1998, extended these benefits in a new way. **Under this provision, when a landowner dies without having donated a conservation easement, his or her heirs may be allowed to elect to donate a conservation easement on the inherited lands and get these estate tax benefits *post-mortem*.**

Getting this *post-mortem* option requires qualifying for the 2031(c) benefit, and this requires some attention to detail. These provisions have requirements beyond those that qualify conservation easements for income tax deductions under I.R.C. 170(h). Heirs' ability to make a post-mortem donation will also be affected by state law (see below).

### I.R.C. 2031(c)

Section 2031(c) of the Internal Revenue Code allows beneficiaries to exclude from the taxable estate up to 40% of the otherwise taxable value of land subject to a qualifying conservation easement. The exclusion is limited to no more than \$500,000.

Under I.R.C. 2031(c), the percentage of land value excluded from an estate is reduced when the easement itself is worth less than 30% of the total value of the land.

Retained development rights are fully subject to estate tax, but payment of the tax can be deferred for up to two years.

#### WHAT LAND QUALIFIES?

As passed in 1997, IRC 2031(c) applied only to certain geographic areas near metropolitan statistical areas, national parks, federally-designated Wilderness Areas, or Urban National Forests (a designation of the U.S. Forest Service). But section 551 of the tax bill enacted in 2001 (H.R. 1835, P.L. 107-16) eliminates those restrictions, **making property anywhere in the United States eligible**. That law also makes it clear that the values to be used to determine what percentage of the property's value is encumbered by the easement are the values at the time of donation.

The land must have been owned by the decedent or a member of his family for three years prior to death. Property subject to a mortgage is eligible for the 1997 exclusion only to the extent of the net equity in the property. The value of structures cannot be counted in any way in applying these provisions -- only the value of the land.

Generally, the value of rights retained to use the land for commercial purposes cannot be excluded from the taxable estate. However, the value of retained rights that are "subordinate to and directly supportive of the use of land as a farm" may be excluded. Such uses include timber cultivation and harvest.

#### WHAT EASEMENTS QUALIFY?

To qualify for these benefits, easements must first qualify for a deduction under section 170(h) of the I.R.C. They must be perpetual conservation easements, donated to a public charity such as a land trust, or to a governmental entity. The easement must protect outdoor recreation or education resources, wildlife habitat, or open space "for the scenic enjoyment of the general public or in fulfillment of a clearly delineated public conservation policy." Easements solely for the purpose of historic preservation qualify under section 170(h), **but they do not qualify for the benefits of IRC 2031(c)**.

To qualify for IRC 2031(c), **an easement must also prohibit all but "de minimus" commercial recreational activities**. The authors of the provision, however, did specify in the legislative history of the 1997 bill that they did not intend hunting or fishing to be considered "commercial recreational activities."

#### WHO CLAIMS THE BENEFIT?

IRC 2031(c) can be used for a conservation easement donated in a will or prior to death. But where it is the heirs who are making the donation, the executor must make an irrevocable election to take these benefits. Such an election can be made only if the easement is placed on the land by the executor or beneficiaries before the filing of estate taxes -- generally nine months from the death of the decedent. **Land excluded from**

**estate tax under this provision will receive a carryover basis rather than a stepped-up basis for purposes of calculating any gain on a subsequent sale.**

WHEN WILL THESE PROVISIONS GO INTO EFFECT?

All of these provisions are now in effect.

WHEN WILL WE KNOW MORE?

The Internal Revenue Service will eventually write regulations interpreting these new provisions, and providing further guidance to those seeking to use them. But it will probably be years before such regulations are issued. There have been several private letter rulings confirming the operation of IRC 2031(c). These can be accessed on [www.LTAnet.org](http://www.LTAnet.org), LTA's Web site for Sponsor member land trusts.

WHAT ELSE SHOULD I KNOW?

The existence of the post-mortem option is no substitute for good estate planning by a landowner. **The power of an executor to make a post-mortem donation of an easement may be limited by state probate law<sup>1</sup>**, and a disagreement among heirs could easily frustrate the use of these provisions to preserve family lands from development. In addition, good estate planning by a landowner can yield substantial additional benefits including income tax deductions under I.R.C. section 170(h), which are not allowed in cases where estate tax benefits are taken for easement donations made post-mortem.

Landowners should always consult a qualified attorney in dealing with the particulars of their own situation.

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<sup>1</sup> For information on state laws and the ability to make a post-mortem donation, attorneys should see Robert Levin's article in Tax Notes, V. 89, Number 5, October 30, 2000, p. 661 et seq. Available at [www.ltanet.org/objects/view.acs?object\\_id=11140](http://www.ltanet.org/objects/view.acs?object_id=11140) on LTAnet, LTA's Web site for Sponsor member land trusts.



**TITLE 26 > Subtitle B > CHAPTER 11 > Subchapter A > PART III > Sec. 2031(c) – “The American Farm and Ranch Protection Act “**

**Sec. 2031. - Definition of gross estate**

**(c)** Estate tax with respect to land subject to a qualified conservation easement

**(1)** In general.-- If the executor makes the election described in paragraph (6), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the lesser of -

**(A)** the applicable percentage of the value of land subject to a qualified conservation easement, reduced by the amount of any deduction under section 2055(f) with respect to such land, or

**(B)** the exclusion limitation.

**(2)** Applicable percentage.-- For purposes of paragraph (1), the term "applicable percentage" means 40 percent reduced (but not below zero) by 2 percentage points for each percentage point (or fraction thereof) by which the value of the qualified conservation easement is less than 30 percent of the value of the land <sup>[1]</sup> (determined without regard to the value of such easement and reduced by the value of any retained development right (as defined in paragraph (5))). The values taken into account under the preceding sentence shall be such values as of the date of the contribution referred to in paragraph (8)(B).

**(3)** Exclusion limitation.-- For purposes of paragraph (1), the exclusion limitation is the limitation determined in accordance with the following table: In the case of estates of The exclusion decedents dying during: limitation is: 1998 \$100,000 1999 \$200,000 2000 \$300,000 2001 \$400,000 2002 or thereafter \$500,000.

**(4)** Treatment of certain indebtedness.--

**(A)** In general.-- The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

**(B)** Definitions.-- For purposes of this paragraph -

**(i)** Debt-financed property.-- The term "debt-financed property" means any property with respect to which there is an acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

**(ii)** Acquisition indebtedness.-- The term "acquisition indebtedness" means, with respect to debt-financed property, the unpaid amount of -

**(I)** the indebtedness incurred by the donor in acquiring such property,

**(II)** the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

**(III)** the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, and

**(IV)** the extension, renewal, or refinancing of an acquisition indebtedness.

**(5) Treatment of retained development right.--**

**(A)** In general.-- Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

**(B)** Termination of retained development right.-- If every person in being who has an interest (whether or not in possession) in the land executes an agreement to extinguish permanently some or all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

**(C)** Additional tax.-- Any failure to implement the agreement described in subparagraph (B) not later than the earlier of -

**(i)** the date which is 2 years after the date of the decedent's death, or

**(ii)** the date of the sale of such land subject to the qualified conservation easement, shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following such date.

**(D)** Development right defined.-- For purposes of this paragraph, the term "development right" means any right to use the land subject to the qualified conservation easement in which such right is retained for any commercial purpose which is not subordinate to and directly supportive of the use of such land as a farm for farming purposes (within the meaning of section 2032A(e)(5)).

**(6) Election.**-- The election under this subsection shall be made on or before the due date (including extensions) for filing the return of tax imposed by section 2001 and shall be made on such return. Such an election, once made, shall be irrevocable.

**(7) Calculation of estate tax due.**-- An executor making the election described in paragraph (6) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (5)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

**(8) Definitions.**-- For purposes of this subsection -

**(A) Land subject to a qualified conservation easement.**-- The term "land subject to a qualified conservation easement" means land -

**(i)** which is located in the United States or any possession of the United States,

**(ii)** which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

**(iii)** with respect to which a qualified conservation easement has been made by an individual described in subparagraph (C), as of the date of the election described in paragraph (6).

**(B) Qualified conservation easement.**-- The term "qualified conservation easement" means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (iv) of section 170(h)(4)(A) shall not apply, and the restriction on the use of such interest described in section 170(h)(2)(C) shall include a prohibition on more than a de minimis use for a commercial recreational activity.

**(C) Individual described.**-- An individual is described in this subparagraph if such individual is -

**(i)** the decedent,

**(ii)** a member of the decedent's family,

**(iii)** the executor of the decedent's estate, or

**(iv)** the trustee of a trust the corpus of which includes the land to be subject to the qualified conservation easement.

**(D) Member of family.**-- The term "member of the decedent's family" means any member of the family (as defined in section 2032A(e)(2)) of the decedent.

**(9) Treatment of easements granted after death.**-- In any case in which the qualified conservation easement is granted after the date of the decedent's death and on or before the due date (including extensions) for filing the return of tax imposed by section 2001, the deduction under section 2055(f) with respect to such easement shall be allowed to the estate but only if no charitable deduction is allowed under chapter 1 to any person with respect to the grant of such easement.

**(10) Application of this section to interests in partnerships, corporations, and trusts.**-- This section shall apply to an interest in a partnership, corporation, or trust if at least 30 percent of the entity is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2057(e)(3).



- Arroyo Honda
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## Agricultural Easements

[Who We Are](#)

The Land Trust holds conservation easements to protect agricultural land, natural resources and the scenic beauty of a dozen ranches and farms in north and south Santa Barbara County.

[Protected Lands](#)

Our easements make sure the land is kept open for agricultural use, and prevent it from being converted for residential or commercial development.

[Info for Landowners](#)

Each easement is negotiated with the landowner. Some easements are purchased by the Land Trust. Others are donated, qualifying the owner for federal and state tax incentives. The Land Trust works with ranch and farm owners to prepare qualifying easements, and we are then responsible for annual monitoring to ensure that easements are followed by the current and future owners of the land.

[Events & Merchandise](#)

[For Volunteers & Teachers](#)

Agricultural easements generally do not provide for public access, although some ranch and farm owners allow Land Trust Events such as ranch or farm tours for our members and invited guests to better understand agriculture in our county.

[Become a Member](#)

[Links](#)

### Hibbits Ranch, Lompoc (395 acres)



If you have driven on Highway 246 into Lompoc, you have seen the sunlight flickering through the big walnut groves that are the hallmark of The Hibbits Ranch, a 395-acre farm just east of the city limits.

Four generations of the Hibbits family have farmed the Lompoc Valley, building a diverse and successful farming operation run today by Art and Sherry Hibbits. Their ranch features prime topsoil over 30 feet deep in places, and has supported a wide array of nuts, vegetables, seed crops as well as cattle grazing, for over a century.

The Hibbits family decided to protect the enduring scenic and agricultural value of their land through a voluntary conservation agreement with the Land Trust for Santa Barbara County.

The Hibbits Ranch is the largest single land holding within a block of scenic and highly productive farmland framed by the City of Lompoc, the Santa Ynez River and Santa Rosa Hills, and La Purisima Mission State Historic Park. Located less than 2,000 feet from the Lompoc city limit, there have been several attempts to extend city limits east across the Santa Ynez River on to this and adjacent farm properties. In recent years, hundreds of acres of agricultural land west and north of the city have been already been annexed and converted to residential and commercial development.

The Hibbits are long-standing advocates for the protection and improvement of local agriculture. The Hibbits Ranch has the second oldest Agricultural Preserve Contract in Santa Barbara County, and Art Hibbits has served many years on land use and agricultural committees, including a stint on the County Planning Commission.


Says Art Hibbits:

*"Our family's goals in pursuing this conservation easement are to protect and encourage the continued agricultural uses on the ranch in a long term sustainable manner, whereby productivity and economic viability are maintained and enhanced. We want future generations to have the maximum flexibility in future choices of crops, equipment, agricultural related facilities, and farming practices and our agreement with the Land Trust will clearly state these objectives."*

### Los Flores Hunt Property 1 (653 acres)



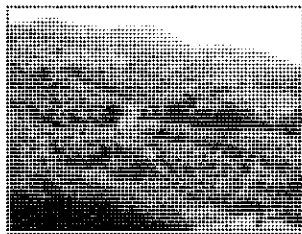
Thanks to the commitment and generosity of ranch owner Steve Lyons, a key land parcel between Los Alamos and Orcutt has been placed in a new conservation easement with The Land Trust for Santa Barbara County. Part of the original Las Flores Ranch, the 653-acre Lyons undeveloped property is on the southern slope of the Solomon Hills just west of the Highway 101.

 The ranch is remarkable for being located at a coastal-inland transition zone, and shows both elements of habitats endemic to the western coast of Santa Barbara and San Luis Obispo Counties (such as Burton Mesa chaparral) and elements of inland plant communities. The property, long used for cattle grazing and some dry farming, is a mosaic of dense coastal sage scrub, oak woodland, stabilized dunes, and open grassland. It is an important link for habitat continuity between the public undeveloped lands to the southwest (La Purisima State Park, the Burton Mesa Ecological Reserve, and Vandenberg Air Force Base) and northeast (Los Padres National Forest), as it has relatively intact riparian habitat and culvert access under US 101 for migration of large mammals like deer, bear, mountain lion and bobcat.

Under the voluntary conservation agreement donated by Steve Lyons in December 2009, the ranch will be limited to one home site and about 100 acres of agricultural cultivation and associated agricultural support buildings. Most of the land will be left undeveloped and available for livestock grazing. The Land Trust is working with Lyons and two adjacent ranch owners on a conservation plan that ultimately should include over 4,500 acres of land, stretching from San Antonio Creek along Highway 135 to the Solomon Hills. The Careaga Canyon/Las Flores Creek project area includes ponds (both natural wetlands and man-made livestock ponds) that provide known and potential breeding habitat for the endangered California tiger salamander (CTS).

Based on two years of field studies of CTS breeding and movement patterns, the Land Trust's conservation plan will protect important aquatic and upland habitat for CTS and other water-dependent species, while allowing residential and commercial agriculture to continue outside of the defined habitat corridors. The Land Trust hopes to secure federal and state grants to purchase conservation easements on these ranches. If successful, this project will show that it is possible to protect habitat for sensitive wildlife species in a way that supports well-planned commercial agriculture and limited residential development for ranch families and employees.

Rancho Aldea Antigua (2.3 acres)



Rancho Aldea Antigua (Spanish for "ancient hamlet") runs along the western ridge of the Franklin Creek watershed, just outside the Los Padres National Forest. It is one of several dozen small ranches and farms that create the beautiful, open landscape between Foothill Road and the forest land.

In recent years, the Land Trust has secured conservation easements on much of the land in the upper Franklin Creek and Santa Monica Creek watersheds, on Rancho Monte Alegre and the Horton Family Ranch.

The ranch is owned by David H. Anderson, a founder, long-time board member and current general counsel of the Land Trust for Santa Barbara County, who has been a leader in voluntary land conservation locally and nationally for over two decades.

The ranch is a key part of the open space view looking east from the proposed Franklin Trail. This historic hiking trail route, long closed by litigation involving a prior landowner, will connect from a trailhead near Carpinteria High School through private ranch land and all the way to the Santa Ynez Mountains ridge and East Camino Cielo. The Land Trust worked with the County and The Trust for Public Land to negotiate trail access agreements from the ranch owners. The County Parks Department is pursuing grant money to rebuild and reopen the trail.

Horton Family Ranch (104 acres)



Bill Horton and Glenna Berry Horton placed 104 acres of their avocado ranch in a permanent conservation easement to guarantee that most of this scenic and productive avocado ranch will remain undeveloped in perpetuity. Bill's grandparents founded the ranch, and two succeeding generations have grown lemons, then avocados, on the ranch ever since.

"Our ranch has been in the family since the late 1800s and we expect to pass it on to the next generation. Our forebears would be gratified by the benefit the conservation easement provides to the community," says Bill Horton.

Rancho la Purisima (1,007 acres)



Only three miles north of Buellton and alongside Highway 101, the eastern rolling hills of Rancho la Purisima are what people see for over a mile traveling north from Buellton. Paul & Tina McEnroe have owned the 1,000 acre ranch since 1994, and run a successful cattle and horse

Land Trust for Santa Barbara County



breeding/training business.

The McEnroes have made active efforts to protect Valley Oak seedlings on their ranch, and to control an outbreak of invasive yellow star thistle, working with the Natural Resource Conservation Service and a neighbor.

"We support the principles of conservation easements," says Paul McEnroe. "We love our ranch as it is, a large singular parcel made up of a central valley surrounded by hills and ridges containing farm fields, open range and canopy oak land. This conservation easement will ensure our ability to live on the ranch as far as we can see into the future."

Rancho Dos Vistas, Gaviota (1,406 acres)

At the top of Refugio Pass and just west of former President Reagan's "Western White House," Rancho Dos Vistas is now governed by a conservation easement that allows only three home sites, and sets aside ninety percent of the land for wildlife habitat. The Land Trust helped landowner Cima del Mundo secure a state income tax credit for donating this easement, under the Natural Heritage Preservation Tax Credit Act sponsored by Senator Jack O'Connell. Cima del Mundo also donated a 2.5 mile trail easement that connects two sections of federal land in Los Padres National Forest. Some day Rancho Dos Vistas' trails may connect to the Arroyo Hondo Preserve and to Refugio Road, allowing a "coast-to-crest" public trail route that is isolated from other agricultural and private home sites.

La Paloma Ranch, Gaviota (750 acres)



Eric Hvolbøll's great-grandparents purchased La Paloma Ranch in 1866, and his mother has lived her entire life there. Over the decades, the ranch in Venadito Canyon has been a sheep and cattle operation, and farmed for walnuts, tomatoes, lima beans, and most recently avocados. Their love of the land led the Hvolbølls to sell a conservation easement on the ranch in 2002.

The Land Trust arranged grant funding from the State Coastal Conservancy, County of Santa Barbara and State Resources Agency to have this land permanently restricted to agriculture. The family retained the right to build three family homes and two employee dwellings, but gave up the right to further subdivide or develop the property except for agricultural use. Ecologically valuable communities of coastal sage scrub, chaparral and riparian habitat are protected under the easement as well.

El Capitan Ranch, Gaviota (650 acres)

The national conservation group The Trust for Public Land (TPL) recently completed fundraising to acquire 2,500 acres on the El Capitan Ranch, to become part of the El Capitan State Park. In a related transaction, our local Land Trust now holds conservation easements on the remaining 650 acres of El Capitan Ranch. These easements provide for continued operation of the private El Capitan Campground and the existing equestrian training ranch. Outside of these already developed areas, only two new homes may be built, and the land is otherwise restricted for agricultural use.

Rancho Rinconada, Buellton (105 acres)

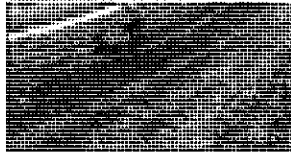


When they decided to buy Rancho Rinconada to build a new winery and vineyard on Santa Rosa Road, long-time Land Trust members Richard and Thekla Sanford volunteered to donate a conservation easement over 105 acres of the oak woodland on their 438-acre property. Their magnificent new winery is now open for business, and the dense oak woodland surrounding the vineyard is permanently set aside in a Land Trust easement.

Fairview Gardens (12 acres)



Fairview Gardens is home to the popular organic farm on Fairview Avenue next door to the Goleta public library. It is one of the few remaining farms not lost to the urbanization of Goleta. Thousands of people visit Fairview Gardens each

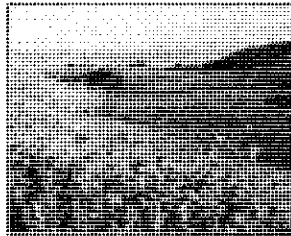


year to shop at its farm stand, to take the self-guided farm tour, or to join in various fun and educational events sponsored by the Center for Urban Agriculture. Visit Fairview Gardens' [web site](#).

The Land Trust helped the Center purchase the land at a discounted price by placing an agricultural easement on the farm. Grant funds awarded by the County Board of Supervisors, along with private and foundation gifts, helped complete the land purchase.

Our 1997 agricultural easement requires that 88% of the land be used for agricultural production, with farm support, employee housing and educational uses allowed on the remaining land. This easement is unique in that it requires that Fairview Gardens use organic or biodynamic farming methods only. Conservation easements don't typically specify agricultural methods, but the Center for Urban Agriculture is strongly committed to organic farming, and wanted the easement to reflect that commitment.

#### Freeman Ranch, Gaviota (660 acres)



The first conservation easement the Land Trust bought from a Gaviota rancher, the Freeman Ranch is the scenic backdrop to Refugio State Beach. The Freemans may use the land for any kind of agriculture, and may build homes necessary for family and employee use in areas outside the view of the public beach.

Important natural resource features on the ranch, including a large vernal pond, a 30 acre oak woodland, and one mile of Refugio Creek, are guarded through agricultural management practices the Freemans agreed to follow. This purchase was supported by grants from the California Farmland Conservancy Program, California Coastal Conservancy, State Resources Agency, the County Coastal Resource Enhancement Fund, and two private foundations.

#### Great Oak Ranch, Santa Ynez (1128 acres)

Thoroughbred owner and breeder Walter Thomson and his late wife Holly donated a conservation easement in 1986 over their Happy Canyon ranch, to make sure this spectacular, oak-studded land is never subdivided for development. Now belonging to the Thomson's grandchildren, the Great Oak Ranch may be divided into a maximum of three lots. The easement restricts cultivated agriculture to mapped areas outside of the oak savannah, native grassland and pine forest that serves as an important wildlife corridor between Lake Cachuma and the Los Padres National Forest.

#### Briggs Family Ranch, Lompoc (86 acres)

Harold & Dorothy Briggs donated one land parcel along the Santa Ynez River to the Land Trust in 1989, and their estate donated an adjacent parcel in 1995. The Land Trust then sold the ranch to a private buyer, retaining an agricultural easement to keep the property open for ranching and farming and to protect the river frontage as wildlife habitat. The easement also safeguards the Tom Briggs Memorial, a meadow overlooking the river dedicated to the Briggs' son who was killed in Vietnam.

#### Marcelino Springs Ranch, Buellton (70 acres)

When the City of Buellton voted to annex farmland owned by Norman Williams to build a new housing development, school, city park, Mr. Williams was faced with paying a large fee to the State of California to cancel the Agricultural Preserve (Williamson Act) contract on his land. However, a new state law allows landowners to put an equivalent piece of land under an agricultural conservation easement rather than pay the cancellation fee. Mr. Williams worked with the Land Trust to place an easement on row crop and grazing land that is part of the Marcelino Springs Ranch, just outside of Buellton.

#### Rancho Felicia, Santa Ynez (314 acres)

In 1998, Walter Thomson also donated a conservation easement over Rancho Felicia, part of the first thoroughbred training ranch established in the Santa Ynez Valley. Mr. Thomson wanted to guard the agricultural heritage of Happy Canyon, and make sure his ranch never becomes the target of "ranchette" subdivision, so the easement allowed only two separate parcels to be created, each with a home site. The land is otherwise restricted to agricultural use. Important stands of native sycamore, pine and oak trees on the ranch may not be cleared.

#### Rancho Las Cruces, Gaviota (900 acres)

On one of the larger private ranches in the county, owners Jonathan & Nancy Kittle created a



Land Trust for Santa Barbara County

On one of the larger private ranches in the county, owners Jonathan & Nancy Kittle granted a conservation easement on 900 acres of upper watershed land to The Nature Conservancy in 1973. The easement, which protects the oak woodland, chaparral, grassland, small streams and springs on this part of Rancho Las Cruces, was transferred to the Land Trust for Santa Barbara County in 1984. Rancher Louise Hanson purchased the property with the conservation easement in the 1980's. The easement permits the landowner to pasture and graze livestock, and to build and maintain water-related improvements.

San Roque Ranch, Santa Barbara (880 acres)

In the foothills behind Santa Barbara, San Roque Ranch is one of the largest undeveloped properties along the city limits. The land was purchased by environmental investment group Cima del Mundo, which donated an easement on 880 acres of the 1,200-acre ranch. The easement includes the rich upper riparian woodland along San Roque Creek, reaching all the way up to La Cumbre Peak. Cima del Mundo gave up the right to build homes on five existing land parcels. A productive avocado orchard, and land developable for a few home sites, remains south of the conservation easement. The riparian woodland, chaparral scrub and towering sandstone formations of San Roque Ranch, now owned by Land Trust supporters Michael and Robin Klein, will always remain a spectacular scenic backdrop to Santa Barbara. The Arroyo Burro public trail easement crosses the ranch, offering hikers a close up view of the nearby easement land.

Valley Oaks, Lompoc (8 acres)

In 1990, the John Bodger & Sons farming company donated to the Land Trust this conservation easement over a scenic oak grove adjacent to Santa Rosa County Park, retaining the right to use the land for hiking, picnicking, horseback riding and nature studies, and agreeing to keep it open to allow the free passage of wildlife. The landowner agreed to do this at the request of the County Planning Commission during the review of a lot split on their adjacent farmland.