

Lenzi, Chelsea

From: Mark Chaconas <mark@cojo-jalama.com>
Sent: Friday, November 04, 2016 11:53 AM
To: Board Letters
Subject: Cojo Jalama Ranches - GavPlan (11-08-2016)
Attachments: Cojo Jalama Ranches - GavPlan (11-08-2016).pdf

Please distribute this letter to the Supervisors and make it a part of the administrative record.

Thank You
Mark Chaconas

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November 4, 2016

Honorable Peter Adam, Chair
Santa Barbara County Board of Supervisors
105 East Anapamu Street
Santa Barbara, California 93101

RE: Comments on the Gaviota Coast Plan

Dear Chair Adam and Members of the Board of Supervisors,

On behalf of the Cojo Jalama Ranches (CJR), we are providing these comments to assist in your consideration of the Gaviota Coast Plan (Plan), its associated Ordinance Amendments and certification of the corresponding Draft Final Environmental Impact Report (DFEIR).

We submitted detailed comments on the Gaviota Coast Plan DEIR in our letter dated September 4, 2015. Our comment letter identified a number of concerns regarding the proposed Plan. We have reviewed the Gaviota Coast Plan DFEIR and find the concerns that were raised in the September 4, 2015 letter have not been satisfactorily addressed in that the further analyses necessary for a complete assessment of the impacts of the Plan have not been included in the DFEIR.

We feel it is prudent for the DFEIR to address these and other concerns in order to ensure full information is available to the Board as a basis for the Board's final deliberation, assessment and determination pertinent to certification of the DFEIR and adoption of the Plan. In this regard, below are a few of the concerns that we are providing as examples of those concerns and potential impacts of the Plan detailed in our September 4, 2015 letter, for which the DFEIR does not fully address impacts to agriculture, landowners, fire life safety and/or resources.

Impacts to Agriculture

Comment on DEIR 12-3

Agriculture is the central activity throughout the Gaviota Plan Area and the principle factor that has supported the protection of natural resources, cultural resources, and visual/aesthetic resources within the region. The GavPAC and the community focused their attention on maintaining the protections and benefits afforded by agriculture by establishing agriculture, public trails and visual resources sub-committees. The GavPAC understood that

agricultural operations require certainty and flexibility to thrive. In this context, certainty is necessary in the permitting process so that agricultural landowners and managers have a clear understanding of County permitting requirements, especially with respect to activities that do not require any permits, such as the normal and usual agricultural practices for range improvement, to prepare a field or crop, the planting and harvesting of fields, and the raising of cattle.

The DEIR does not make a good-faith effort to analyze or address the impacts of uncertainty. The lack of clarity of the agricultural permit requirements contained in the LUDC, Article II, and the proposed ordinances of the Plan (as set forth in amendments contained in DEIR Appendix B) will hinder the success of agriculture, which is important to the Plan Area and the County as a whole. Flexibility is also necessary to allow for new types of operational techniques, sourcing and testing of water resources, and to develop agricultural products responsive to market demand that may include aquaculture, permaculture and other innovative agricultural programs for food production.

The County responded to Comment 12-3. The comment stated that agricultural landowners and managers must have a clear understanding of County permitting requirements, especially with respect exempt activities, such as range improvement, planting and harvesting, and cattle raising. Yet, the Plan does not provide agricultural landowners with that clear understanding.

Staff acknowledges that the analyses of the significant effects of the alternatives (on agriculture) do contain less detail than the analysis of the Plan itself. This absence of thorough analysis further exacerbates the issue for agriculturalists who require a clear regulatory path. For example, there remains confusion as to whether land use permits are needed in the coastal zone if a landowner is converting a grazing pasture to a row crop or an orchard. This means that the landowner could be subject to allegations of a violation of the land use code for cultivating agriculturally zoned lands.

In order for landowners to ensure they will not be cited for a violation of code, they would need to process permits before any grazing lands are cultivated for row crops and/or orchards, which is a costly and extensive process. This presents a barrier to agriculture. The impacts of this barrier and the uncertainty as to whether and when permits must be processed and the associated impacts on food production and land values have not been analyzed and are a significant factor to landowners of agriculturally zoned lands.

Similarly, the Plan may necessitate permits, and it is unclear whether permits are necessary, if an agricultural operation takes place on land that may not have been actively farmed in the last ten years, even for land that has been historically farmed over prior decades.

The definition of ESHA to include vegetative alliances vastly expands the potential to declare lands as ESHA and the Plan's proposed *Policy NS-4 ESH Criteria and Habitat Type* significantly expands the number of habitat types, listed in Appendix B, used to determine Environmentally Sensitive Habitat. The FDEIR omits any description or impact assessment of the detrimental effects on agricultural operations or food production due to the expanded number of species and habitats (many

of which are threatened and/or endangered, and thus already subject to State and Federal regulatory restrictions) proposed to be considered ESHA.

The Plan includes significant barriers to agriculture and the FDEIR does not analyze or address them, including the impacts of regulatory uncertainty, the negative impacts on the value of farm lands and the amount of land that may be removed from agricultural production as a result of the expanded definition of ESHA and other Policies contained within the Plan.

Comment on DEIR 12-4

There are impacts of imposing new regulations on traditional agricultural activities in agriculturally zoned lands, which the DEIR does not disclose or analyze. These impacts include, among others, the loss of agricultural diversity, the loss of potential food production, fragmentation of farms and ranches, and the biologic, geologic and associated impacts to import water if onsite resources are thwarted through over-regulation. The DEIR does not fully disclose, analyze, assess, or describe these potential impacts to agricultural operations. There are also impacts due to those uncertainties created by the proposed Plan and Alternatives, some of which are described below:

The County did not respond fully to Comment 12-4 or address impacts of imposing new regulations on traditional agricultural activities. The DFEIR does not fully disclose or analyze such impacts as are necessary to provide to the Board and the public complete information on which to base a responsible determination on behalf of the community.

As one example only, the impacts of mapping ESHA in to be cultivated agricultural fields have not been fully evaluated. It is important that all potential impacts to agriculture be addressed in the DFEIR including, among others, the loss of agricultural diversity, the loss of potential food production and associated increases of the cost of food, the economic impact of additional regulation and the costs associated with increased permits requirements, fragmentation of farms and ranches, and the biologic, geologic and associated impacts to import water if onsite resources are thwarted through over-regulation.

Comment on DEIR 12-6

Impacts of increased regulation within the coastal zone require analysis in a revised DEIR. Specifically, the impacts to the landowner associated with increased permit requirements for agricultural activities in an agricultural zone, particularly based on the size of the operation or an operation that desires to expand, have potential to discourage enhanced agricultural operations, and, in turn, incentivize the parcelization of larger ranch holdings, which will result in future cumulative impacts to agricultural operations as more and more multigenerational and other landowners determine to sell off portions of their land to establish smaller land holdings. To ensure a complete analysis as required by CEQA, the

DEIR needs to address the potential impacts of fragmentation of Gaviota coastal lands due to the application of the increased regulations that the Plan and Alternatives would impose upon traditional agricultural uses. These regulations bring other additional impacts that the DEIR does not analyze, including that they will inhibit and hinder further food production which is growing in demand worldwide; foster conversion of land from agriculture to urban and suburban land uses; and encourage non-agricultural development. The DEIR has not addressed the core regulatory threshold issue of how the County can responsibly approach the regulatory environment for agriculture operations in agricultural zoned lands where agriculture is intended to be an entitled use that does not require permitting.

The County did not respond fully to Comment 12-6 regarding impacts of increased regulation within the coastal zone require analysis in a revised FDEIR.

Impacts to landowners associated with increased permit requirements and/or an expanded definition of ESHA that takes agricultural lands out of production in an agricultural zone have not been addressed. As an example, for new areas of food production within the agricultural zone, or an operation that desires to expand, the Plan has significant potential to discourage such enhanced agricultural operations. This, in turn, incentivizes the parcelization of larger ranch holdings, which will result in future cumulative impacts to agricultural operations as more and more multigenerational and other landowners determine to sell off portions of their land to establish smaller land holdings.

A complete analysis as required by CEQA should be included in the DFEIR needs to address the potential impacts of fragmentation of Gaviota coastal lands due to the application of the increased regulations and the change in the hierarchy of uses through expanded ESHA designations that the Plan and Alternatives would impose upon traditional agricultural uses. These regulations bring other additional impacts that the DFEIR does not analyze, including that the proposed new regulations will inhibit and hinder further food production which is growing in demand worldwide; foster conversion of land from agriculture to urban and suburban land uses; and encourage non-agricultural development.

The DFEIR has not addressed the core regulatory threshold issue of how the County can responsibly approach the regulatory environment for agriculture operations in agricultural zoned lands where agriculture is intended to be an exempt and entitled use that does not require permitting.

Comment on DEIR 12-10

Biology/Environmentally Sensitive Habitat Areas (ESHA)

The DEIR omits any description or impact assessment of the detrimental effects on agricultural operations or food production due to the expanded number of species and habitats proposed to be considered ESHA on the Gaviota Coast (DEIR Table 4.6-1). Many of these species that are threatened and/or endangered are thus already subject to State and Federal regulatory restrictions. No map or other description is provided of the geographic

limits of the proposed new ESHA, which is in direct contravention to assurances made by Staff during more than 60 public hearings before the GavPAC. The only mention of agriculture in the Biological Resources chapter (pg. 4.6-38) states that:

"The ESH and Riparian Corridor overlay zones would provide some protection for habitat that may support sensitive wildlife species and USFWS Final Critical Habitat for southern steelhead. However, some agricultural activities (e.g., "agricultural improvements" as defined by the Agricultural Element of the Comprehensive Plan) are not subject to review. In addition, any policies that specifically pertain to "development" do not apply to many agricultural activities on lands zoned for agriculture."

These vague assertions do not represent a good-faith effort to assess the impacts of the proposed plan to agriculture, and are thus a significant flaw of the DEIR. While Section 4.6-38 states that some agriculture activities are not subject to review, there is no specificity as to which agricultural activities are not subject to review. While Section 4.6-38 states that any policies that specifically pertain to development do not apply to many agricultural activities, there is no specificity as to which of those agricultural activities those policies apply. To provide a comprehensive assessment of the impacts in the DEIR, specificity is necessary along with a narrative and an analysis that adequately describes what specific agricultural activities or improvements would be subject to the ESH-GAV ordinance. This requires a map of the new proposed ESHA and requires an analysis specific to the mapped areas that describes impacts to potential agricultural operations due to the restrictions imposed by ESH GAV. This lack of clarity as to what types of agricultural activities would be subject to ESHA provisions, coupled with the absence of any mapping of the ESHA areas provides no certainty to the landowner as to what, if any, permits will be required. The absence of certainty additionally entails further analysis with respect to the impacts of uncertainty on agricultural production, agricultural operations and other land uses that are as-of-right entitlements based on existing zoning and the rights afforded to existing legal parcels. A revised and re-circulated DEIR that addresses these impacts is necessary to provide the Board and public with a full and comprehensive environmental impact analysis.

The County did not respond fully to Comment 12-10. We observe that the DFEIR omits any description or impact assessment of the detrimental effects on agricultural operations or food production due to the expanded number of species and habitats proposed to be considered ESHA. The DFEIR conclusion that the impacts to agricultural operations due to these factors are less than significant deserves further analysis in that all owners of agriculturally zoned land could have substantial land areas removed from production as a result of these policies.

To provide a comprehensive assessment of the impacts in the DFEIR, specificity is necessary along with a narrative and an analysis that adequately describes what specific agricultural activities or improvements would be subject to the ESH-GAV ordinance. This is necessary for landowners, the public and the Board to assess impacts on agricultural production, agricultural production and other

land uses that are as of right entitlement based on existing zoning and the rights afforded to existing legal parcels.

Further the policies and development standards identifying and protecting ESH would impede fuel management activities on agriculturally-zoned land such that significant impacts to biological resources, soils, and/or other agricultural resources would result, for which impacts have not been addressed DFEIR.

Comment on DEIR 12-11

ARC Overlay

The Agriculture Residential Cluster Overlay (ARC) is an important voluntary development tool that should be retained. To ensure a thorough analysis of the impacts associated with the removal of the ARC, recirculation of a revised DEIR that addresses those impacts is necessary to provide the Board and the public with a full and comprehensive environmental impact analysis.

There is no basis for the statement that the removal of the ARC overlay would "provide additional protection for agricultural lands" (GCP DEIR pg. 4.4-26). To the contrary, retention of the ARC Overlay maximizes protection for agricultural lands because it provides for development to be limited to a very small footprint with the balance of land available for agriculture and open space. In addition, the ARC Overlay has extensive beneficial impacts on the protection of habitat and also provides for enhanced recreation and visitor serving opportunities.

The impacts associated with the ARC's removal from the Plan, the loss of the aforementioned beneficial attributes and the elimination of the protections it affords to cultural and natural resources and watersheds have not been addressed or fully analyzed. The reliance on an alternative clustered development tool (Action LU-3) to avoid the assessment of impacts from the elimination of the ARC does not address these impacts to habitat, watersheds, wildlife corridors, and other cultural and natural resources. Action LU-3 should not be relied upon as a basis for less than comprehensive assessment of such impacts. The ARC overlay constitutes an alternative to parcelization and its elimination entails other substantial environmental impacts associated with parcelization that have not been analyzed in the DEIR.

From a policy perspective, retaining the ARC Overlay as part of the Coastal Land Use Plan and Coastal Zoning Ordinance (Article II) preserves the opportunity to avoid producing an impact determination necessary to reflect the impact of removing the ARC. If the ARC overlay is not retained, a substantial impact analysis in a revised and recirculated DEIR is necessary to ensure that the Board of Supervisors and the public are provided with a full and

comprehensive environmental review. This analysis must review and assess the likely impacts to resources such as watersheds, plant and animal species, habitats, aesthetics, recreation, and noise that result from elimination of this program. The analysis must also reflect the likelihood that adoption of a new clustered development tool (Action LU-3) is highly unlikely in the Plan Area, specifically in Coastal Zone, and cannot serve as feasible mitigation for these impacts.

On DEIR page 4.4-27, the DEIR incorrectly states that "there has never been a development application request to apply the [ARC] overlay since its inception more than 40 years ago". In fact, on October 24, 1990, the Bixby Ranch Company (BRC) submitted an application to the County for a Specific Plan and Rezone of their 24,500-acre coastal ranch property, with the express intent on conforming to the myriad requirements of the ARC Overlay District (Section 35-99 of the Coastal Zoning Ordinance).

The County did not respond fully to Comment 12-11. The impacts associated with the removal of the ARC overlay from the certified LCP have not been addressed or fully analyzed in the FDEIR. Reliance on an alternative clustered development tool (Action LU-3) is not conclusive in that there is not development tool. The FDEIR does not assess impacts to habitat, watersheds, wildlife corridors, and other cultural and natural resources that result from the removal of the ARC Overlay.

Conclusion

A full and fair consideration of the Gaviota Coast Plan by the Board of Supervisors requires a comprehensive evaluation of impacts of the Plan and Alternatives. The concerns presented here, and others that are noted in the September 4, 2015 letter, do call for further analysis to provide the Board with full information on which to base responsible deliberation and determination regarding the Plan.

In order for the Board of Supervisors to consider a legally adequate and defensible EIR, the DFEIR should address the deficiencies identified here and in other public comments. We are confident that the County can remedy the material defects which will, however, take a concerted effort and may require recirculation of a revised DFEIR that addresses these matters.

We appreciate the opportunity to comment and your consideration of our concerns in your deliberation of this important community Plan.

Sincerely,



Mark Chaconas
Cojo Jalama Ranches