

# LAW OFFICE OF MARC CHYTILO, APC

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ENVIRONMENTAL LAW

October 12, 2018

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

By email to [sbcob@co.santa-barbara.ca.us](mailto:sbcob@co.santa-barbara.ca.us)

RE: Gaviota Coast Plan, 10/16/18 Agenda Item #6

Dear Chair Williams and Supervisors,

This office represents the Gaviota Coast Conservancy (GCC) and the Naples Coalition in this matter. The Gaviota Coast Plan (GCP) reflects the goals and objectives of the community developed with the input of a diverse range of stakeholders during the GavPAC process, then refined with the expertise of County Staff and Planning Commissioners, and the input of the community at large. Now the California Coastal Commission (CCC) has weighed in, and has certified the GCP Local Coastal Program (LCP) amendment with 13 suggested modifications. As the Board Letter explains, to effectuate the GCP in the Coastal Zone, the Board must vote to accept all 13 of these suggested modifications. We strongly urge the Board to take the final step to allow the GCP to take effect in the Coastal Zone, which is imperative to realizing the Gaviota Coast Plan's Community Vision, *"to preserve the rural character of Gaviota by protecting and enhancing its varied and unique natural and cultural resources, agricultural productivity, and by enhancing public recreation and access consistent with the capacity of its resources."*

CCC Staff worked diligently with the County to address the remaining issues of concern within the limitations established by the Coastal Act. As the Board Letter makes clear, the County's requests made to the Coastal Commission were largely granted, and for the ones that were not fully granted, the Commission provided clarification and/or an alternative path to resolve the concern. For example, while the Commission was unwilling to exempt new agriculture from permits, they approved a broad exemption for ongoing and historic agricultural operations, providing that permits are not required for agricultural activities occurring within areas that have been cultivated or grazed within the past 20 years. With the exemptions for ongoing and historic cultivated agriculture and grazing, the GCP is actually more permissive than the existing certified LCP which requires permits for all agriculture. If the Board rejects or fails to accept the 13 modifications, it is unlikely that the County could continue its unauthorized "practice" of exempting all agriculture when the Coastal Commission has clearly explained – and County staff has acknowledged – that exempting all agriculture is not permissible. Implementing the GCP as modified in the Coastal Zone will ensure that Gaviota Coast farmers and ranchers have clarity regarding when permits are required.

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The Board Letter and Staff PowerPoint Presentation indicate that the County's request for clarification on the definition of especially valuable Environmentally Sensitive Habitat Areas (ESHAs) was "not granted". However, the text of the Board Letter provides:

Although the County's specific request was not granted, revised findings approved by the Coastal Commission on September 13, 2018, provide several clarifications: (1) an area of a non-rare type of native chaparral and/or coastal sage scrub vegetation may be especially valuable because of its special nature or role in an ecosystem, and therefore constitute ESH, if it is part of a large, contiguous area of native habitat; (2) determinations of whether a particular area is ESH or not depends on site-specific characteristics and evidence, including whether a habitat area is so small and isolated or degraded that it is no longer sustainable; and (3) areas of vegetation clearance for the purpose of fuel modification required by the Santa Barbara County Fire Department for existing development would not constitute ESH and would be allowed to be maintained while fuel modification as part of new development would be allowed pursuant to Gaviota Coast Plan Policy LU-2 and Section 35-415. **Staff believes the general criteria stated in the biological study requirements, together with the clarifications included in the revised findings, provides similar direction and flexibility for the County to assess when common types of chaparral would qualify as ESH.**

(Board Letter, p. 7 (emphasis added).) Accordingly, with this clarification, all the County's requests were all either fully or partially granted, and there is no sound basis for rejecting the Commission's modifications.

We cannot overstate the importance of avoiding a repeat of the failed LUDC/CZO update process, in which years of effort and resources were tossed out with no resolution to conflicts between County practice and the existing certified LCP that were identified in the process, including the County's uncertified practice of exempting new agriculture from permitting requirements. Retaining the status quo does not mean that the County can simply continue its past uncertified practices without exposing landowners to substantial risk of Commission enforcement.

We strongly urge the Board to vote to accept all the Commission's modifications, and effectuate final implementation of the Gaviota Coast Plan in the Coastal Zone.

Respectfully submitted,

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/s/ Ana Citrin

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