



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

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

Department Name: Planning & Development
Department No.: 053
For Agenda Of: 7/6/2010
Placement: Departmental
Estimated Tme: 60 minutes
Continued Item: Yes
If Yes, date from: 4/6/2010
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director Glenn Russell, Ph.D. (805.568.2085)
Contact Info: Dianne Black, Development Services Director (805.568.2086)
SUBJECT: Information and Discussion Regarding Coastal Commission Suggested Modifications to County and Montecito Land Use and Development Codes

County Counsel Concurrence
As to form: N/A

Auditor-Controller Concurrence
As to form: N/A

Other Concurrences: N/A

Recommended Actions:

That the Board of Supervisors:

- A. Receive a report from the Planning and Development Department regarding modifications to the County and Montecito Land Use and Development Codes recommended by Coastal Commission staff; and,
- B. Provide direction to the Planning and Development Department regarding how the Board of Supervisors would like to proceed in presenting its comments regarding the recommended modifications to the Coastal Commission for their consideration at the August 2010 hearing.

1.0 BACKGROUND

This item was to have been considered by the Board at the April 6, 2010 hearing. However, because the Coastal Commission's staff report containing the final recommended modifications for the Coastal Commission April 15, 2010 hearing was not released until April 1, 2010, at the April 6, 2010 Board hearing your Board directed the Planning and Development Department to contact the Coastal Commission staff and request that the April hearing be delayed until August 2010. The purpose of this delay was to provide additional time for County commissions and committees, and the public, to review the recommended modifications and provide input to the Board.

1.1 Local Coastal Program Amendment Process.

Any time the County Board of Supervisors adopts an amendment to the County's certified Local Coastal Program (LCP), the amendment must be submitted to the Coastal Commission for certification. The typical process for certifying a LCP amendment consists of the following steps:

Step 1: The amendment and all supporting materials (staff reports, exhibits, etc.) are transmitted to the Coastal Commission office.

Step 2: The Coastal Commission staff reviews the submittal and, once they determine that the submission is complete, files the amendment for processing.

Step 3: The Coastal Commission staff reviews the amendment, and develops recommended modifications. The purpose of these modifications is to ensure that the amendment is consistent with the Coastal Act and the County's LCP.

Step 4: The Coastal Commission staff schedules a public hearing on the amendment in front of the Coastal Commission and prepares a staff report that includes an analysis of the amendment and the recommended modifications.

Step 5: The Coastal Commission holds the public hearing and acts to certify the amendment with the recommended modifications. Both oral and written testimony may be presented to the Coastal Commission. The Board of Supervisors normally provides testimony on items of concern.

Step 6: The Board of Supervisors reviews the Coastal Commission's action within six months of the Coastal Commission hearing, and either adopts a resolution accepting Coastal Commission approval with certified modifications, or rejects the certified modifications. If the Board of Supervisors rejects the modifications, then the amendment is not certified and the LCP is not amended. For the subject LCP amendment this would mean that the existing Article II Coastal Zoning Ordinance would remain in effect and would not be replaced by the County and Montecito LUDCs.

Step 7: The Executive Director of the Coastal Commission reviews the Board resolution to determine if the resolution accepting the modifications conforms to the requirements of the Coastal Act. If the Executive Director determines that the action of the Board of Supervisors does conform, that determination is placed on the next Coastal Commission hearing agenda.

Step 8: If the Coastal Commission agrees with the Executive Director's determination, then the amendment is certified and the County's LCP is revised accordingly. Any revisions to the LCP become effective immediately following the action of the Coastal Commission to accept the Executive Director's determination.

The County LUDC was submitted for certification to the Coastal Commission in October 2006; the Montecito LUDC was submitted in December 2007. This amendment is now at Step 4 in the process shown above, and the County is preparing for Step 5, the hearing before the Coastal Commission in August 2010.

1.2 Coastal Commission Standard of Review.

The Coastal Commission standard of review for proposed amendments to the County's LCP is that the Coastal Commission must approve the amendment unless it is not in conformance with, or is inadequate to carry out, the provisions of the County's Coastal Land Use Plan (CLUP). Also, because the Coastal Act Chapter 3 Coastal Resources Planning and Management Policies (regarding public access, recreation, marine environment, land resources, development and industrial development) have been incorporated by reference into the CLUP, the Coastal Commission staff is also reviewing the County and Montecito LUDCs against those policies.

Because the County and Montecito LUDCs propose to modify the scope of projects subject to the requirement for a Coastal Development Permit (CDP) by designating additional land uses as exempt from a CDP that are not currently exempted by existing Article II, Coastal Commission staff is also

reviewing the County and Montecito LUDCs for consistency the Coastal Act and associated regulations regarding development exempt from a CDP.

The County and Montecito LUDCs were presented to the Coastal Commission staff as a simple re-codification of Article II with very minor revisions that reflected County practice in administering Article II. However, because the reformatted code includes what the Coastal Commission staff considers "substantive changes" (see Coastal Commission staff report, page 160) they are taking this opportunity to correct what they see as deficiencies in the existing regulations.

2.0 DISCUSSION/ANALYSIS

2.1 Summary of Coastal Commission staff's recommended modifications.

Based on their review of the County and Montecito Land Use and Development Codes submission, the Coastal Commission staff is recommending to the Coastal Commission that they should approve the LCP amendment only if Coastal Commission also adopts the recommended modifications. These modifications can be divided into the following four groups; the first two groups contain what the Planning and Development Department feels are the most significant changes contained in the modifications as recommended by the Coastal Commission:

Group 1: Modifications the Coastal Commission staff feels are necessary to conform the County and Montecito LUDCs to the Coastal Land Use Plan and to implement the Coastal Act. These modifications are the most far reaching of the recommended modifications and seek to impose new restrictions on development in the County beyond what is contained in the existing certified LCP.

- **Modification 9 (Allowed Land Uses and Permit Requirements Table):** This modification divides the allowable land uses within different zones into uses that are designated as principal permitted uses and those that are not. Under the Coastal Act, uses other than principal permitted uses are considered "appealable development" that is subject to a public hearing and potential for appeal to the Coastal Commission.
- **Modification 10 (Accessory Structures and Uses):** Similar to Modification 9, Modification 10 divides accessory structures and uses within the different zones into principal and non-principal permitted uses.
- **Modification 13 (Subdivisions):** This modification specifies (1) that subdivisions, lot line adjustments and voluntary mergers constitute development within the meaning of the Coastal Act and thus require the approval of a Coastal Development Permit (CDP) and (2) that they are not a principal permitted use in any zone. Therefore subdivisions, lot line adjustments and voluntary mergers would require a CDP that is subject to a public hearing and is appealable to the Coastal Commission.
- **Modification 14 (Lot Line Adjustments):** Similar to Modification 13, part of this modification adds language to again specify that within the Coastal Zone, lot line adjustments are not a principal permitted use and therefore require the approval of a CDP that is subject to a public hearing and is appealable to the Coastal Commission.
- **Modification 21 (Clarifications Regarding Bluff Development):** The main impact of this modification is to prohibit (1) the construction of any new private staircases that provide access from blufftop properties to the beach below and (2) the structural repair of any existing private staircases.
- **Modification 34 (Sea Level Rise):** This modification adds language that a coastal hazards analysis be provided for all projects proposed to be located near the shore, and requires that for

residential and commercial development, the analysis must consider a three to six feet per century range of potential sea level rise scenarios. For energy-related facilities, critical facilities, or infrastructure, the coastal analysis is required to assume a minimum sea level rise rate of 4.5 feet per century.

Group 2: Planning and Development Department suggested revisions to Modifications that the Coastal Commission staff does not support. During the review of the amendment, the Planning and Development Department staff identified two recommended modifications that should be revised in order to address some existing procedural issues. Planning and Development staff provided the Coastal Commission staff with text revisions that would fix the existing problems, however, the Coastal Commission staff declined to include the revisions in the recommended modifications.

- **Modification 3 (Appeals):** This modification includes language that specifies that a CDP that follows the approval of an Amendment to a Conditional Use Permit or Development Plan (for development that may be appealed to the Coastal Commission) is subject to a public hearing and is appealable to the Coastal Commission. Although this reflects existing language in Article II that was certified in March 2008 along with revisions to the appeal and noticing procedures, Planning and Development Department staff requested that the language be revised to eliminate when appropriate the need for an additional public hearing.
- **Modification 5 (Noticing and Clarifications):** This modification deletes the special noticing requirements for CDPs that follow the approval of a Conditional Use Permit or Development Plan. This would mean that the County would have to use a noticing process for such “follow-up” CDPs that is not provided for in the certified LUDCs.

Group 3: Minor clarifications, clean-ups and corrections. Many of the recommended modifications are minor in nature and relate to the following:

- Language corrections so that the County and Montecito LUDCs tracks the language of the Coastal Act more closely.
- Corrections required so that the County and Montecito LUDCs correctly reflect the language of recently certified amendments to Article II. Some amendments to Article II that were submitted for certification prior to adoption of the County and Montecito LUDCs were not certified until after the County and Montecito LUDCs were themselves submitted for certification. Because of this overlap in timing, the County and Montecito LUDCs included the language from the amendments to Article II as submitted and prior to certification, so that they did not include any language revisions required by the Coastal Commission through the certification process. The recommended modification will reconcile any differences.
- Correcting minor errors, omissions, and section references.

Group 4: Beneficial modifications. The Coastal Commission staff is including in the recommended modifications the inclusion of several amendments to the County and Montecito LUDCs adopted by the County in 2008 subsequent to the transmitting the LUDCs to the Coastal Commission for certification. This will both (1) save the County fiscal resources as staff will not have to process these items as separate amendments for certification, and (2) cause the amendments to take effect much more quickly.

See Attachment B for a complete listing of the recommended modifications.

2.2 Additional review of the recommended modifications.

Since the Board hearing on April 6, 2010, the Planning and Development Department reviewed the

Coastal Commission staff recommended modifications with the following County commissions and committees, and citizen groups. The purpose of these meetings was to provide additional local review of the recommended modifications and to give an opportunity for commissioners and committee members, and members of the general public, with an opportunity to provide comments to the Board of Supervisors regarding those areas of most concern, and possible recommendations to the Board of Supervisors regarding their response to the recommended modifications.

- 6/2/2010 Agricultural Advisory Committee
- 6/2/2010 County Planning Commission
- 6/3/2010 Process Improvement Oversight Committee
- 6/4/2010 Building Industry Advisory Group
- 6/10/2010 Montecito Planning Commission
- 6/17/2010 Environmental Defense Center Environmental Coalition
- 6/21/2010 Gaviota Plan Advisory Committee
- 6/29/2010 Goleta Valley Plan Advisory Committee

The following provides a summary of the comments received. Any additional comment received subsequent to docketing this Board Agenda Letter will be summarized at the Board hearing.

Agricultural Advisory Committee - The following comments by the Agricultural Advisory Committee are focused on the potential impacts to agriculture if the modifications are accepted as recommended.

Modification 9 Allowed Land Uses and Permit Requirements Tables:

- Some of the proposed language is vague and lacks specificity. For example, what is meant by intensification of agriculture? Is there a particular time period that applies? Vague language sets up landowners for failure since it is not possible to determine when a permit is or is not required.
- Requiring permits for agriculture impedes agricultural viability. The benefits of some agricultural improvements may be far outweighed by the cost of obtaining permits. Rather than go through the onerous process to obtain a permit, some landowners may instead choose not to pursue the improvement.
- There needs to be different requirements for temporary versus permanent confined animal facilities. For example, would installing temporary fencing in order to rotate stock from one area to another trigger a permit requirement?
- Standard agricultural practices such as range improvement and fire management need to be recognized and not subject to a Coastal Development Permit (CDP) requirement.
- Habitat restoration projects need to be included as a principal permitted use.
- Dividing uses between principal permitted uses and non-principal permitted uses blurs and confuses established compatible use policies related to agriculture such as resource management and necessary related residential and commercial uses.
- Restricting principal permitted residential uses to a maximum of 3,000 square feet floor area and no more than 10,000 square feet for all accessory structures and landscaping would subject family dwellings to an arbitrary and unnecessarily burdensome, and expensive permit process.

Modification 13 Subdivisions:

- Requiring CDPs with the potential for appeal to the Coastal Commission for subdivisions, lot line adjustments and voluntary mergers can interfere with the estate planning of agricultural properties.

General Comments:

- The recommended modifications will have the effect of undermining the Gaviota Planning Advisory Committee collaborative process if it would result in zone changes that may be detrimental to agriculture because of the recommended modifications.
- There has been a distinct lack of public process in developing the recommended modifications.

County Planning Commission

Modification 9 Allowed Land Uses and Permit Requirements Tables:

- Habitat restoration should be encouraged and a designated principal permitted use; the expense and difficulty in obtaining permits is a major obstacle to implementing beneficial environmental projects.
- Over-regulation of agricultural operations will be detrimental to agriculture. Increasing the permit requirements results in more time and expense so that agriculturalists may decide to not improve their operations. The modifications need to be revised to lessen impacts to agriculture.

Modification 21 Bluff Development:

- Need to consider the needs and safety of emergency responders who rely on private stairways to provide access to beach.

Environmental Defense Center Environmental Coalition - The discussion with the Environmental Defense Center Environmental Coalition focused mainly on how the recommended modifications would affect the processing of oil and gas projects. The modifications do not specifically address oil and gas processing except for:

- **Modification 9** which revises the Coastal Dependent Industry (M-CD) and Coastal Related Industry (M-CR) zones to specify that that only uses that support or require a site on or adjacent to the sea to be able to function at all are allowed.
- **Modification 28** which makes minor changes to ensure that the language regarding permit processes and regulations related to oil and gas development more accurately reflects the language of the existing certified LCP and provides the same level of protection of coastal resources.

Comments made by the Environmental Defense Center Environmental Coalition were supportive of these revisions.

Gaviota Plan Advisory Committee

Modification 9 Allowed Land Uses and Permit Requirements Tables:

- Equestrian uses, non-profit institutions, recreation, and schools should be designated as principal permitted uses to reduce processing costs.

- The development standards regarding principal permitted dwellings in agricultural zones should be modified to (1) delete the requirement that the dwelling must be occupied by the operator of the primary agricultural operation, (2) allow for multi-generational housing to retain the ability for families to live in separate houses on the same farm or ranch, and (3) increase the total residential development area from 10,000 square feet to two acres to match the agricultural preserve uniform rules standard.
- Habitat restoration should be allowed as being accessory to a principal permitted use when they enhance the natural condition of the land and do not have net long term negative impacts on environmentally sensitive habitat areas.
- Requiring permits for changes of use or intensification of agriculture is counter to the interests of the public and the Gaviota Plan Advisory Committee to facilitate agriculture.
- Cultivated agriculture, orchards, vineyard and grazing operations within areas that have been historically utilized should be exempt from permits provided there is no direct affect on environmentally sensitive habitat areas.

General Comments:

- The Gaviota Plan Advisory Committee is concerned that the recommended modifications will interfere with the Committee's desire to produce a locally appropriate and responsive plan for the long term preservation, enhancement and viability of the Gaviota Coast.

Goleta Plan Advisory Committee

The presentation to the Goleta Plan Advisory Committee is scheduled to occur on June 29th subsequent to the docketing of this Board Agenda Letter. Their comments will be presented at the Board hearing on July 6th.

Montecito Planning Commission

Modification 3 Appeals:

- There doesn't appear to be any purpose to adding a public hearing requirement for Amendments to Conditional Use Permits and Development Plans; this only complicates an existing process that has worked well.
- The revised language proposed by Planning and Development Department staff should be accepted.

Modification 9 Allowed Land Uses and Permit Requirements Tables:

- Many existing agricultural operations are marginal given the cost of land; increasing the permit requirements will increase the difficulty in maintaining viable agricultural operations.
- Habitat restoration should be encouraged and designated as a principal permitted use.

Modification 10 Accessory structures and uses:

- Commonly occurring residential accessory structures and uses (e.g., guest houses, residential second units, tennis courts) should be designated as principal permitted uses.

Modification 13 Subdivisions:

- Voluntary mergers should only require a CDP subject to public hearing only if the merger

would result in a new or intensified land use potential; otherwise should be exempt from this requirement.

Modification 14 Lot Line Adjustments:

- The proposed requirement that the development of lots resulting from a Lot Line Adjustments shall avoid impacts to environmentally sensitive habitat areas in all instances should be modified to allow the existing flexibility if rigid adherence to the standard would prohibit reasonable development of the lot.

Modification 21 Bluff Development:

- Not allowing private access stairways, and rendering existing stairways nonconforming so that they cannot be structurally repaired, will interfere with the existing use and enjoyment of blufftop properties.
- Need to consider the needs and safety of emergency responders who rely on private stairways to provide access to beach.
- Existing permitted staircases should be grandfathered in and allowed to be structurally repaired if necessary.
- County may be subjected to takings claims if private access stairways are no longer allowed.

Modification 34 Sea Level Rise:

- Coastal Commission staff has not provided any scientific basis for specific sea level rise requirements; estimates should be based on best scientific evidence available at the time of permit review. Putting specific requirements in LUDCs will require a time-consuming LCP amendment to revise them in the future. It is already difficult enough to determine mean sea level.
- New terms need to be defined (e.g., long economic life, nearshore) so the regulations are understandable.

General Comments:

- The modifications create additional hardships for property owners due to increased permit process requirements.
- The effect of the modifications is to extend Coastal Commission appeal jurisdiction throughout Coastal Zone and removes existing County authority.

Process Improvement Oversight Committee - The following comments reflect comments from individual members of the Process Improvement Oversight Committee and not a consensus of the Committee as a whole.

Modification 9 Allowed Land Uses and Permit Requirements Table:

- There would be a detrimental impact on agricultural operations resulting from (a) only a few land uses being listed as principal permitted uses and (b) requiring a CDP for typical agricultural activities and operations.
- The square footage allotted for principal permitted residential uses in agricultural zones is low considering paving and landscaping are also included.

- The Coastal Commission is trying to expand its jurisdiction by increasing the number and types of projects that require CDPs with public hearings that could be appealed to the Coastal Commission.
- The proposed deletion of uses currently potentially allowed with a Conditional Use Permit strengthens the ability of the County to deny certain types of undesirable development within the Coastal Zone.

Modification 21 Bluff Development:

- Existing permitted private stairways would become legal, nonconforming and would mean that they could not be maintained, resulting in potential impacts to public safety as emergency responders could not rely using un-maintained access stairways.

Modification 35 Sea Level Rise:

- The terms and parameters used in the modification are vague and need to be better defined.

General Comment:

- There has been a lack of any real public process in developing recommended modifications with the result that the LUDCs, which went through years of public review, are being comprehensively revised without the same level of public involvement.

Public Comment Letters - Several letters from members of the public and organizations were received commenting on the various recommended modifications. These letters are attached as Attachment C to this Board letter.

2.3 Critical Issues.

Based on the comments made at the recent committee meetings and the County and Montecito Planning Commission hearings, as well as Planning and Development Department staff's analysis presented to the Planning Commissions, you may wish to focus your discussion on the issue areas described below. Please refer to the attached County Planning Commission staff report (Attachment A) for a detailed description and analysis of the modifications.

MODIFICATION 3 APPEALS (Attachment A, page 16):

As recommended by the Coastal Commission staff, this modification includes existing language in Article II that requires that CDPs that allow development approved through an Amendment to a previously approved Conditional Use Permit or Development Plan are subject to a public hearing and may be appealed to the Coastal Commission. This existing language has the effect of requiring an additional public hearing for essentially the same project that was approved by the Conditional Use Permit or Development Plan, and results in associated increases in processing time and costs for the applicant without any apparent benefit.

Planning and Development Department staff requested that the Coastal Commission staff revise the recommended modification and provided revised text that included a "waived hearing process" for those instances where it is appropriate to eliminate the public hearing. However, this revision was not acceptable to the Coastal Commission staff as they feel that any project change allowed by an Amendment is too significant to be covered by the original hearing.

MODIFICATION 9 ALLOWED USES AND PERMIT REQUIREMENTS TABLES (Attachment A, page 6):

There are four main issue areas within Modification 9:

- Dividing land uses into those that are designated as *principal permitted uses* and those that are *non-principal permitted uses*.
- Specifying that certain development proposed by the County to be exempt from planning permits is instead subject to a Coastal Development Permit (CDP).
- Revising the list of uses allowed in the different zones (the zone use tables) to (1) add a limited number of uses in the different zones, and (2) deleting what the Coastal Commission staff considers as incompatible uses that are currently allowed with a CDP, a Minor Conditional Use Permit (MCUP) or a Conditional Use Permit (CUP).
- Specifying that a CDP subject to a public hearing and potential for appeal to the Coastal Commission is required for subdivisions, lot line adjustments and voluntary mergers.

Principal versus non-principal permitted uses. This is the most extensive modification recommended by the Coastal Commission staff, and has the effect of dividing the allowable land uses within different zones into uses that are designated as principal permitted uses and those that are not. Under the terms of the Coastal Act, non-principal permitted uses are considered “appealable development” that require a public hearing at the local level and are subject to appeal to the Coastal Commission.

This modification will result in additional time and processing costs for uses that are not designated principal permitted uses due to the requirement for a public hearing and potential appeal to the Coastal Commission.

This modification will also greatly expand the number of projects that may be appealed to the Coastal Commission by an aggrieved party or the Coastal Commission itself. Currently, the requirement for a public hearing and possibility for appeal to the Coastal Commission only applies if the development otherwise constitutes appealable development due to location (between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach, on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff) or type of project (a Conditional Use Permit is required or the development constitutes a major public works project or a major energy facility). As proposed, the approval of any structure or use not designated as a principal permitted use could be appealed to the Coastal Commission throughout the whole of the Coastal Zone. For example, in the agricultural zones, the sale of agricultural products from a structure larger than 600 square feet, and the use of a building larger than 20,000 square feet for processing and shipping, are not designated as principal permitted uses. In the residential zones, guest houses, artist studios, and home occupations are not designated as principal permitted uses.

Development subject to a Coastal Development Permit. The LUDCs as submitted to the Coastal Commission proposed that agricultural activities (i.e., cultivated agricultural, orchards, vineyards, and grazing) would be exempt from a CDP consistent with the existing language of Article II that exempts grading, including grading associated with the expansion of agricultural operations, from a CDP if the grading is otherwise exempt from grading permit. However, as proposed by the Coastal Commission staff, any intensification of agricultural activities (e.g., conversion of grazing land to orchards, expansion of grazing operations into areas that historically have not been grazed) would require the approval of a CDP.

The LUDCs as submitted also proposed that the keeping of animals would be exempt from a CDP, again consistent with the County's administrative practice. However, as proposed by the Coastal Commission staff, animal-keeping (except for household pets) would require the approval of a CDP, and, in non-agricultural zones, would be designated as a non-principal permitted use. The modification further specifies that "confined animal facilities" (e.g., barns, paddocks, stables) are considered a principal permitted use only when accessory to animal keeping that itself is designated as a principal permitted use. Therefore, in residential zones, since animal keeping is not considered a principal permitted use, stabling a horse requires a public hearing that is subject to appeal to the Coastal Commission.

While the Coastal Commission staff believes that several of the revisions are necessary to protect agricultural resources, it was pointed out by several of the commenter's that the effect of these revisions may actually be detrimental to agriculture due to the increase in permitting requirements for agricultural improvements. The benefits of some agricultural improvements may be far outweighed by the cost of obtaining permits, and rather than go through the process to obtain a permit, some agriculturalists may instead choose not to pursue the improvement. The Agricultural Advisory Committee is extremely concerned about the proposed requirement to obtain a CDP for any "intensification" of agriculture, especially since it may not be clear in all cases what constitutes intensification.

Revising the list of uses allowed in the different zones. The Coastal Commission staff recommends revising the zone use tables to (1) add a limited number of uses in the different zones, and (2) delete what the Coastal Commission staff considers to be incompatible uses currently allowed by Article II with a CDP, a Minor Conditional Use Permit (MCUP) or a Conditional Use Permit (CUP). The Coastal Commission staff feels this is necessary in order to preserve long-term agriculture in Agricultural zones, protect environmentally sensitive habitat areas and watersheds in Resource Protection zones, protect and promote visitor-serving uses in the Commercial zones, and reserve Coastal Related and Coastal Dependent industrially zoned sites for only uses that support or require a site on or adjacent to the sea to be able to function at all.

The major impact of this revision would be that in the agricultural and resource protection zones, new schools could not be constructed (although existing schools would be allowed to expand or reconstruct existing facilities) and religious meeting facilities (churches) would not be allowed unless the prohibition would result in a violation of the federal Religious Land Use and Institutionalized Persons Act (RLUIPA). Additionally, charitable/philanthropic organizations, fairgrounds, golf courses, and outdoor sports and recreation facilities would no longer be allowed with a CUP.

Requiring appealable CDPs for subdivisions, lot line adjustments and voluntary mergers. The Coastal Commission staff proposes to add language to affirmatively state that subdivisions, lot line adjustments and voluntary mergers, are "land uses" that require the approval of a CDP. Additionally, because subdivisions, lot line adjustments and voluntary mergers are not listed as principal permitted uses, the CDP would be subject to both a public hearing and the possibility of an appeal to the Coastal Commission.

Subdivisions and lot line adjustments are discretionary applications that already require a public hearing so the primary effect of this modification on such applications is that any approvals would be subject to appeal to the Coastal Commission. However, voluntary mergers are strictly ministerial applications, do not require a public hearing, and are processed by the County Surveyor, not the Planning and Development Department. This modification would result in a significant change in the processing of voluntary mergers, and increase both processing time and costs.

Planning and Development Department staff's position is that these do not constitute uses of property within the typical meaning of the term as used in the LUDCs, and that any regulations of this type do not belong in the LUDCs since the LUDCs do not provide the processing procedures for subdivisions, lot line adjustments or voluntary mergers. Also, there will be a significant increase in the processing time and cost of voluntary mergers.

Modification 13 Subdivisions (Attachment A, page 13) also adds language specifying that subdivisions and other divisions of land, including mergers and re-divisions, are uses of land that require a CDP subject to a public hearing and potential for appeal to the Coastal Commission.

MODIFICATION 10 ACCESSORY STRUCTURES AND USES (Attachment A, page 6):

This Modification is aligned with Modification 9 above and specifies which accessory structures and uses are considered a principal permitted use, and those that are not and therefore subject to a public hearing and potential appeal to the Coastal Commission.

The number of structures and uses proposed to be designated as principal permitted accessory structures and uses is very limited, and there does not appear to be any clear basis for including some accessory structures and uses but not others. For example, in the residential zones, only garages, landscaping, pools, spas and hot tubs, and storage sheds are designated as principal permitted accessory structures, but artist studios, guest houses, residential second units, and tennis courts are not.

As discussed above regarding Modification 9, this modification will (1) result in additional time and processing costs for uses that are not designated principal permitted uses due to the requirement for a public hearing and potential appeal to the Coastal Commission, and (2) greatly expand the scope of projects subject to appeal to the Coastal Commission.

MODIFICATION 21 BLUFF DEVELOPMENT (Attachment A, page 14):

The primary impact of this modification is that it would restrict staircases that provide access from bluff-top properties to the beach to those that provide public access, thus prohibiting staircases that only provide private access. The existing language of the LCP is silent as to whether the staircase provides private or public access to the beach. The County has always interpreted this section to allow for private staircases to provide individual homeowners or members of homeowners associations access to the beach from blufftop properties (e.g., those located in Hollister Ranch and Hope Ranch), and has issued CDPs allowing for the construction and repair of such staircases. However, the Coastal Commission staff is taking the position that such staircases should only be allowed when they provide public access to the beach due to the sensitive nature of the coastal bluffs. This modification would not allow the construction of any new private staircases, and would make all the existing, permitted private staircases nonconforming, thus precluding them from being structurally repaired when the need arises.

The primary concern with this revision is that it would render all the existing private staircases nonconforming. This increases the likelihood that when the need arises to repair these staircases it will be done without a permit which could result in additional damage to the bluff and result in additional hazards to the public enjoying the beach below the bluff. Additionally, as was pointed out during the County Planning Commission hearing, emergency responders depend on being able to use private staircases to get to the beach, and if the staircase is not allowed to be repaired, this could lead to injury to emergency responders, or longer response times to get to injured persons because a private staircase has become unusable.

MODIFICATION 34 SEA LEVEL RISE (Attachment A, page 16):

This modification adds language requiring that a coastal hazards analysis be provided for all proposed projects located near the shore that addresses potential coastal hazards resulting from erosion, flooding,

wave attack, scour and other conditions. For residential and commercial development, the analysis must consider a three to six feet per century range of potential sea level rise scenarios. For energy-related facilities, critical facilities, or infrastructure, the coastal analysis shall assume a minimum sea level rise rate of 4.5 feet per century. Greater sea level rise rates must be used if development (1) is expected to have a long economic life, (2) has few options for adaptation to sea level higher than the design minimum, or (3) if the best available scientific information at the time of review supports a higher design level. The goal of this new requirement is to reduce the need for future shoreline protective devices (e.g., seawalls).

The Coastal Commission staff has not provided any scientific basis for establishing specific sea level rise estimations. Any estimates should instead be based on the best scientific evidence available at the time a project is evaluated which may evolve as conditions relating to sea level rise are better understood. Establishing specific sea level rise standards, as is proposed in this modification, would require amending the certified LCP, which can be a lengthy and time-consuming process, in order to revise the standards if appropriate based on new information.

2.4 Next steps and Board options.

Your Board has several options regarding responding to the Coastal Commission staff's recommended modifications, including:

- Direct the Planning and Development Department to draft a letter to the Coastal Commission outlining your Board's concerns with the recommended modifications.
- Direct the Planning and Development Department to attend the Coastal Commission hearing to give testimony regarding your Board's concerns with the recommended modifications.
- Select Board members to attend the Coastal Commission hearing to express the Board's concerns.

Once the Coastal Commission acts to certify the County and Montecito LUDCs with modifications, then the Board has a maximum of six months from the date of the Coastal Commission action to adopt a resolution accepting all the modifications as approved by the Coastal Commission. This resolution is then sent to the Executive Director of the Coastal Commission to determine if the Board's action is in compliance with the Coastal Act. If it is, then the Executive Director will place it on the next Coastal Commission agenda for their concurrence, and, if they concur, then County and Montecito LUDCs will be certified as of that date, and existing Article II will be of no further force or effect.

However, if the Board decides not to accept all the certified modifications within the six month period, then the County and Montecito LUDCs would not be certified and Article II would continue as the implementation portion of the certified Local Coastal Program. The County and Montecito LUDCs would need to be amended to remove all Coastal Zone specific zoning regulations. Additionally, any recently approved amendments to the County and Montecito LUDCs that affect the coastal area would have to be reprocessed as amendments to Article II and resubmitted to the Coastal Commission for certification, further delaying their implementation. These include:

- Eastern Goleta Valley Residential Design Guidelines (County LUDC)
- Isla Vista Master Plan (County LUDC)
- Santa Barbara Ranch Naples Townsite Zone and Transfer of Development Rights Program (County LUDC)
- Process improvements regarding permit applications for overall sign plans, road naming, septic systems within Special Problem Area, solar energy systems, special care facilities, and time extensions (County and Montecito LUDCs)

- Time extensions due to economic hardship considerations (County and Montecito LUDCs).

If your Board chooses to reject the recommended modifications, it is likely that the Coastal Commission staff will propose very similar modifications in the review and certification process of any future amendments to Article II that the County may wish to make.

Fiscal and Facilities Impacts:

Budgeted: Yes.

Fiscal Analysis:

Funding for this ordinance amendment work effort is budgeted in the Planning Support program of the Administration Division on page D-324 of the adopted Planning and Development Department's budget for fiscal year 2010-2011. There are no facilities impacts.

Special Instructions:

The Clerk of the Board will send a copy of the Minute Order to the Planning and Development Department, attention Noel Langle.

Attachments:

Attachment A: County Planning Commission Staff Report (w/o attachments)

Attachment B: List of Coastal Commission Recommended Modifications

Attachment C: Comment Letters Received

David Hill (Coastal Ranches Conservancy) May 30, 2010

Linda Krop/Brian Trautwein (Environmental Defense Center) May 27, 2010

Charles D. Kimbell (Gaviota Plan Advisory Committee) June 24, 2010

Paul McEnroe (Santa Barbara County Cattlemen's Association) May 27, 2010

Peter van Duinwyk (Montecito Association) May 13, 2010

Steve Welton, AICP (Suzanne Elledge Planning & Permitting, Inc.) June 7, 2010

Authored by:

Noel Langle (805.568.2067)

ATTACHMENT A: COUNTY PLANNING COMMISSION STAFF REPORT

SANTA BARBARA COUNTY PLANNING COMMISSION Review of Coastal Commission Recommended Modifications to the County Land Use and Development Code

Hearing Date: June 2, 2010
Staff Report Date: May 14, 2010

Development Services Director: Dianne Black
Staff Contact: Noel Langle
Phone No.: 805.568.2067

1.0 REQUEST

Hearing on the request of the Planning and Development Department that the County Planning Commission review the California Coastal Commission staff's recommended modifications to the County Land Use and Development Code and provide comments to the County Board of Supervisors regarding the modifications.

2.0 RECOMMENDATION AND PROCEDURES

Staff is seeking input from your Commission regarding the modifications to the County Land Use and Development Code (LUDC) that staff of the Coastal Commission is recommending that the Coastal Commission adopt as part of their certification of the LUDC, and possible recommendations to the Board of Supervisors regarding their response to the suggested modifications.

3.0 JURISDICTION

There is no mandate that the Coastal Commission recommended modifications be reviewed by the County Planning Commission, However, given the scope of the revisions, Planning and Development staff felt it appropriate that the County Planning Commission review the recommended modifications and provide comments to the Board of Supervisors as to how the Board should respond to the recommended modifications.

4.0 EXECUTIVE SUMMARY

Any time the County Board of Supervisors adopts an amendment to the County's Local Coastal Program (LCP), either the Coastal Land Use Plan, or the implementation portion (currently the Article II Coastal Zoning Ordinance), the amendment must be submitted to the Coastal Commission for certification. The typical process for certifying a LCP amendment (LCPA) consists of the following:

- Step 1: The amendment and all supporting materials (staff reports, exhibits, etc.) are transmitted to the Coastal Commission office.
- Step 2: The Coastal Commission staff reviews the submittal and, if they determine that the submission is complete, files that submittal for processing.
- Step 3: The Coastal Commission staff reviews the amendment, and develops recommended modifications. The purpose of these modifications is to ensure that the amendment is consistent with the Coastal Act and the County's LCP.
- Step 4: The Coastal Commission staff schedules a public hearing on the amendment in front of the Coastal Commission itself and prepares a staff report that includes an analysis of the amendment and the recommended modifications.

- Step 5: The Coastal Commission holds the public hearing and acts to certify the amendment with the recommended modifications. Both oral and written testimony may be presented to the Coastal Commission. The Board of Supervisors normally provides testimony on items of concern.
- Step 6: The County Board of Supervisors reviews the Coastal Commission's action in a public hearing and, within six months of the Coastal Commission hearing, either adopts a resolution accepting Coastal Commission approval with certified modifications, or rejects the certified modifications. If the Board of Supervisors rejects the modifications, then the amendment is not certified and the LCP is not changed. For the subject LCPA this would mean that the existing Article II would remain in effect and would not be replaced by the County LUDC.
- Step 7: The Executive Director of the Coastal Commission reviews the Board of Supervisors resolution to determine if the resolution of the Board of Supervisors accepting the modifications conforms to the requirements of the Coastal Act. If the Executive Director determines that the action of the Board of Supervisors does conform, that determination is placed on the next Coastal Commission hearing agenda.
- Step 8: If the Coastal Commission agrees with the Executive Director's determination, then the amendment is certified and the County's LCP is revised accordingly. Any revisions to the LCP become effective immediately following the action of the Coastal Commission to accept the Executive Director's determination.

The County LUDC was submitted to the Coastal Commission as a LCPA for certification in October 2006. This amendment is now at Step 4 in the process shown above. The Coastal Commission hearing on the amendment was to have occurred on April 15, 2010. However, because the Coastal Commission's staff report (see Attachments A and B) was not released until April 1, 2010, and because the recommended modifications contained several revisions that do not appear to be necessary to either implement the Coastal Act or conform the amendment to the remainder of the LCP, at the direction of the Board of Supervisors, the Planning and Development Department requested that the Coastal Commission hearing be postponed until August 2010.

Based on their review of the submission, the Coastal Commission staff is recommending to the Coastal Commission that they should approve the LCPA only if Coastal Commission also adopts the recommended modifications. These modifications can be divided into four groups:

- Group 1: Modifications the Coastal Commission staff feel are necessary to conform the County LUDC to the Coastal Land Use Plan and to implement the Coastal Act.** These modifications are the most far reaching of the recommended modifications and seek to impose new restrictions on development in the County beyond what is contained in the existing certified LCP. The discussion of these modifications begins on page 6 of this report.
- Group 2: Planning and Development Department suggested revisions to Modifications that the Coastal Commission staff does not support.** During the review of the amendment, the Planning and Development Department staff identified two recommended modifications that should be revised in order to address some existing procedural problems. Planning and Development staff provided the Coastal Commission staff with text revisions that would fix the existing problems, however, the Coastal Commission staff declined to include the revisions in the recommended modifications. The discussion of these revisions begins on page 17 of this report.
- Group 3: Minor clarifications, clean-ups and corrections.** Most of the recommended modifications

are minor in nature and relate to (1) language corrections so that the County LUDC tracks the language of the Coastal Act more closely, (2) revising the County LUDC so that it reflects the language of recently certified amendments to the LCP, and (3) correcting minor errors, omissions, and section references. The discussion of these modifications begins on page 19 of this report.

Group 4: Beneficial modifications. The Coastal Commission staff is including in the recommended modifications the inclusion of several amendments to the County LUDC adopted by the County in 2008 subsequent to the transmitting the LUDCs to the Coastal Commission for certification. This will both (1) save the County fiscal resources as staff will not have to process these items as separate amendments for certification, and (2) cause the amendments to take effect much more quickly. The discussion of these modifications begins on page 23 of this report.

The first two groups contain what Planning and Development Department staff feels are the most significant changes contained in the modifications as recommended by the Coastal Commission:

- **Modification 3 (Appeals):** This modification includes language that specifies that a CDP that follows the approval of an Amendment to a Conditional Use Permit or Development Plan (for development that may be appealed to the Coastal Commission) is subject to a public hearing and is appealable to the Coastal Commission. This is inconsistent with existing Planning and Development Department procedures and would add a new hearing requirement to such applications.
- **Modification 5 (Noticing and Clarifications):** This modification deletes the special noticing requirements for CDPs that follow the approval of a Conditional Use Permit or Development Plan. This would mean that the County would have to use a noticing process for such “follow-up” CDPs that not provided for in the certified County LUDC.
- **Modification 9 (Allowed Land Uses and Permit Requirements Table):** This modification divides the allowable land uses within different zones into uses that are designated as principal permitted uses, and those that are not. Under the Coastal Act, uses other than principal permitted uses are subject to a public hearing and potential for appeal to the Coastal Commission.
- **Modification 10 (Accessory Structures and Uses):** Similar to Modification 9, Modification 10 divides accessory structures and uses within the different zones into principal and non-principal permitted uses.
- **Modification 13 (Subdivisions):** This modification specifies (1) that subdivisions, lot line adjustments and voluntary mergers constitute development within the meaning of the Coastal Act and thus require the approval of a Coastal Development Permit (CDP) and (2) that they are not a principal permitted use in any zone. Therefore subdivisions, lot line adjustments and voluntary mergers would require a CDP that is subject to a public hearing and is appealable to the Coastal Commission.
- **Modification 14 (Lot Line Adjustments):** Similar to Modification 13, part of this modification adds language to again specify that within the Coastal Zone, lot line adjustments are not a principal permitted use and therefore require the approval of a CDP that is subject to a public hearing and is appealable to the Coastal Commission.
- **Modification 21 (Clarifications Regarding Bluff Development):** The main impact of this modification is to prohibit (1) the construction of any new private staircases that provide access from blufftop properties to the beach below and (2) the structural repair of any existing private

staircases.

- **Modification 34 (Sea Level Rise):** This modification adds language that a coastal hazards analysis be provided for all projects proposed to be located near the shore, and requires that for residential and commercial development, the analysis must consider a three to six feet per century range of potential sea level rise scenarios. For energy-related facilities, critical facilities, or infrastructure, the coastal analysis is required to assume a minimum sea level rise rate of 4.5 feet per century.

A more detailed discussion and analysis of these modifications, and the remainder of the modifications proposed by the Coastal Commission staff, is provided in SECTION 6.0 DISCUSSION/ANALYSIS. See Attachment C for a complete listing of the recommended modifications.

The County Planning Commission is not required to review the modifications recommended by the Coastal Commission staff and provide input to the Board of Supervisors. However, given the scope of the recommended modifications and the potential effects on permit processing and land uses within the Coastal Zone, the Planning and Development Department wanted to provide the County Planning Commission with the opportunity to provide comments to the Board of Supervisors regarding those areas that the County Planning Commission is most concerned with, and whether the Board should actively seek to request changes to the modifications and/or direct that additional negotiations should occur.

The Montecito Planning Commission will be reviewing the modifications to the Montecito LUDC recommended by the Coastal Commission staff at a special hearing on June 10, 2010.

5.0 BACKGROUND

On October 17, 2006, the Board of Supervisors adopted the first County and Montecito Land Use and Development Codes that replaced the then-existing Article I (Sign Ordinance), Article II (Coastal Zoning Ordinance), Article III (Inland Zoning Ordinance), Article IV (Montecito Zoning Ordinance) and Article V (Road Naming and Street Addressing Ordinance). This represented the culmination of the first phase of the Zoning Ordinance Reformatting Project (ZORP) that began in late 2003 as part of Planning and Development Department's land use process improvement efforts. The goals of ZORP were to improve the quality and usability of the County's zoning regulations, streamline processing procedures and provide better customer service by arranging existing regulations into a format that is easier to read and search by (1) eliminating duplicated information/procedures, (2) using "plain English" and (3) grouping related information. As originally adopted, the County Land Use and Development Code (County LUDC) contained the zoning regulations that applied to the whole of the Coastal Zone and non-Coastal Zone (Inland area) portions of the County located outside of the Montecito Community Plan area. The original Montecito Land Use and Development Code (Montecito LUDC) contained only the zoning regulations that applied to the non-Coastal Zone (Inland area) portion of the Montecito Community Plan area. These LUDCs were submitted to the Coastal Commission for certification as an amendment to the implementation portion (zoning regulations) of the County's Local Coastal Program in December 2006.

In November, 2007, the Board of Supervisors replaced the original County and Montecito LUDCs with new versions that shifted all zoning regulations that applied to the Montecito Planning Area, both coastal and non-coastal, into the Montecito LUDC. In December 2007 the County submitted the new LUDCs to the California Coastal Commission for certification as replacements for the versions submitted in December 2006. In September 2008, the Coastal Commission staff determined that the submittals was complete for processing and initiated their review of the LUDCs. In October of the

same year the Coastal Commission approved a one year time extension to extend their processing deadline to November, 2009.

On August 31, 2009, the respective staffs of the Coastal Commission and the Planning and Development Department met to discuss the status of the review of the LUDCs. At this meeting, the Coastal Commission staff confirmed that the LUDCs would be considered by the Coastal Commission at their October hearing; however, they also brought up for the first time substantial modifications that the staff intended to recommend to the Coastal Commission that would limit local control over land use decisionmaking. Due to the limited time remaining for the Planning and Development Department, Board of Supervisors, and the public to provide any meaningful review of any recommended modifications, in October 2009 the Planning and Development Department formally withdrew and resubmitted the LUDCs for certification by the Coastal Commission, thereby allowing more time for the Coastal Commission and County staff to discuss and attempt to resolve differences of opinion regarding the suggested modifications.

Since that time, Planning and Development staff has been working closely with the Coastal Commission staff to develop language and permit processes to address Coastal Commission staff's concerns. Coastal Commission staff would have presented their recommendations to the Coastal Commission at the April 15, 2010 as modifications that the Coastal Commission should adopt if they act to certify the LUDCs as the implementation portion of the County's Local Coastal Program. However, because the Coastal Commission's staff report was not released until April 1, 2010, and because the recommended modifications still contained several revisions that do not appear to be necessary to implement the Coastal Act, the County was again put in the position of not having adequate time to review and provide meaningful input on the recommended modifications.

Therefore, at the direction of the Board of Supervisors, the Planning and Development Department requested that the Coastal Commission hearing be postponed until August 2010.

6.0 DISCUSSION/ANALYSIS

6.1 Coastal Commission Standard of Review

The Coastal Commission standard of review for proposed amendments to the County LUDC (i.e., the Implementation Plan of the certified Local Coastal Program) is that the Coastal Commission must approve them unless any proposed amendment is not in conformance with, or is inadequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified Santa Barbara County Local Coastal Program (Coastal Act Sections 30513 and 30514). Because all of the Coastal Act Chapter 3 Coastal Resources Planning and Management Policies (public access, recreation, marine environment, land resources, development, industrial development) have been incorporated into the County's certified Coastal Land Use Plan, the Coastal Commission staff is also reviewing the County LUDC against these policies.

Additionally, because the County LUDC regulates the noticing, hearing, and appeal procedures for CDPs, it must also be reviewed for consistency with the procedural requirements established under Article 17 of Subchapter 2 of Chapter 8 of the Coastal Commission's Administrative Regulations Sections 13560 -13572 (see Attachment D).

Finally, because the County LUDC proposes to modify the scope of projects subject to the requirement for a CDP by designating additional land uses as exempt from a CDP that are not currently exempted by existing Article II, Coastal Commission staff is reviewing the County LUDC for consistency the Coastal Act and associated regulations regarding development exempt from a CDP (Coastal Act

Section 30610; Coastal Commission's Administrative Regulations Chapter 6, Exclusions from Permit Requirements.

The County LUDC was presented to the Coastal Commission staff as a simple re-codification of Article II. However, because the reformatted code includes what the Coastal Commission staff considers "substantive changes" (see Attachment A, page 160) they are taking this opportunity to correct what they see as deficiencies in the existing regulations.

6.2 Summary of Recommended Modifications.

The modifications recommended by the Coastal Commission staff fall into the following four categories:

- modifications the Coastal Commission staff feel are necessary to conform the County LUDC to the Coastal Land Use Plan and to implement the Coastal Act.
- Planning and Development Department suggested revisions to Modifications that the Coastal Commission staff does not support.
- minor clarifications, clean-ups and corrections.
- beneficial modifications.

6.2.1 Modifications the Coastal Commission staff feel are necessary to conform the County LUDC to the Coastal Land Use Plan and to implement the Coastal Act.

The Modifications discussed in this section have the most far reaching impacts and would both limit local control over land use decisionmaking and well as impose new permit procedures and requirements beyond those the presently exist in Article II.

Modification 9 Allowed Land Uses and Permit Requirements Table (Coastal Commission staff report page 77):

- 1. Designation of certain land uses as principal permitted uses.** This is the most significant modification recommended by the Coastal Commission staff, and has the effect of dividing the allowable land uses within different zones into uses that are designated as principal permitted uses (shown as "PP" in the land use tables) and those that are not (shown as "P" in the land use tables).

The Coastal Commission staff's position is that this is required by Section 30603(a)(4) of the Coastal Act which provides that any development approved by the County that is not designated as the principal permitted use within the applicable zone is considered "appealable development." Under the terms of the Coastal Act, applications for appealable development are (1) subject to a public hearing requirement and (2) a decision to approve such an application may be appealed to the Coastal Commission once local appeals are exhausted. Therefore, P uses are considered appealable development.

The County's certified Article II does not distinguish between principal and non-principal permitted uses. Instead, each zone contains a list of uses allowed with a CDP and a list of uses allowed with a Minor or Major Conditional Use Permit. The requirement for a public hearing and possibility for appeal to the Coastal Commission only applies if the development otherwise constitutes appealable development:

- Developments approved by the County between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

- Developments approved by the County not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.
- Any development approved by the County that requires a Conditional Use Permit.
- Any development which constitutes a major public works project or a major energy facility.

This modification would change the permit process for all permitted uses that are not designated as a PP use and that would not otherwise require a public hearing from a Coastal Development Permit (CDP) approved at a staff level to a CDP under the jurisdiction of the Zoning Administrator.

The following provides a brief summary of which land uses are designated as PP uses in the different zones. Please refer to Attachment B - Coastal Commission Use Tables and Exhibits (pages 1 through 60), for a complete description of which uses are designated as PP versus those that are designated as P.

Agricultural zones. In the agricultural zones, since agriculture is considered to be the principal permitted use, agricultural structures and uses are proposed to be designated as PP uses. Other uses like residential, commercial, etc., are designated as P uses. One important exception to this is that the primary dwelling on an agriculturally zoned lot may be considered a Principal Permitted use provided:

- there is an existing primary agricultural use on the lot on which the primary dwelling is proposed to be located.
- the occupancy of the dwelling is restricted to the operator of the primary agricultural use (including the family of the operator).
- the gross floor area of the primary dwelling does not exceed 3,000 square feet.
- the primary dwelling and all accessory structures and landscaping associated with the primary dwelling occupies a development area of no more than 10,000 square feet.

If the dwelling does not comply with these standards, then it could still be allowed but would be required to undergo a public hearing, and an approval by the County would be appealable to the Coastal Commission once local appeals are exhausted.

Individual septic systems and domestic water wells that are accessory to a PP use are also designated as PP. Agricultural water wells are designated as PP.

See the discussion of Modification 10 (page 12) regarding the permitting of accessory uses in the Agricultural zones.

Residential/Resource Protection zones. In residential and resource protection zones, dwellings are proposed to be designated as the principal permitted use. However, within the Resource Management zone (RMZ), the Coastal Commission is proposing to add the following development standards in order to protect the resources typically found in that land (e.g., watershed):

- the primary dwelling and all accessory structures and landscaping associated with the primary dwelling occupies a development area of no more than 10,000 square feet.
- the development shall not occupy slopes of 30 percent or greater.

As is the case with primary dwelling in the agricultural zones discussed above, if the dwelling

does not comply with these standards, then it could still be allowed but would be required to undergo a public hearing, and an approval by the County would be appealable to the Coastal Commission once local appeals are exhausted.

Commercial/Industrial zones. In commercial and industrial zones, commercial and industrial uses are proposed to be designated as the principal permitted uses in the respective zones.

2. **Development exempt from a Coastal Development Permit.** The County LUDC as submitted to the Coastal Commission proposed that agricultural activities (i.e., cultivated agricultural, orchards, vineyards, and grazing) would be exempt from a CDP consistent with the County's administrative practice. As proposed by the Coastal Commission staff, any intensification of agricultural activities (e.g., conversion of grazing land to orchards, expansion of grazing operations into area that historically have not been grazed) would require the approval of a CDP. In the Agricultural zones, agricultural activities are shown as PP; however, in the Residential zones and the Special Purpose zones, agricultural activities are shown as a P, such that any intensification of agricultural activities in these zones would require the approval of a CDP subject to a public hearing and potential for appeal to the Coastal Commission.

The County LUDC as submitted to the Coastal Commission also proposed that animal-keeping would be exempt from a CDP in several zone; however, as proposed by the Coastal Commission staff, animal-keeping would be designated either as a PP or P use, depending on the principal use of the particular zone (see Attachment B, pages 61 through 68). The revisions also specify that "confined animal facilities" (e.g., barns, paddocks, stables) are considered a PP use only when incidental, appropriate and subordinate to animal keeping that itself is designated as a PP use. For example, keeping of livestock in an agricultural zone is considered a PP use; however, in the residential zones, it is not considered a PP use. Therefore, as proposed by this Modification, an application for a CDP for stabling a horse on a residentially zoned requires a public hearing and is subject to appeal to the Coastal Commission.

Lastly, this Modification adds language to the use tables that a structure or use shown as exempt from a planning permit must still meet the additional requirements for exempt development (e.g., must comply with zone development standards and conditions of previous permits).

3. **Additional changes to the land use tables.** This modification includes revising the zone use tables to (1) add a limited number of uses in the different zones, and (2) delete what the Coastal Commission staff considers to be incompatible uses currently allowed by Article II with either a CDP, a Minor Conditional Use Permit (MCUP) or a Conditional Use Permit (CUP). The Coastal Commission staff feels this is necessary in order to:

- preserve long-term agriculture in Agricultural zones
- protect environmentally sensitive habitat areas and watersheds in Resource Protection zones
- protect and promote visitor-serving uses in the Commercial zones
- reserve Coastal Related and Coastal Dependent industrially zoned sites for only uses that support or require a site on or adjacent to the sea to be able to function at all.

The following summarizes the use table revisions for the various zone types; please refer to Attachment B - Coastal Commission Use Tables and Exhibits (pages 1 through 60), for a more complete description of the proposed revisions.

- a. **Agricultural zones.** The following uses would no longer be allowed by a CUP in the AG-I and/or AG-II zones:

Cemetery	Golf Driving Range	School - Business/Trade
Charitable Organization	Meeting Facility, Religious	Sports/Recreation Facility
Fairgrounds	School	Water Extraction, Commercial
Golf Course		

Existing schools would be allowed to expand or reconstruct existing facilities. Religious meeting facilities (churches) would not be allowed unless the prohibition would result in a violation of the federal Religious Land Use and Institutionalized Persons Act (RLUIPA).

b. Resource Protection zones.

(1) Restricting agricultural operations in the Resource Management Zone. Under the existing Article II regulations, grazing is allowed with a CDP, and cultivated agriculture is allowed with a CUP. The Coastal Commission recommended modification would:

- Change the permit requirement for grazing from a CDP to a MCUP, and add a restriction that it may only occur on slopes of 30 percent or less, and
- Retain the CUP requirement for cultivated agriculture, but only it to occur it to slopes of 30 percent or less.

(2) Restricting agricultural operations in the Toro Canyon area. When the Toro Canyon Area Plan was adopted in February 2002, a new zone district (MT-TORO Mountainous Area - Toro Canyon Planning Area) was also approved and sent to the Coastal Commission for certification which was finally completed in December 2004. The existing certified MT-TORO zone does not allow grazing operations and allows cultivated agriculture throughout the zone with a CDP, provided there is evidence of either a permitted or nonconforming use on the site within the previous ten year period, or a MCUP if there is no evidence of previous use. The recommended modifications would:

- allow grazing operations subject to the approval of a MCUP, and
- require a MCUP for all new or expanded cultivated agriculture and restrict the use to slopes of 30 percent or less.

Even though this zone and the existing permitting requirements were recently certified, the Coastal Commission staff argues that this modification, in regards to cultivated agriculture, is necessary to protect the sensitive resources of land zoned MT-TORO.

(3) Uses no longer allowed with either a CUP or MCUP. The following uses would no longer be allowed by either a CUP or a MCUP in the MT-TORO and RMZ zones:

Aquaculture(1)	Fairgrounds	Meeting Facility-Public/Private(2)
Cemetery	Golf Course	Meeting Facility-Religious
Charitable Organization	Golf Driving Range	Mortuary(2)
Country Club(2)	Library(2)	Museum(2)
Child care - Non-residential	Mausoleum(2)	School
Child care - Residential	Medical Services - Clinic(2)	School-Business/Trade
Drive-through, accessory(2)	Medical Services-Extend. Care(2)	Sports/Recreation Facility
Equestrian Facility(1)	Medical Services-Hospital(2)	Water Extraction, Commercial

Notes:

1. RMZ only
2. MT-TORO only

Existing schools would be allowed to expand or reconstruct existing facilities. Religious

meeting facilities (churches) would not be allowed unless the prohibition would result in a violation of the federal Religious Land Use and Institutionalized Persons Act (RLUIPA).

c. Residential zones. There are no additional proposed changes to the Residential zones use tables except to add “meeting facility, religious” as a use allowed with a CUP in the EX-1 zone within the Coastal Zone.

d. Commercial zones.

(1) C-1 (Limited Commercial) zone. The only proposed revision to the C-1 zone use tables is to add “visitor serving commercial” as a PP use within the Coastal Zone.

(2) C-V (Visitor Serving Commercial) zone. Campgrounds, bed and breakfast, and hostels are proposed to be added as a PP use in the C-V zone. Stand alone restaurants, cafés and coffee shops that are not associated with resort development are proposed to be added as a P use.

The following uses are proposed for deletion as a use allowed with either a CDP or a CUP:

Bulk water importation facility	Large family day care home	Mortuary, access. to cemetery
Desalination facilities	Medical Services - Clinic	School
Cemetery/Mausoleum	Medical Services-Extended Care	School-Business/Trade
Charitable Organization	Medical Services-Hospital	Special Care Home
Country Club	Meeting Facility-Public/Private	Wastewater treatment facility
Child care - Non-residential	Meeting Facility-Religious	Water diversion project
Child care - Residential	Mining	Water extraction, commercial
Drive -through facility	Mortuary	

The special provision that allows for the expansion or reconstruction of existing school facilities that is included in the Resource Protection zones use tables is not repeated in the Commercial zones use table. Religious meeting facilities (churches) would only be allowed if the prohibition would result in a violation of the federal Religious Land Use and Institutionalized Persons Act (RLUIPA).

(3) PI (Professional and Institutional) zone. The following uses are proposed for deletion as either a use allowed with a CDP or a CUP:

- Bulk water importation facility
- Desalination facilities
- Mining
- Special Care Home

e. Industrial zones (M-CD) and M-CR. The M-CR zone (Coastal Related Industry) is intended to provide areas that are appropriate for coastal-related industrial uses. The M-CD (Coastal Dependent Industry) zone is applied within the Coastal Zone to areas appropriate for certain energy and industrial uses that require a site on, or adjacent to the sea to function.

Repair service (indoor/outdoor) is proposed to be added as a use allowed with a CUP in the M-CR and M-CD zones.

The following uses are proposed for deletion as a use allowed with either a CDP or a CUP:

Agricultural access. structure	Fairgrounds	Medical Services-Hospital
Agricultural processing	Golf Course	Meeting Facility-Public/Private
Cemetery	Golf Driving Range	Meeting Facility-Religious
Charitable Organization	Grazing	Mortuary (2)

Child care - Nonresidential	Greenhouse	Mortuary, access. to cemetery
Child care - Residential	Large family day care home	Museum
Conference center	Library	Music recording studio (1)
Country Club	Lodging - Hostel (1)	School
Cultivated agriculture	Mausoleum	School-Business/Trade
Drive -through facility	Medical Services - Clinic	Special care home
Equestrian Facility	Medical Services-Extend. Care	Wastewater treatment facility

Notes:

1. M-CD only
2. M-CR only

f Special Purpose zones.

- (1) **PU (Public Utility) zone.** Public works or private service facility is proposed to be added as a use allowed with a MCUP. This corrects an error in the County LUDC as adopted.

The following uses are proposed for deletion as a use allowed with either a CDP, CUP, or MCUP:

Agricultural product sales	Fairgrounds	Mining
Cemetery	Golf Course	Monastery
Charitable Organization	Library	Mortuary
Child care - Nonresidential	Mausoleum	Mortuary, access. to cemetery
Conference center	Medical Services - Clinic	Museum
Country Club	Medical Services-Extend. Care	School
Cultivated agriculture	Medical Services-Hospital	School-Business/Trade
Drive -through facility	Meeting Facility-Public/Private	Special care home
Equestrian Facility	Meeting Facility-Religious	Sports/Recreation Facility

- (2) **REC (Recreation) zone.** Residential accessory use or structure is proposed to be added as a use allowed with a MCUP. This corrects an error in the County LUDC as adopted.

The following uses are proposed for deletion as a use allowed with either a CDP, CUP, or MCUP:

Bulk water importation facility	Mausoleum	Mining
Cemetery	Medical Services - Clinic	Monastery
Child care - Nonresidential	Medical Services-Extend. Care	Mortuary
Child care - Residential	Medical Services-Hospital	Mortuary, access. to cemetery
Desalination facility	Meeting Facility-Religious	Wastewater treatment facility
Drive -through facility		

Religious meeting facilities (churches) would only be allowed if the prohibition would result in a violation of the federal Religious Land Use and Institutionalized Persons Act (RLUIPA).

- (3) **TC (Transportation Corridor) zone.** The following uses are proposed for deletion as a use allowed with either a CDP, CUP, or MCUP:

Agricultural access. structure	Drive -through facility	Mining
Agricultural processing	Equestrian Facility	Monastery
Agricultural product sales	Fairgrounds	Mortuary
Aquaculture	Golf Course	Mortuary, access. to cemetery
Building/Landscape materials	Greenhouse	Museum
Bulk water importation facility	Library	School
Cemetery	Lodging - Hostel	School-Business/Trade
Charitable Organization	Mausoleum	Special care home

Child care - Nonresidential	Medical Services - Clinic	Sports/Recreation Facility
Conference center	Medical Services-Extend. Care	Vehicle inspection station
Country Club	Medical Services-Hospital	Water extraction, facility
Cultivated agriculture	Meeting Facility-Public/Private	Wastewater treatment facility
Desalination facility	Meeting Facility-Religious	

- 4. Coastal Development Permit requirement for subdivisions, lot line adjustments and voluntary mergers.** The Coastal Commission staff proposes to add language to the introductory sections of the different zones regarding allowable land uses to state that subdivisions, lot line adjustments and voluntary mergers, are “land uses” that require the approval of a CDP. Currently, Article II only specifies that a CDP is required for recording vesting tentative maps. Additionally, because subdivisions, lot line adjustments and voluntary mergers are not listed as principal permitted uses, they would require the approval of a CDP subject both to a public hearing requirement and the possibility of an appeal to the Coastal Commission. Planning and Development Department staff’s position is that these do not constitute uses of property within the typical meaning of the term as used in the LUDCs, and that any regulations of this type do not belong in the LUDCs since the LUDCs do not provide the processing procedures for subdivisions, lot line adjustments or voluntary mergers.

Because subdivisions and lot line adjustments are discretionary applications that are already required to go through a public hearing process, the primary effect of this modification on such applications is that any approvals would be subject to appeal to the Coastal Commission. However, voluntary mergers are strictly ministerial, do not require a public hearing, and are processed by the County Surveyor, not the Planning and Development Department. The result of this recommended modification would be a significant change in the processing of voluntary mergers.

Staff comment regarding Modification 9. Staff’s primary concerns with the revisions proposed under Modification 9 relate to the following:

- The additional time and processing costs for uses that are designated as appealable development (P uses) due to the requirement for a public hearing before the Zoning Administrator and potential appeal to the Coastal Commission.
- Requiring a CDP for any intensification of agricultural activities (e.g., cultivated agriculture, orchards, vineyards, grazing), including restrictions on what is considered a principal permitted dwelling in agricultural zones
- Restrictions on what is considered a principal permitted dwelling in the Resource Management zone
- Permit requirements for animal keeping, including confined animal facilities
- Permit requirements for tentative maps other than vesting maps, lot line adjustments, and voluntary mergers.

Modification 10 Accessory Structures and Uses (Coastal Commission staff report page 83):

This Modification is aligned with Modification 9 above and specifies which accessory structures are considered a PP use, and those which are a P use and therefore subject to a public hearing and potential appeal to the Coastal Commission.

Agriculture: In the agricultural zones, agricultural accessory structures and uses are designated as PP only when they are considered a component of the agricultural use of the property. The only residential accessory structures and uses that are designated as PP are the following provided they are accessory to

a principal permitted dwelling:

- garages
- landscaping,
- pools, spas and hot tubs,
- storage sheds.

All other residential accessory structures and uses, such as guest houses, would be considered appealable development.

Residential/Resource Protection zones. Only the following structures and uses are designated as PP accessory structures and uses in the residential and resource protection zones:

- garages
- landscaping
- pools, spas and hot tubs
- storage sheds.

All other residential accessory structures and uses, including artist studios, barns and stables, guest houses, tennis courts, residential second units, etc., would be considered appealable development.

Commercial/Industrial zones. In the commercial and industrial zones, only the following structures and uses are designated as PP accessory structures and uses when accessory to a principal permitted use:

- equipment, maintenance and other minor outbuildings
- infrastructure
- landscaping
- parking.

All other accessory uses (e.g., recreational and residential uses in commercial zones, mining and recreational uses in industrial zones) would be considered appealable development.

Please refer to Attachment B - Coastal Commission Use Tables and Exhibits (pages 1 through 60), for a complete description of the Coastal Commission recommended revisions to the allowable accessory structures and uses in the different zone types.

Staff comment regarding Modification 10. Staff's primary concern with the revisions proposed under Modification 10 relates to the additional time and processing costs for accessory structures and uses that are designated as appealable development (P uses).

Modification 13 Subdivisions (Coastal Commission staff report page 99):

This Modification adds language to specify that within the Coastal Zone, subdivisions and other land divisions or re-divisions (including voluntary mergers) are not a principal permitted use and therefore all such land divisions require a CDP that is subject to a public hearing and is appealable to the Coastal Commission. Also see the discussion under Modification 9 above regarding CDP requirement for subdivisions, lot line adjustments and voluntary mergers.

Staff comment regarding Modification 13. Staff's primary concern with the revisions proposed under Modification 13 relate to the additional permit requirements for tentative maps other than vesting maps, lot line adjustments, and voluntary mergers. Additionally, since they are not designated as principal permitted uses, all CDPs for tentative maps, lot line adjustments and voluntary mergers would require a noticed public hearing under the jurisdiction of the Zoning Administrator and would be

appealable to the Coastal Commission.

Modification 14 Lot Line Adjustments (Coastal Commission staff report page 99):

Article II currently requires, for lot line adjustments that result in lots that are nonconforming as to size, that “development of the lot avoids or minimizes impacts where appropriate to environmentally sensitive habitat and buffer areas, and riparian corridor and buffer areas.” As proposed, the effect of this Modification would be to require that development of the lot avoid impacts to environmentally sensitive habitat and buffer areas, and riparian corridor and buffer areas in all instances, as shown below:

Article II (existing)	Proposed County LUDC (as modified)
<p>Section 35-134. Lot Line Adjustments.</p> <p>A. Findings:</p> <p>3.a(3)</p> <p>(f) Environmental Sensitive Habitat. Development of the parcel avoids or minimizes impacts where appropriate to environmentally sensitive habitat and buffer areas, and riparian corridor and buffer areas.</p>	<p>35.30.110 - Lot Line Adjustments</p> <p>B. Required findings for approval.</p> <p>3.c(6)</p> <p>(a) Coastal Zone. Within the Coastal Zone, development of the lot avoids impacts to environmentally sensitive habitat and buffer areas, and riparian corridor and buffer areas.</p>

This Modification also adds a new finding for lot line adjustments to require that an adjustment of agricultural land located within the Coastal Zone will not diminish the long-term agricultural productivity of the land as a result of the proposed adjustments. Adding this finding serves to reinforce the protections for productive agricultural land including (1) the existing requirement that lot line adjustments must be found consistent with the Coastal Land Use Plan which includes policies that serve to protect agricultural lands and (2) the existing finding in the County LUDC for lot line adjustments that result in lots that are nonconforming as to size that requires that development of the lot shall not threaten or impair agricultural viability on productive agricultural lands within or adjacent to the lots.

Lastly, this Modification adds language to again specify that within the Coastal Zone lot line adjustments are not a principal permitted use and therefore require the approval of a CDP that is subject to a public hearing and is appealable to the Coastal Commission.

Staff comment regarding Modification 14. Staff’s primary concern with the revisions proposed under Modification 14 relate to eliminating the flexibility for highly constrained lots that currently exists in the finding regarding impacts to environmentally sensitive habitat and buffer areas and riparian corridor and buffer areas, and the imposition of additional permit requirements (i.e., potential for appeal to the Coastal Commission) for all lot line adjustments.

Modification 21 Clarifications Regarding Bluff Development (Coastal Commission staff report page 112):

This Modification addresses two bluff development issues, (1) structures in the bluff setback and (2) access stairways from the bluff to the beach.

First, the Modification adds the following new requirements for any minor improvements that may be allowed within the required geologic bluff setback:

- structural foundations are not allowed
- the structure must be sited a minimum of 15 feet from the bluff edge

- if such structures that are threatened by erosion they must be removed or relocated landward.

This Modification also proposes to restrict engineered staircases that provide access from bluff-top properties to the beach to those that provide public access. The existing language of the LCP is silent as to whether the staircase provides private or public access to the beach. The County has always interpreted this section to allow for private staircases to provide individual homeowners or members of homeowners associations access to the beach from blufftop properties (e.g., those located in Hope Ranch), and has issued CDP allowing for the construction and repair of such staircases. However, the Coastal Commission staff is now taking the position that such stairways and accessways should only be allowed when they provide public access to the beach due to the sensitive nature of the coastal bluffs. This modification would not allow the construction of any new private access stairways, and would make all the existing, permitted private staircases nonconforming, thus precluding them from being structurally repaired when the need arises.

The table below compares the existing Article II language with the proposed County LUDC language as modified by the Coastal Commission:

Article II (existing)	Proposed County LUDC (as modified)
<p>Section 35-67. Bluff Development.</p> <p>3. Within the required blufftop setback, drought-tolerant vegetation shall be maintained. Grading, as may be required to establish proper drainage or to install landscaping, and minor improvements, i.e., patios and fences that do not impact bluff stability, may be permitted. Surface water shall be directed away from the top of the bluff or be handled in a manner satisfactory to prevent damage to the bluff by surface and percolating water.</p> <p>5. No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe, and beach. Drainage devices extending over the bluff face shall not be permitted if the property can be drained away from the bluff face.</p>	<p>35.60.060 - Bluff Development</p> <p>C. Landscaping, grading, and drainage. Within a required blufftop setback, drought-tolerant vegetation shall be maintained. Grading, as may be required to establish proper drainage or to install landscaping, and minor improvements (e.g., patios and fences that do not require structural foundations or otherwise impact bluff stability) may be permitted but in no case shall minor ancillary structures or improvements be sited closer than 15 feet from the bluff edge. Ancillary structures shall be removed or relocated landward when threatened by erosion. Surface water shall be directed away from the top of the bluff or be handled in a manner satisfactory to prevent damage to the bluff by surface and percolating water.</p> <p>E. Bluff face development, drainage structures. No development shall be permitted on the bluff face, except for engineered staircases or access ways to provide public beach access, and pipelines for scientific research or coastal dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe, and beach. Drainage devices extending over the bluff face shall not be permitted if the property can be drained away from the bluff face.</p>

Staff comment regarding Modification 21. Staff’s primary concern with the revisions proposed under Modification 21 relate to specifying that only staircases that provide public access are allowed as this would render all the existing private staircases nonconforming. This increases the likelihood that

when the need arises to repair these staircases it will be done without a permit which could result in additional damage to the bluff and result in additional hazards to the public enjoying the beach below the bluff. Further, the County’s certified LCP and the Coastal Act do not distinguish between public and private accessways.

Modification 34 Sea Level Rise (Coastal Commission staff report page 152):

This Modification adds language (shown below) requiring that the best available scientific information, in the form of a coastal hazards analysis, be provided for proposed projects located near the shore. The analysis must encompass potential coastal hazards from erosion, flooding, wave attack, scour and other conditions as well as localized uplift or subsidence, local topography, bathymetry, and geologic conditions. For residential and commercial development, the analysis must consider a three to six feet per century range of potential sea level rise scenarios. For energy-related facilities, critical facilities, or infrastructure, the coastal analysis shall assume a minimum sea level rise rate of 4.5 feet per century. Greater sea level rise rates must be used if development (1) is expected to have a long economic life, (2) has few options for adaptation to sea level higher than the design minimum, or (3) if the best available scientific information at the time of review supports a higher design level.

Proposed County LUDC (as modified)	Article II (existing)
<p>A. Residential and Commercial, Coastal Hazard Analysis in Consideration of Sea Level Rise. The best available scientific information with respect to the effects of long-range sea level rise shall be considered in the preparation of findings and recommendations for all requisite geologic, geo-technical, hydrologic, and engineering investigations. Residential and commercial development at nearshore sites shall analyze potential coastal hazards from erosion, flooding, wave attack, scour and other conditions, for a range of potential sea level rise scenarios, from three to six feet per century. The analysis shall also consider localized uplift or subsidence, local topography, bathymetry, geologic conditions, and potential tsunami inundation areas. These hazard analyses shall be used to identify current and future site hazards, to help guide site design and hazard mitigation and identify sea level rise thresholds after which limitations in the development’s design and siting would cause the improvements to become significantly less stable. For design purposes, residential and commercial projects shall assume a minimum sea level rise rate of three feet per century; greater sea level rise rates shall be used if development is expected to have a long economic life, if the proposed development has few options for adaptation to sea level higher than the design minimum, or if the best available scientific information at the time of review supports a higher design level.</p> <p>B. Energy Facilities and Other Critical Development, Coastal Hazard Analysis in Consideration of Sea Level Rise. The best available scientific information with respect to</p>	<p>No similar regulations in Article II with respect to sea level rise. However, all projects are evaluated for conformance with Coastal Land Use Plan policies regarding bluff protection and geologic hazards and Article II development standards regarding beach development and bluff development.</p>

the effects of long-range sea level rise shall be considered in the preparation of findings and recommendations for all requisite geologic, geo-technical, hydrologic, and engineering investigations. The analysis shall be performed for critical facilities, energy production and distribution infrastructure, and other development projects of major community significance using a minimum rise rate of 4.5 feet per century. The hazards analysis shall analyze potential coastal hazards from erosion, flooding, wave attack, scour and other conditions in conjunction with sea level rise scenarios and shall also consider localized uplift or subsidence, local topography, bathymetry, geologic conditions, and potential tsunami inundation areas. These hazard analyses shall be used to identify current and future site hazards, to help guide site design and hazard mitigation and identify sea level rise thresholds after which limitations in the development's design and siting would cause the improvements to become significantly less stable. For design purposes, energy projects and critical infrastructure shall assume 4.5 feet per century; greater sea level rise rates shall be used if development is expected to have a long economic life, if the proposed development has few options for adaptation to sea level higher than the design minimum, or if the best available scientific information at the time of review supports a higher design level.

Staff comment regarding Modification 34. Staff's primary concern with the revisions proposed under Modification 34 is that the Coastal Commission has not provided any scientific basis for establishing a specific sea level rise estimations. Any estimates should instead be based on the best scientific evidence available at the time a project is evaluated which may evolve as conditions relating to sea level rise are better understood. Establishing a specific sea level rise standard, as is proposed in this modification, would require amending the certified LCP in order to revise later it if necessary.

6.2.2 Planning and Development Department suggested revisions to Modifications that the Coastal Commission staff does not support.

Modification 3 Appeals (Coastal Commission staff report page 30): The primary purpose of this Modification is to revise the language of the County LUDC so that it correctly reflects the language of a recently certified LCP amendment (LCPA 2-06) that updated the appeal and noticing requirements for development projects. Because this amendment, which was approved by the Board of Supervisors and submitted for certification to the Coastal Commission in 2006 prior to the adoption of the County LUDC in 2007, was not certified until March 2008, the language of the County LUDC does not reflect exactly the language of the amendment as certified. Therefore, this Modification would reconcile the language of the County LUDC with the certified language regarding appeals.

Besides revising the appeal and noticing requirements, one of the primary goals of LCPA 2-06 was to combine the processing of CDP s with required Conditional Use Permits and Development Plans in order to reduce the number of permit actions that could be appealed to the Coastal Commission. All

Conditional Use Permits, and certain Development Plans (e.g., applications for development located in the Appeals Jurisdiction) are considered “appealable development” that may be appealed to the Coastal Commission. As required by the Coastal Act, appealable development is required to have a public hearing prior to being approved.

Amendments to Conditional Use Permits and Development Plans are under the jurisdiction of the Director, and Article II provides that a public hearing is not required prior to approval of the amendment. Both the application for the Amendment and the decision of the Director on the Amendment is noticed to the surrounding property owners and residents. Historically, when the Director approved an Amendment to a Conditional Use Permit or appealable Development Plan, staff followed this approval with the approval of a CDP without a public hearing since (1) the overall project previously underwent a public hearing when it was originally approved, and (2) any change allowed by the Amendment must be well within the scope of that original approval. Notice of this approval was provided to the same parties that received notice regarding the Amendment, and a Notice of Final Action was sent to the Coastal Commission.

As proposed by the Coastal Commission staff, this Modification includes language that specifies that a CDP that is subject to a public hearing and is appealable to the Coastal Commission is required in order to allow any development approved through the Amendment process. Planning and Development Department staff requested that the Coastal Commission staff revise the recommended Modification to include procedures that reflects the existing Planning and Development procedure and provided revised text that included a “waived hearing process” for those instances where a surrounding property owner requests that a public hearing be held on the Amendment, and requirements for providing mailed notice including sending a Notice of Final Action to the Coastal Commission. However, these revisions were not acceptable to the Coastal Commission staff as they feel that any project change allowed by an Amendment is too significant to be covered by the original hearing.

Staff comment regarding Modification 3. Staff’s concern with the revisions proposed under Modification 3 is that the effect of this recommended modification will be the requirement for an additional public hearing before the Zoning Administrator for all Amendments for essentially the same project, and associated increases in processing time and costs.

Modification 5 Noticing and Clarifications (Coastal Commission staff report page 60):

The primary purpose of this Modification is to revise the language of the County LUDC so that it correctly reflects the language of a recently certified LCP Amendment (LCPA 2-06) that updated the Noticing requirements for development projects. These revisions are necessary due to the overlap between submitting the County LUDC for certification and the Coastal Commission certifying LCPA 2-06 as explained above under the discussion for Modification 3 (Appeals).

As described above, LCPA 2-06 also updated the processing requirements for CDP, Conditional Use Permits and Development Plans by combining the processing of CDPs with Conditional Use Permits and Development Plans in order to reduce the number of permit actions that could be appealed to the Coastal Commission. Prior to this amendment, a Conditional Use Permit or Development Plan would be approved, and then some time later a “follow-up” CDP would be issued to allow the actual construction of the project approved by the Conditional Use Permit or Development Plan. This sequential processing of permits allowed for multiple appeals to the Coastal Commission on the same project. One result of this amendment was to require that the CDP be processed concurrently with the Conditional Use Permit or Development Plan in order to delete the potential for multiple appeals to the Coastal Commission for the same project.

However, because there were Conditional Use Permits and Development Plans approved prior to March 2008, such that a follow-up CDP would still be required to be issued to allow the actual construction of the project, the County LUDC included procedures that provided special requirements for noticing these follow-up Coastal Development Permits.

As proposed by the Coastal Commission staff, this Modification deletes the special requirements for noticing these follow-up Coastal Development Permits as they believe that retaining these procedures would be confusing and is inconsistent with the goal of requiring that CDPs are processed concurrently with the discretionary project. Planning and Development Department staff provided the Coastal Commission staff with alternative language that retained the procedure for noticing such follow-up CDP with the clarification that this only applies to projects approved prior to March 2008, however, this was not acceptable to the Coastal Commission staff.

Staff comment regarding Modification 5. Staff's concern with the revisions proposed under Modification 3 is that for remaining follow-up CDPs the County will have to use a noticing process not provided for in the certified County LUDC.

6.2.3 Minor clarifications, clean-ups and corrections.

Many of the recommended modifications are minor in nature and relate to the following:

- Language corrections so that the County LUDC tracks the language of the Coastal Act more closely.
- Corrections required so that the County LUDC correctly reflects the language of recent amendments to certified Article II. This results from the situation that ordinance amendments adopted by the County and sent to the Coastal Commission for certification prior to the adoption of the LUDCs in 2007 were not certified until sometime after 2007 and included modifications to the ordinance language. Because the County LUDC was based on the language of the amendments as originally adopted by the County, any modifications required as part of the certification process of those amendments were not reflected in the County LUDC as adopted. The recommended modification will reconcile any differences.
- Correcting minor errors, omissions, and section references.

Planning and Development Department staff does not have any concerns regarding the following recommended modifications. Please refer to Attachment B - Coastal Commission Use Tables and Exhibits (pages 1 through 60), for a complete description of the proposed revisions.

Modification 1 Inland Area (Coastal Commission staff report page 18): Because the County LUDC contains zoning regulations that address both the Coastal Zone and the Inland area, Modification 1 is proposed in order to ensure clarity as to which provisions apply only in the Coastal Zone, which provisions apply only in the Inland Area, and which provisions apply to both areas. This Modification will add "Coastal Zone," "Inland area," or "Coastal Zone and Inland area" to the titles of different sections and subsections of the County LUDC as appropriate.

Modification 2 References (Coastal Commission staff report page 26): This Modification removes references to documents where the Coastal Commission staff feels that it may be interpreted to incorporate documents that are not part of the County's certified LCP. The Coastal Commission staff is concerned that these outside documents may change guidelines or provisions without further notice to the Coastal Commission. For example, the reference to County Code Chapter 14 (the Grading Ordinance) has been removed and replaced by incorporating the applicable standards directly.

Modification 4 Clarification for Removing Follow-Up CDP (Coastal Commission staff report

page 55): This Modification is aligned with Modifications 3 and 5 discussed on pages 17 and 18, above, and is proposed by the Coastal Commission in order to ensure consistent implementation of the requirement that an application for a CDP be processed concurrently and in conjunction with any application for a CUP or DP.

Modification 6 Design Review (Coastal Commission staff report page 70): The purpose of Modification 6 is reconcile the language of the County LUDC regarding projects under the jurisdiction of the North Board of Architectural Review with the certified language of the Board of Architectural Review amendment that was adopted and submitted to the Coastal Commission for certification prior to the adoption of the County LUDC, but was not certified until after the adoption of the County LUDC.

Modification 7 Application Contents (Coastal Commission staff report page 72): The specific submittal requirements for each of the various planning permit applications (e.g. CDP, Conditional Use Permits, Development Plans) that were previously included in Article II were not included into the County LUDC and instead are now specified within the application forms for each of the different permit applications. The purpose of this is to leave the application requirements flexible to ensure that the Planning and Development Department has the ability to tailor the application requirements as necessary for specific applications. However, to ensure that new applications for CDPs and other and other applications in the Coastal Zone include the necessary information required to adequately review and analyze whether new development proposals are consistent with the coastal resource protection policies of the certified County LCP, Modification 7 adds the following statement of the minimum information requirements that will have to be satisfied in an application in order for the County (or the Coastal Commission on appeal) to make an informed decision regarding consistency of the project with the LCP:

At a minimum the application shall include all information and materials necessary for the review authority to make an informed decision regarding the consistency of the application with the Comprehensive Plan, the Local Coastal Program, and the regulations of this Development Code.

Modification 8 Applicability, Interpretation and Conflicts (Coastal Commission staff report page 72): In translating the Article II language into Land Use and Development Code format, several revisions were made to language regarding the applicability, interpretation, and means of resolving conflicts within the Coastal Zone. The Coastal Commission staff is concerned that the language as revised is not consistent with the requirements of the Coastal Act or the County's Coastal Land Use Plan and is not fully protective of coastal resources. Therefore, Modification 8 is proposed to revert to the existing certified language contained in Article II regarding the purpose, authority and applicability of existing ordinances of the certified LCP. In addition, Modification 8 specifies the hierarchy of conflict resolution in the Coastal Zone as follows: (1) the provisions of the LCP take precedence over any other non-certified provisions, guidelines, or plans where conflicts occur with non-certified documents and (2) the standards that are most protective of coastal resources shall take precedence where conflicts occur within the LCP (unless otherwise specified). Modification 8 also updates the language that describes what development must comply with the provisions of the County LUDC by adding clarifications and deleting an existing inconsistency within the LCP which indicated that certain repair and maintenance activities are not subject to the County LUDC. Finally, Modification 8 addresses two other important implementation issues: (1) it clarifies that in the Coastal Zone, where provisions of State law are amended, such changes require an LCP amendment to be effective within the Coastal Zone and (2) it provides a full list of updated zoning maps and overlays.

Modification 11 Exemptions (Coastal Commission staff report page 88): This Modification reorganizes the section of the County LUDC that enumerates those uses that are exempt from planning permits to separate exemptions applicable in the Coastal Zone versus those that are applicable in the Inland area. Additionally, the text describing what is exempt in the Coastal Zone is revised to better reflect the requirements of Sections 13250-13253 of the Coastal Commission's Administrative Regulations. The revised language divides the Coastal Zone exemptions into the following categories:

- improvements to a structure other than a public works facility
- agricultural activities
- utility hook-up exclusions
- temporary events and filming
- repair and maintenance
- disaster replacement.

However, this modification also adds language to specify that any activities listed under the first two categories are exempt only if they comply with development standards that serve to protect coastal resources including wetlands, beaches, environmentally sensitive habitat areas, coastal bluffs, and public access.

Modification 12 Development Standards (Coastal Commission staff report page 97): The purpose of this modification is to provide clarification throughout the County LUDC that development in the Coastal Zone is subject to all the provisions of the certified LCP, not just the development standards identified within each zone district. This modification also includes minor clarifications within the different zone standards to bring the text into conformance with the existing certified language of the LCP.

Modification 15 ESHA Clarifications (Coastal Commission staff report page 101): The purpose of this modification is to (1) ensure that the revised language in the ESHA Overlay is consistent with the protections provided in the existing certified LCP, (2) rectify an existing internal inconsistency regarding nonconforming structures within the Toro Canyon Area, (3) reiterate that the ESHA Overlay applies when new ESHA is identified on a project-level basis, and (4) establish a new standard that the ESHA Overlay still applies in cases where habitat or species have been unlawfully destroyed.

Modification 16 Flood Hazard Overlay (Coastal Commission staff report page 105): This Modification eliminates the reference to the standards located within County Code Chapter 15A (Floodplain Management) that have not been certified as part of the County's LCP. In the Coastal Commission staff's view, references to uncertified standards have the potential to create a conflict with the standards of the certified LCP because the standards may change without further notification to the Commission. This Modification remedies this situation by incorporating the applicable standards directly into the County LUDC. In addition, the modified language also clarifies that all other standards of the LCP still apply in addition to any need for an approval by the County Flood Control District.

Modification 17 Hazardous Waste Management Facility Overlay (Coastal Commission staff report page 105): Modification 17 eliminates a reference to the Hazardous Waste Element which is not certified as part of the County's LCP. The modification also reiterates that, within the Coastal Zone, conflicts between non-certified standards and certified standards shall be resolved by the LCP provisions taking precedence, and that all such development must comply with all of the provisions of the LCP.

Modification 19 Allowed Temporary Uses (Coastal Commission staff report page 107): Modification 19 clarifies (1) that any temporary use listed as exempt from planning permit

requirements in the Temporary Use section of the County LUDC shall be exempt in the Coastal Zone only if it also meets the additional requirements outlined in the temporary event guidelines, and (2) that temporary trailers must also meet the regular exemption criteria specified in the County LUDC Section (Section 35.20.040).

Modification 20 Telecommunications Facilities (Coastal Commission staff report page 108): The purpose of this Modification is to incorporate the modifications from LCP Amendment 1-05-C (Telecommunications) with regard to commercial and non-commercial telecommunications that was certified on June 14, 2007. Since the County LUDC was transmitted to the Coastal Commission for certification prior to this date, it does not contain the text as modified by the Coastal Commission. Therefore, Modification 20 re-inserts the certified modifications from LCPA 1-05-C.

Modification 22 Clarifications Regarding Planning Permit Modifications (Coastal Commission staff report page 113): The purpose of Modification 22 is to ensure that modifications to zone development standards approved concurrent with the approval of a CUP or DP do not adversely impact coastal resources by adding language requiring that such planning permit modifications be consistent with all other applicable resource protection policies of the LCP.

Modification 23 Development Agreements (Coastal Commission staff report page 114): The purpose of this modification is to clarify that a Development Agreement for development located in the Coastal Zone is only effective once it is certified by the Coastal Commission as an amendment to the LCP.

Modification 24 Signs (Coastal Commission staff report page 115): The existing certified Article II makes limited references to signs. The proposed County LUDC incorporates all of the permit requirements attributed to signs formerly contained in Article I, the County Sign Ordinance. Modification 24 clarifies when a sign requires a CDP and when it may be exempt.

Modification 26 Energy (Coastal Commission staff report page 116): This modification is proposed to ensure that the language regarding facilities related to oil and gas development more accurately reflects the language of the existing certified LCP and provides the same level of protection of coastal resources.

Modification 27 Glossary (Coastal Commission staff report page 118): The County LUDC provides a comprehensive set of definitions of land uses and terms that did not exist in Article II. The Coastal Commission is proposing several modifications to support the objectives of other suggested modifications, particularly to (1) provide guidance on interpreting the Land Use Tables, (2) implement the system of Principal Permitted Uses, and (3) revert some definitions back to existing Article II language.

Modification 28 Revert to Certified Language (Coastal Commission staff report page 123): The purpose of this modification is to re-insert language from the existing certified Article II where the Coastal Commission is concerned that the loss of such language would result in the LCP not being implemented adequately, including circumstances where it is not clear that any exceptions or modifications to approvals must be consistent with all other provisions of the LCP.

Modification 29 Errors and General Clarifications (Coastal Commission staff report page 125): The purpose of this modification is to correct minor errors and omissions where the Coastal Commission staff feels the lack of information may cause inadequate interpretation and implementation of the LCP.

Modification 30 LCP Amendments (Coastal Commission staff report page 131): Section 35.104 of the County LUDC provides guidance regarding procedures and processing of amendments to the

County LUDC. Modification 30 provides processing clarifications to ensure that an amendment to the County LUDC also requires an amendment to the certified LCP before the amendment is effective in the Coastal Zone.

Modification 31 Attachments (Coastal Commission staff report page 134): The County LUDC included attachments (Community Plan development standards and a table summarizing the permitting requirements for oil and gas facilities located in the Inland area) that are not proposed for certification as part of the LCP. However, the Coastal Commission feels that it is not sufficiently clear that these attachments will not be part of the certified LCP. Therefore, Modification 31 provides additional introductory language explaining that the attachments are not certified as part of the LCP.

Modification 32 Surface Mining and Reclamation Act (Coastal Commission staff report page 135): The existing certified Article II includes provisions for Reclamation and Surface Mining Permits consistent with the California Surface Mining and Reclamation Act of 1975 (SMARA). The proposed section covering SMARA in the County LUDC was written to cover both the Inland area and Coastal Zone areas. However, in doing so the specificity regarding implementation and procedures within the Coastal Zone was removed. The primary purpose of Modification 32 is to clarify that mining constitutes development in the Coastal Zone thus requiring at a minimum the issuance of a CDP. Also, this Modification specifies that mining is not a designated as a principal permitted use, such that all CDPs for mining operations are appealable to the Coastal Commission.

Modification 33 Density Bonus (Coastal Commission staff report page 146): The existing certified Article II contains provisions to allow for a density bonus for affordable housing in order to implement the incentive programs provided in the State density bonus regulations (Government Code Sections 65915 through 65918). As adopted, the County LUDC reduced the specificity regarding density bonus program implementation and incentives contained in Article II. Modification 33 incorporates for the Coastal Zone some of the specific provisions from Government Code Section 65915 *et seq.* directly into the County LUDC with regard to applicability and program parameters rather than just referencing Section 65915 *et seq.* Additionally, the Modification provides a maximum density bonus of 50 percent above the base zone density and provides that incentive or other concessions may only be granted in the Coastal Zone when such incentives or concessions are consistent with all other applicable policies and provisions of the LCP and do not create adverse impacts on coastal resources.

Modification 35 Renumbering (Coastal Commission staff report page 153): Though every effort has been made to correctly identify locations where numbering of sections or references has occurred as a result of the recommended modifications above, there may be cases where a reference or section number was overlooked due to the length and complexity of the modifications. Modification 35 gives the County the ability to renumber references and section numbers as necessary to incorporate the recommended modifications as certified by the Coastal Commission.

6.2.4 Beneficial modifications.

The Coastal Commission staff is including in the recommended modifications the inclusion of several amendments to the County LUDC adopted by the County in 2008 subsequent to transmitting the County LUDC to the Coastal Commission for certification. This will both:

- save the County fiscal resources as staff will not have to process these items as separate amendments for certification, and
- cause the amendments to take effect much more quickly.

These amendment include process improvements regarding permit applications for overall sign plans, road naming, septic systems within Special Problem Area, solar energy systems, special care facilities,

and time extensions.

Beneficial modifications also include:

Modification 18 Rural Recreation (Coastal Commission staff report page 106): “Rural Recreation” is a land use type that is identified as an allowed use in the Agricultural and Resource Protection zones. The existing certified LCP identifies rural recreation as low intensity recreational uses within the Agricultural II (Ag-II) zone, Resource Management (RMZ) zone, and Mountainous Toro (MT-TORO) zone; however, each of the zones has a different list of potential low intensity recreational uses and some provide additional standards and some do not. Modification 18 re-inserts the uses and zone standards to be more consistent with the existing certified Article II, thus correcting inadvertent errors regarding campgrounds in the rural areas that were made when the County LUDC was adopted by the County.

Modification 25 Economic Hardship (Coastal Commission staff report page 115): This modification further amends the time extensions process for permits to allow additional time extensions for reasons of economic hardship; however, this provision is only effective until January 12, 2012. Specifically, the Director may extend planning permits for an additional 24 months where findings of economic hardship can be made. These additional provisions were adopted by the Board of Supervisors on July 14, 2009.

7.0 ENVIRONMENTAL REVIEW

The review of the California Coastal Commission staff’s recommended modifications to the County Land Use and Development Code is not considered a project under the California Environmental Quality Act (CEQA) and therefore is not subject to CEQA.

8.0 NEXT STEPS

The Coastal Commission is scheduled to consider the County LUDC at their August 2010 meeting in San Luis Obispo. The next step for the County is to provide comments and suggested changes the Coastal Commission staff’s recommendations. The Board of Supervisors will consider providing comments and testimony at their hearing on July 6, 2010. Your Commission’s comments and suggestions will be forwarded to the Board for their consideration.

Once the Coastal Commission acts to certify the County LUDC with modifications, then the Board has a maximum of six months from the date of the Coastal Commission action to adopt a resolution accepting all the modifications as approved by the Coastal Commission. This resolution is then sent to the Executive Director of the Coastal Commission to determine if the Board’s action is in compliance with the Coastal Act. If it is, then the Executive Director will place it on the next Coastal Commission agenda for their concurrence, and, if they concur, then County LUDC will be certified as of that date, and existing Article II will be of no further force or effect.

However, if the Board decides not to accept all the certified modifications within the next six month period, then the County LUDC would not be certified and Article II would continue as the implementation portion of the certified Local Coastal Program. The County LUDC would need to be amended to remove all Coastal Zone specific zoning regulations. Additionally, any recently approved amendments to the County LUDC that affect the coastal area would have to be reprocessed as an amendment to Article II and resubmitted to the Coastal Commission for certification, further delaying their implementation. These include:

- Eastern Goleta Valley Residential Design Guidelines

- Isla Vista Master Plan
- Santa Barbara Ranch
- Process improvements regarding permit applications for overall sign plans, road naming, septic systems within Special Problem Area, solar energy systems, special care facilities, and time extensions.
- Time extensions due to economic hardship considerations.

9.0 ATTACHMENTS

- A. Coastal Commission Staff Report
- B. Coastal Commission Use Tables and Exhibit Maps
- C. List of Coastal Commission Recommended Modifications
- D. Coastal Commission Administrative Regulations Section 13560 through 13572

ATTACHMENT B: LIST OF COASTAL COMMISSION RECOMMENDED MODIFICATIONS

- Modification 1 Inland Area
- Modification 2 References
- Modification 3 Appeals
- Modification 4 Clarification for Removing Follow-Up CDP
- Modification 5 Noticing and Clarifications
- Modification 6 Design Review
- Modification 7 Application Contents
- Modification 8 Applicability, Interpretation and Conflicts
- Modification 9 Allowed Land Uses and Permit Requirements Table
- Modification 10 Accessory Structures and Uses
- Modification 11 Exemptions
- Modification 12 Development Standards
- Modification 13 Subdivisions
- Modification 14 Lot Line Adjustments
- Modification 15 ESHA Clarifications
- Modification 16 Flood Hazard Overlay
- Modification 17 Hazardous Waste Management Facility Overlay
- Modification 18 Rural Recreation
- Modification 19 Allowed Temporary Uses
- Modification 20 Telecommunications Facilities
- Modification 21 Clarifications Regarding Bluff Development
- Modification 22 Clarifications Regarding Planning Permit Modifications
- Modification 23 Development Agreements
- Modification 24 Signs
- Modification 25 Economic Hardship
- Modification 26 Energy
- Modification 27 Glossary
- Modification 28 Revert to Certified Language
- Modification 29 Errors and General Clarifications
- Modification 30 LCP Amendments
- Modification 31 Attachments
- Modification 32 Surface Mining and Reclamation Act
- Modification 33 Density Bonus
- Modification 34 Sea Level Rise
- Modification 35 Renumbering

ATTACHMENT C - PUBLIC LETTERS

David Hill (Coastal Ranches Conservancy) May 30, 2010

Linda Krop/Brian Trautwein (Environmental Defense Center) May 27, 2010

Charles D. Kimbell (Gaviota Plan Advisory Committee) June 24, 2010

Paul McEnroe (Santa Barbara County Cattlemen's Association) May 27, 2010

Peter van Duinwyk (Montecito Association) May 13, 2010

Steve Welton, AICP (Suzanne Elledge Planning & Permitting, Inc.) June 7, 2010

COASTAL RANCHES CONSERVANCY

California Educational Nonprofit 501 (c) (3) Organization • Federal Tax ID #68-0554135

May 30, 2010

Cecilia Brown, Chair
Santa Barbara County Planning Commission
123 Anapamu Street
Santa Barbara, California 93101

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Secretary

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Doug Campbell

Luella Connelly

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Monte Ward

Nancy Ward

Larry Williamson

Subject: California Coastal Commission Suggested Modifications
To the Land Use Development Code

Dear Chairperson Brown and Members of the Planning Commission,

Thank you for the opportunity to comment on the California Coastal Commission staff's suggested modifications to Santa Barbara County's Land Use Development Code.

The Coastal Ranches Conservancy is a local non-profit dedicated to the enhancement and protection of the natural environment of the Gaviota Coast by supporting research, education, restoration and conservation projects. Specifically our organization has supported steelhead restoration projects, native grass propagation, riparian protections, conservation education, and control of harmful invasive weeds on public and private lands.

Often the expense and difficulty in obtaining permits is a major obstacle to implementing beneficial environmental projects. We have been working, with the help of a grant from the Bower Foundation, to improve the process so that good environmental projects and ranching practices are encouraged.

We feel that the California Coastal Commission (CCC) staff's suggested modifications to the Santa Barbara County's Land Use Development Code (LUDC) will deter instead of encourage good natural resource protection projects and do little to preserve sustainable agriculture.

Furthermore, the CCC's proposed changes have had virtually no opportunities for public review and comment, and no time for citizens and agencies to consider, deliberate and advise. This is not the way public policy should be imposed and runs counter to the transparent and collaborative manner that the County undertook during the original adoption of the LUDC.

The CCC staff proposal will undermine the Gaviota Coast Rural Planning Update and result in prematurely determining the outcome of the GavPac--which conducts its business with open public meetings and is considering ways to contribute to agriculture's long-term viability, protect natural resources, and enhance public recreation opportunities.

Thus, these suggested modifications by the CCC staff will result in a lost opportunity to create local changes to our regulations that can enhance resource protections, create environmentally beneficial projects on private land, and streamline agricultural permit processing which are solutions your Commission has recently and successfully addressed.

Specifically, the CCC staff's suggested modifications that are a serious concern include:

- Establishing Principle Permitted Uses. This is a significant departure from the County's traditional approach to agricultural zoning and will result in an expanded role by CCC staff in regulating agriculture in Santa Barbara County by requiring additional permit review, significant costs and unknown delays.
- Requiring a CDP for a change in scope or intensification of agriculture operations. The policy is unclear and does not provide a landowner flexibility to manage their operations. It is impractical for a landowner who is able to increase their grazing operation or utilize a portion of their private property for an alternative agriculture crop to apply for a CDP.
- Mandating a CDP for a lot line adjustment or merger. This suggested modification will create a prohibitive regulatory environment that may result in creating little incentive for property owners who want to enter into Williamson Act Contracts. These contracts are important management tools and proven to preserve long-term agriculture.
- Limiting a development envelop to 10,000 square feet. Currently, property in the Williamson Act is allowed a two-acre development envelope. Clearly, there will be little incentive to enter into a Williamson Act Contract when a landowner is faced limiting their development area to less than 1/4 acre plus in addition to the extra time and processing costs associated with a CDP.

It appears that CCC staff's intent is to expand their regulatory role by mandating

Santa Barbara County Planning Commission
Land Use Development Code Suggested Modifications

May 30, 2010

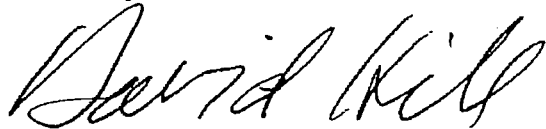
Page 3

effort, waste over a year's time and squander the significant resources invested in the local process. This is an insulting attempt to undermine the locally supported general plan update that is now occurring in the Gaviota planning area. These modifications will weaken our County government's ability to determine its own coastal plan and will negatively impact long-term agriculture viability, resource protection, and public recreation.

We respectfully encourage the Planning Commission to reject the Coastal Commission staff's modifications to the LUDC.

Thank you for the opportunity to comment on these important matters.

Sincerely,

A handwritten signature in black ink that reads "David Hill". The signature is written in a cursive, flowing style.

David Hill, President

Coastal Ranches Conservancy

Cc: Supervisor Doreen Farr, Planning Director Glen Russell



environmental
DEFENSE CENTER

May 27, 2010

Santa Barbara County Planning Commission
123 E. Anapamu Street
Santa Barbara, CA 93101

**Re: California Coastal Commission (CCC) Suggested Modifications to
County and Montecito Land Use and Development Codes (LUDC)**

Dear Honorable Planning Commissioners:

The following comments are submitted by the Environmental Defense Center (EDC) in response to the California Coastal Commission (CCC) Suggested Modifications to County and Montecito Land Use and Development Codes (LUDC).

In April 2010, the CCC suggested modifications to Santa Barbara County's LUDC amendments to ensure LUDC compliance with the Coastal Act. EDC supports these suggested modifications and urges the County to accept them for the following reasons:

- Updating the LCP will ensure that local land use decisions in the coastal zone are made in compliance with the Coastal Act. This will better protect our coast and public access thereto.
- The CCC's suggested modifications increase opportunities for public participation by creating more opportunities for public hearings and public (and applicant) appeals of important land use decisions.
- The CCC suggested modifications have been long-anticipated. The County was notified by the CCC more than a decade ago that Santa Barbara County's LCP was one of three LCPs in the state in most need of update to comply with the Coastal Act. (See CCC May 4, 2001 memo.)

- If the CCC's suggested modifications are rejected, the County would be forced to go back to Article II. Recently approved amendments to the LUDC that would affect the coastal zone would have to be reprocessed in the Article II format and resubmitted to the CCC for certification, further delaying implementation. If this were the case, the County would lose updates to the IV Master Plan, Eastern Goleta Valley Residential Design Guidelines, Santa Barbara Ranch, process improvements regarding permit applications for sign plans, road naming, septic systems within Special Problems Areas, Solar Energy Systems, Special Care Facilities, and time extensions (for economic hardship). The County would also fall out of compliance with state housing mandates (RHNA) numbers.
- While there is much to be said for local control - especially when local decision-makers are concerned about protecting the coast - the Coastal Act provides guidance and a necessary check and balance system, and provides for sound coastal planning throughout the state. The Coastal Act was overwhelmingly approved by voters to protect the public's right to a clean and healthy coastline.

EDC would like to express its support for the proposed CCC LUDC changes, as the CCC provides critical guidance in support of local jurisdictions' permitting authority, and serves as an important resource that protects our coastline. For example, after the County approved massive development at Ellwood Mesa during the 1990's, the CCC rejected these development approvals as improperly harming sensitive coastal resources that are protected under the Coastal Act. As a result, Santa Barbara County reconsidered the project and ultimately approved a plan that sites housing appropriately and created a permanent open space for our region. This solution would not have occurred but for the involvement and oversight of the CCC and adherence to the requirements of the Coastal Act.

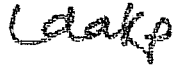
County staff recommends acceptance of most of the changes requested by the CCC. The staff report, however, does identify certain aspects of the proposed LUDC update that are of concern to the County. EDC urges the County to accept these suggested modifications, in order to achieve prompt certification of the LCP (including the projects identified above) and to ensure compliance with the Coastal Act. As an example, we continue to agree with the CCC that lot mergers require coastal development permits (CDPs). As the CCC staff report describes, lot mergers are considered "development" under the official definition of the Coastal Act because they can change the intensity of land use. As the Naples project has shown, lot mergers do have the potential to change and increase the intensity of land use, and should require a CDP. EDC supports this proposed modification to the LUDC.

EDC thanks County staff for working actively with the CCC staff to refine the language contained in the proposed revisions, and believes that the ongoing exchange of ideas with CCC staff has been a productive process. Further, the proposed modifications will help to bring the County's LCP up to date with the requirements of the Coastal Act,

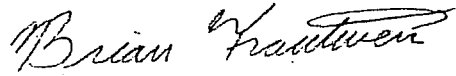
avoid undue delays in the implementation of several important projects in the County, and help foster sound planning practices in the County.

EDC appreciates the opportunity to provide comments on the proposed LUDC amendments, and looks forward to the Commission's deliberations on this important document.

Sincerely,



Linda Krop,
Chief Counsel



Brian Trautwein
Environmental Analyst

cc: Glenn Russell
Derek Johnson
Dianne Black
California Coastal Commission

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June 24, 2010

*Certified Specialist: Estate Planning,
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†Certified Specialist: Taxation Law
The State Bar of California
Board of Legal Specialization

Santa Barbara County
Board of Supervisors
104 East Anapamu Street
Santa Barbara, CA 93101

Re: LUDC Certification before the California Coastal Commission

Ladies and Gentlemen:

On behalf of the Gaviota Planning Advisory Committee, I am writing to express the Committee's concern regarding several of the proposed changes suggested by the staff of the Coastal Commission in connection with the pending certification of the County's LUDC by the Commission as applicable to the coastal zone.

While the Committee is just now entering its deliberative phase, it has spent several months gathering extensive information and receiving much public input as to appropriate changes in the County's land use regulations for Gaviota. It is clear that several key principles have emerged for which there is significant potential public and committee interest for incorporation into a proposed rural plan for Gaviota. While the GAVPAC has not yet deliberated the following identified principles, they are related to the items contained in the LUDC changes proposed by the CCC and are therefore listed below:

1. Streamlining the permit process for beneficial projects.
2. Protecting landowners who restore environmentally sensitive habitat ("ESH") from being prevented in the future from development in the restored area or from changing its uses to a different agricultural purpose.
3. Permitting additional uses, beyond those normally permitted, in exchange for an enhanced level of protection of a property most likely through a permanent conservation easement.

4. Enabling and encouraging the continuation of an agricultural landscape by considering policies that support farmers and ranchers, rather than imposing additional regulation.

5. Creating a permit process that will allow for multi-generational housing and appropriate employee housing opportunities.

6. Protecting property owner entitlements while assuring a rural community characteristic.

Generally, our direction is to enable beneficial uses and projects, and several of the Coastal Commission staff recommendations will prevent or severely limit the GAVPAC's ability to implement some or all of these concepts.

In order to enable us to implement many of these key concepts, we request that you direct your staff to pursue the following specific issues with the Coastal Commission staff:

1. The Coastal Commission staff has recommended a very narrow definition of principal permitted uses "PPU" which would be eligible for an administrative permit. All other uses which may be permitted would require the highest level of review, a public hearing and would be appealable to the Coastal Commission. This level of review typically costs five to six times as much in staff time and takes three times as long to process as projects processed under an administrative permit. All beneficial or restoration projects, for example, would require this highest level of processing. In order to avoid this unintended consequence, we request that you ask for the following uses to be added to the PPU's thereby reducing the processing cost and load on the County:

- Recreational uses
- Schools
- Non-Profits with operations relating to the local land uses (e.g., agriculture)
- Equestrian uses
- Development Envelopes commensurate with that permitted under the Uniform Rules
- Multi-generational housing
- Occupancy of principal residences by any occupant that the owner may choose to allow.
- Restoration projects allowed as accessory uses to all PPU's. (These would be defined as projects enhancing the natural condition of the land with no net long term negative effect on ESHA).

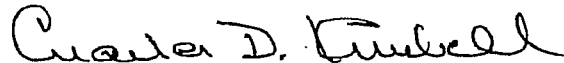
The Committee has not deliberated the subject of distinguishing principal residence sizes, so it should be noted by the Board that this topic will be debated and recommendations from the

GAVPAC regarding this issue will be forwarded to your Board. Some of the proposed changes could affect our ability to determine an appropriate policy in this regard.

2. Requiring any change of use or intensification of agriculture to go through the most burdensome permit process is directly counter to the interests strongly expressed by the public and the Committee in facilitating agriculture, not stifling it. We ask that "intensification", as proposed by the CCC staff, specifically exempt cultivated agriculture, orchards, and vineyard operations within areas which have historically been utilized for agricultural operations provided there is no direct affect on ESH or any long term negative environmental impact..

For these reasons we urge your board to work with the CCC staff in effecting the stated recommendations in this letter. The GAVPAC wishes to develop a plan that is responsive to community needs. Any progress that your Board and County staff can make towards the suggested refinements and modifications in this letter would be critically important to the efforts of the GAVPAC to produce a locally appropriate and responsive plan for the long term preservation, enhancement and viability of the Gaviota Coast..

Very truly yours,



Charles D. Kimbell,
Chairman

Santa Barbara County Cattlemen's Association

PO-Box 303, Los Alamos, California, 93440

Telephone: (805) 245-4229 or (805) 686-8986

May 27, 2010

Kari Campbell-Bohard, Chair
Santa Barbara County Agricultural Advisory Committee
263 Camino Del Remedio
Santa Barbara, CA 93110-1335

Re: Proposed Amendments to the Coastal Land Use and Development Code.

Dear Members of the Agricultural Advisory Committee:

The Santa Barbara County Cattlemen's Association is deeply concerned about the recent amendments to the County's Land Use Development Code (LUDC) proposed by the California Coastal Commission (CCC) staff for agriculturally zoned lands. Our rancher members represent 45,150 acres within the Coastal Zone and 21,070 acres adjacent to the Coastal Zone that could be affected by the amendments. If these proposed amendments receive support from the Board of Supervisors and are subsequently adopted by the Commission, the new regulations would have the effect of severely hampering our members ability to keep their operations economically viable and making it even harder for families to remain on the land. These proposed amendments could impose additional constraints on our private property rights and run counter to the existing zoning regulations and our interests as landowners.

Two areas of particular concern for the Association are:

1. Changing the agricultural use on a property from grazing to orchards, row crops or vineyards would require a Coastal Development Permit that could be appealed to the Coastal Commission, making such improvements too expensive and time consuming to even consider.
2. The classifications Principle Permitted Use and Permitted Use have been introduced which blur and confuse established compatible use policies related to agriculture such as resource management and necessary related residential and commercial uses. As a result, family dwellings or support facilities to the agricultural operations would likely be subject to overly burdensome permitting requirements, arbitrary application of policies in permit review, and, a potentially extended approval process that ranchers can ill afford. Particularly:
 - Home sizes over 3,000 square feet would require a Coastal Development Permit that could be appealed to the Coastal Commission. This could have the effect of making a home for larger families too expensive and time consuming to build;
 - An additional agricultural building such as a barn or other structure associated with the operations of the property would require a Coastal Development Permit that could be appealed to the Coastal Commission, costing far more than the construction of the building which cattle ranchers cannot afford.

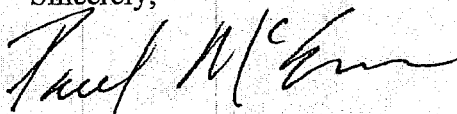
Limiting the type of agriculture on the land and requiring a coastal development permit to change or update agriculture programs, build a house or an ancillary structure or maintain the operations will cost each of us unreasonable time and money in permit fees, consultant charges, and added oversight of our properties.

It is important to note that the Commission staff has, whose members work in San Francisco and Ventura, developed these recommendations without any public process to take input from the ranchers and others who would be impacted by the amendments.

The Gaviota Coast has a local collaborative process currently underway with the Gaviota Planning Advisory Committee (GavPAC) to update the Gaviota Coast Plan. The process includes local and state government (State Parks and CalTrans), landowners, ranchers, business interests, and environmentalists. The GavPAC is an open, process with public meetings, including an Environmental Impact Report with public review. This GavPac process is addressing many of the issues critical to agriculture that the Coastal Commission staff are trying to preemptively modify including: A) Long-Term Agriculture Viability; B) Resource Protection, and, C) Trails and Public Recreation.

We urge you to communicate to the Board of Supervisors a strong recommendation to reject these proposed amendments. Decisions affecting agriculture are best made by the ranchers who know the land and our local government. Allow the GavPAC to complete its process. The Coastal Commission staff will have ample time to review their recommendations and the resulting EIR.

Sincerely,



Paul McEnroe, President

cc: Hon. Doreen Farr, Third District Supervisor
Glenn Russell, Director, Planning and Development



The voice of our community

May 13, 2010

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William Palladini
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www.montecitoassociation.org

Montecito Planning Commission
123 E. Anapamu Street
Santa Barbara, CA 93101

RE: Proposed Coastal Commission Modifications to the Montecito Land Use Development Code, Montecito Planning Commission Hearing of May 26, 2010

Dear Commissioners:

The Montecito Association has reviewed the Coastal Commission's proposed modifications to the Montecito Land Use Development Code. We believe that the bulk of the proposed modifications do not present any problems and would enhance opportunities for community input. We do have questions regarding the requirement that coastal hazard studies assume a three to six foot per century rise in sea level. The scientific basis for these figures is unclear and the potential effect on coastal development warrants further investigation.

Thank you for considering these comments.

Sincerely,

Peter van Duinwyk, President

PRINCIPAL PLANNERS
SUZANNE ELLEDGE • LAUREL F. PEREZ

JUN 07 2010

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

7 June 2010

AGENDA ITEMS

Montecito Planning Commission
123 East Anapamu Street
Santa Barbara, CA 93101
Attn: David Villalobos, Board Assistant Supervisor

ITEM #: 4
MEETING
DATE: 6-10-10

Subject: California Coastal Commission Staff Recommended Modifications to County Land Use and Development Code

Dear Commissioners,

Thank you for the opportunity to provide our comments on the California Coastal Commission (CCC) staff's recommended modifications to the Santa Barbara County Land Use and Development Code (LUDC). Since 1994, Suzanne Elledge Planning and Permitting Services, Inc. (SEPPS) has worked with the County in processing hundreds of applications and we believe our experience gives us added insight on the potential impact of the CCC staff's recommended modifications.

Our specific comments are provided below:

- The CCC staff proposed modifications represent a late hit with far reaching implications to an approximate three year effort to update the LUDC.

We find that there is little awareness by property owners of the broad scale changes that will affect them should these modifications be approved. The public has had little time to digest these recommended modifications, which would result in a significant departure from the LUDC that underwent years of public review. As Commissioner Cooney of the Santa Barbara Planning Commission stated in their recent hearing on this topic, "This isn't really our old LUDC, the one that we compromised and worked on two, three years ago". Commissioner Cooney went on to state that the changes are substantive enough to require public discussion, and we agree.

- CCC staff is essentially re-writing the "allowed uses" section in the LUDC. The County should be the ultimate decision-maker about which uses are appropriate in various zones, exercising the maximum degree of control over local zoning matters.

As discussed in the staff report, the proposed modifications would, for example, outright prohibit schools, churches, and other common community uses within many zones; the proposal would eliminate the opportunity for these important uses, which are presently subject to approval of a Conditional Use Permit (CUP). In addition, the recommended modification poses unforeseen problems for these uses which already exist within the Coastal Zone (particularly in commercial

zones). At a minimum, this proposed modification should be thoroughly vetted and debated in a public forum, and not rubber stamped.

- There is too much at stake to rush review and accept the CCC staff recommended modifications. Without careful and thorough evaluation of the far reaching implications of the recommended modifications, approval could compromise years of work on the LUDC, as well as important planning efforts, including the Isla Vista Master Plan.

The County may feel pressure to accept these modifications in order to move forward with important projects such as the Isla Vista Master Plan (IVMP). However, the recommended modifications will actually devalue and compromise the IVMP by directly conflicting with key components of the IVMP. For example, recommended Modification #33 arbitrarily caps density bonuses for affordable housing projects below the levels planned in the IVMP. Maximizing the construction of affordable housing through bonus density incentives is a Plan Policy repeated throughout the IVMP. This example highlights the problem with rushing to accept the recommended modifications without thorough analysis of their implications. There are literally dozens of line item changes that require careful analysis in order to fully understand the ramifications.

- The recommended modifications represent a departure from current efforts to help streamline permit processes for ministerial projects that are exempt from the California Environmental Quality Act (CEQA).

The CCC staff recommended introduction of "Principally Permitted Uses" would "up-shift" a large number of staff-level ministerial projects to the County Zoning Administrator for a public review and decision. In the case of projects within the Montecito Planning Area, which does not have a Zoning Administrator, these projects would come before your Commission for action.

P&D staff cites a few examples in their staff report: 1) A guesthouse on an AG-zoned property would require a public hearing, appealable to the Coastal Commission if the CCC staff recommendation is approved. In Montecito, a guest house proposed on AG-zoned property would require a Montecito Planning Commission hearing. 2) Similarly, in a residential zone, a property owner that wishes to construct a single-horse stable would be required to come before the Montecito Planning Commission because a horse stable is not considered a Principally Permitted Use. The requirement for public review of these types of requests, which are currently "allowed uses", is not warranted. Further, the cost to both the County and the applicant in terms of time and money is simply not justified for situations like these, and it is easy to imagine that there are many more similar situations since the recommended modification affects every use within every zone of the Coastal Plan area.

- Modification #3 would result in a requirement to obtain approval of a discretionary CDP with hearing, following approval of a discretionary Amendment to a CUP or Development Plan.

Amendments, by definition, do not have new environmental impacts that have not been considered and, as stated in the County code “a public hearing shall not be required for Amendments...”. Yet, if the CCC staff recommendations are approved, applicants would be subject to “double jeopardy” by having to go through the discretionary Amendment process, which involves public noticing and opportunity for appeal, and then follow it with a CDP public hearing for the same request. Both the applicant and the County would bear the cost of bringing the request to a public hearing. As stated by P&D staff, this is inconsistent with existing P&D procedures.

- Modifications such as #3 (appeals), #9 (Principally Permitted Uses), #10 (accessory structures), #13 (Subdivisions), #14 (Lot Line Adjustments) and #21 (bluff development) impose unnecessary hardships on property owners by requiring new development criteria that exceed the already high standards in effect today, or in some cases, entirely revoke current property rights.

For example, CCC staff has modified the County’s language so that a Lot Line Adjustment (LLA) which results in any, even insignificant, impacts to Environmentally Sensitive Habitat cannot be approved. Protection of resources is a fundamental and shared goal; however there is no nexus for denial of an LLA when there are no significant impacts on these resources. With approval of the proposed language, even projects which had a net benefit on resources could not be approved.

Additionally, since the inception of the Local Coastal Plan, a property owner has had the ability to construct an ~~engineered~~ private stairway following an exhaustive and thorough County analysis of proposed plans and consistency with County and Coastal Plan Policies. CCC staff has opined that the language in the code has been “misinterpreted” by the County and that only public staircases are allowed. Clearly, the CCC staff recommendation would diminish current property rights. Further, a provision to abolish private access may serve only to encourage illegal and poorly designed beach access, causing far more damage than it could hope to prevent.

- Several modifications propose limitations or development standards without needed evidence that the change will provide significant added protection to coastal resources, including:
 - limiting affordable housing bonus density (in direct conflict with the Isla Vista Master Plan) – **Modification #33;**
 - requiring analysis on sea-rise with no scientific evidence as to why the selected thresholds are valid - **Modification #34;**
 - eliminating private engineered staircases to the beach - which provides limited benefits and is likely to encourage illegal unpermitted development - **Modification #21;** and
 - prohibiting all development (including fences or patios) within 15' of the bluff - **Modification #21.**

Implementation of these development standards will result in additional processing costs and time, significant changes to property rights and conflict with existing documents including redevelopment goals and objectives. We believe it is incumbent on CCC staff to provide sound reasoning for them.

- Up-shifting applications will represent a financial burden to the community in the form of increased processing time and costs to private property owners and the County for very minor projects that will now require public hearings before the Planning Commission.

These changes will impact farmers, ranchers, small businesses and owners of single family residences, not just developers and large corporations. Further, it has been stated that the County "underwrites" development because the costs to the County of reviewing the applications exceeds fees collected. Thus, the County will also be financially impacted by the changes, and understaffed P&D will have more public hearing cases, extending processing delays.

- We urge you to ask that the CCC move forward separately with the recommended beneficial modifications to the code such as the economic hardship provision suggested in Modification #25, allowing time extensions, which are urgently needed by approved projects that have suffered under the recent economic recession and are unable to get financing.



The County should not accept these staff recommended modifications without thorough review, as they have wide ranging implications and deserve careful consideration. Many of them directly conflict with the current permit review process, eliminate flexibility to allow conditionally permitted uses, and will negate the product of years of community planning and public review. In our experience, well-meaning modifications such as these can backfire by taking reasoning and case-by-case situations out of the equation.

The attachment summarizes our specific recommendations for the CCC recommended modifications. Thank you for your consideration of our comments.

Sincerely,
SUZANNE ELLEDGE
PLANNING & PERMITTING SERVICES, INC.



Steve Welton, AICP
Senior Planner

Attachment:

SEPPS RECOMMENDATIONS

The CCC staff recommended modifications to the County's LUDC have far-reaching implications that have not been fully analyzed or considered by the public at large. Further, some of the recommended modifications directly conflict with recent public planning efforts and community planning goals. The CCC staff changes should not be implemented without adequate public discussion.

- **REJECT** modification #3: the modification that would require hearings and appealable CDPs following discretionary decisions for Amendments.
- **REJECT** modification #9: the modification that introduces "Principally Permitted Uses", which will unnecessarily complicate review for ministerial projects and outlaws schools and churches within many areas of the coastal zone.
- **REJECT** modification #11: revises the "exemption" section of the LUDC. Public discussion should occur on these changes.
- **REJECT** modification #13: requires discretionary CDPs for all subdivisions, including lot mergers, when most subdivisions are already subjected to a discretionary hearing.
- **REJECT** modification #14: prohibits Lot Line Adjustments on constrained parcels. While on the surface this may sound OK, it may "backfire" by also prohibiting LLA's that would relocate development away from constrained areas, (e.g. relocation of a driveway away from a creek).
- **REJECT** standards that are provided without explanation or scientific basis including:
 - Modification #21: eliminates private engineered staircases to the beach and prohibits ALL development including within 15' of the bluff even minor development such as a split rail fence or a deck.
 - Modification #33: places limitations on affordable housing bonus density and conflicts with the IV Master Plan.
 - Modification #34: provides standards on analysis of sea-rise without providing scientific basis for these standards.
- **SUPPORT** modification #25: allows the Director to extend the permit approval life based on economic hardship **AND** ask the Commission to approve it as a separate action.

