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November 7, 2010

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Chairwoman Janet Wolf and Members
of the Board of Supervisors
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, California 93101

Re: California Coastal Commission November Staff Report - Board of
Supervisors Agenda Item 1 -November 9, 2010

Dear Chairwoman Wolf and Members of the Board:

I am the attorney for the Hope Ranch Park Homes Association, which represents the 770 properties of Hope Ranch, approximately 30% of which are located in the Coastal Zone. On behalf of the Association, I want to extend our appreciation for the dedicated efforts the County staff has undertaken on behalf of the citizens of Santa Barbara County in negotiating a number of important changes to the Local Coastal Program amendments proposed by the Coastal Commission staff, and applaud the successes gained to date. We believe, however, that there remain a number of proposed amendments which are entirely unacceptable and which must either be amended by the Coastal Commission, or result in the rejection of the plan by the County.

Before describing our specific objections, however, I would like to raise a broader concern, and that is the Commission staff's unfettered attempt to rewrite the law. Throughout the Coastal Commission staff report are numerous claims that certain changes are required to comply with state law. For example, the Commission staff argues that because the Coastal Act defines development as "a change in the density or intensity of use of land, including but not limited to subdivisions pursuant to the Subdivision Map Act (citation omitted) and any other division of land including lot splits" that voluntary lot mergers require an appealable CDP. The only "change" in intensity or density which results from a lot merger is a *decrease*, which arguably was understood by the authors of the law and the reason why the language regarding changes in density or intensity was included. Clearly, the only situation which could result in a possible negative impact on coastal resources is when there is a potential *increase* in

density or intensity of use through a lot split or subdivision. If all changes were to require permits under the law, the descriptive language would have been unnecessary and the permit requirements would have simply applied to all changes to property boundaries. The Commission staff should not demand an amendment to the County's certified LCP to meet their own mistaken interpretation of the law.

A similar "interpretation" occurs when the Commission staff concludes that the keeping of horses as accessory to a residential use is an appropriate principally permitted use in certain zones but not in others. Why should the Commission staff be given the power to exercise its discretion in this way, while criticizing the County for doing the same thing, namely interpreting its own certified LCP? Assumably the Commission staff was aware of the longstanding language in the Coastal Act requiring the identification of principally permitted uses, yet chose to certify the County's LCP without it until this most recent set of amendments was submitted. Why now, after all these years, is the County's interpretation suddenly unacceptable?

This attempt by a state agency to usurp the County's decisionmaking power should be, and must be strongly opposed. The entire premise of certified local coastal plans is based on the assumption that, once certified, the County is the primary administrator of the plan. The Commission staff, however, seems to be of the opinion that the County is incapable of continuing to administer the plan which the Commission approved, and that our existing regulations are now subject to their reinterpretation. This blatant power grab is entirely in conflict with the notion of local control and must be stopped.

Turning to the specifics of the amendments, we would offer the following:

1. Private beach access.

While some progress has been made, with the addition of language allowing partial repair to existing stairways, there is still no basis for denying new private stairways to beach. For many years, the County has permitted these stairways, finding them consistent with county and coastal plan policies. Yet now we are faced with the Commission staff's conclusion that this is a "misinterpretation" of the law, with the staff arguing that bluffs are inherently unstable and that private stairway construction will accelerate bluff erosion. However, there is nothing in record to support the Coastal Commission staff's conclusion that properly engineered and sited private stairways are any more damaging to the bluff than public stairs.

The proposed language permitting partial repair of existing private stairs is equally without foundation and largely unenforceable. Moreover, by denying property

owners the right to construct or replace stairways, the Commission's restrictions will have the unintended effect of increasing bluff erosion, as blufftop property owners will take whatever measures are necessary to access the beach.

The Commission staff's proposed regulations eliminating the right to access the beach completely overlooks the fact that, in many cases, at least a portion of the beach is part of the individual owner's property. This is a substantive property right which is being taken without due process or compensation, and without any showing that the change is required by the Coastal Act. Bluff stairways are, and will remain, appealable to the Coastal Commission, which should give the Commission more than enough oversight authority to assure that, in those situations where the bluff would be seriously damaged by the construction, the applications are denied, without the need to adopt a wholesale prohibition. Private stairs assure that one of the fundamental goals of the Coastal Act, namely beach access, remains available both to property owners and emergency personnel. This outright ban must be eliminated.

2. Horses.

Again, while there have been improvements in the language governing the keeping of horses in the coastal zone, there are still a number of problems with the restrictions as proposed by the Commission staff. Traditionally, the keeping of horses in a residential zone was exempt from the permitting requirements. Under the Commission staff's most recent proposal, the keeping of two horses in a residential zone is permitted, but now requires a CDP, which places an unnecessary burden on both the owners and the County staff, and unnecessarily restricts the number of animals allowed.

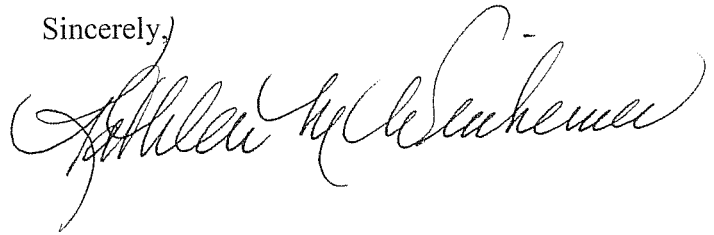
Once again, there has been no showing that the current rules are ineffective or in conflict with the Coastal Act apart from a claim that the keeping of horses can degrade riparian areas or sensitive habitats. While that may be the case in certain instances, the rule should apply only to the keeping of horses in such designated areas, not to the vast majority of equestrian properties which are in neither riparian or sensitive habitat zones. Moreover, the existing regulations already limit the number of horses based upon the size of the parcel. No further limitation is required or justified.

Of greatest concern, however, is the inappropriate and unnecessary intrusion into local control by the Coastal Commission. Santa Barbara County has a certified local coastal plan, which under the law means that the local agency exercises the land use decisionmaking authority in the coastal zone. The Coastal Commission staff is simply trying to inject itself into this role, without invitation or authority. The County must, on behalf of all its citizens, strenuously fight this state intrusion.

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With that, we ask that you take the actions necessary to assure that these proposed amendments are not certified as part of the County's Land Use and Development Code.
Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen M. Weinheimer". The signature is written in a cursive, flowing style with a large initial 'K'.

Kathleen M. Weinheimer
General Counsel
Hope Ranch Park Homes Association