

**CALIFORNIA COASTAL COMMISSION**

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December 9, 2011

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S.B. COUNTY  
PLANNING & DEVELOPMENT

RE: Draft Goleta Valley Community Plan (Eastern Goleta)

Dear Ms. Leachman,

Thank you for providing Commission staff with an opportunity to comment on the Initiation Draft Goleta Valley Community Plan (GVCP) for Eastern Goleta Valley, provided to Commission staff at our September 26, 2011 meeting and dated June 1, 2011. As we discussed in our previous coordination meetings, we would like to provide preliminary general comments on the plan at this early stage. It is our understanding that the GVCP will be a separate, stand-alone document that applies policies and development standards for areas of Eastern Goleta Valley both within and outside of the Coastal Zone. In all cases, our comments below are intended to address the Coastal Zone only.

As shown, there is a limited area within the Coastal Zone identified in the Draft GVCP Planning Area boundary. The Coastal Zone portion of the GVCP encapsulates roughly a 5-mile stretch of coastline from approximately Moffett Road on the west through the Hope Ranch area on the east where Marina Drive turns into Cliff Drive. The south boundary is represented by the mean high tide line (MHTL) and the Coastal Zone boundary extends approximately ½-mile to ¾-mile inland of the MHTL. The Coastal Zone portion of the GVCP Planning Area includes several notable areas, including Goleta Beach, More Mesa, Hope Ranch, and the Patterson Avenue agricultural area. In addition there is a mobile home residential area as well as other pockets of developed residential areas on the bluff.

The purpose of this letter is twofold: (1) to describe some of the Commission's information and processing requirements for Local Coastal Program (LCP) Amendments and (2) identify potential issues regarding the substance and format of the GVCP itself. Please note that these are preliminary comments and a full review of the final document will be undertaken at the time of LCP Amendment processing. Due to staffing constraints there are several sections that we have not yet reviewed, including Sections III.E and F and Sections IV. A-C and E-G. Our review focused on the most critical issues, and in the interest of providing the County timely feedback on the GVCP, we offer these preliminary comments for your consideration.

## **LCP Amendment Processing and Requirements**

The GVCP includes planning areas both within the Coastal Zone and non-Coastal Zone areas. Additionally, as applicable to the Coastal Zone, the proposed GVCP includes modifications to the County's certified Coastal Land Use Plan (LUP) as well as the County's certified

Implementation Program (IP). The portions of the GVCP that apply to the Coastal Zone require a Local Coastal Program (LCP) Amendment per 14 CCR 13551-13555 of the Commission's Administrative Regulations which establish procedures for amending LCPs. With regard to the Amendment submittal, Section 13552 provides a list of the contents that must be submitted to the Coastal Commission office along with the LCP Amendment. The following are some of the important components required in the LCP Amendment submittal:

- Identification of Any Changes from the Existing, Certified Policies and Development Standards. In this case, because the proposed GVCP will retire a portion of the existing, certified Goleta Community Plan (GCP), and designate new standards and practices only for the eastern portion of Goleta Valley, it is critical to provide a comprehensive description of each and every policy and development standard change that impacts the eastern Goleta Valley. For example, what policy/development standards will no longer apply to the eastern Goleta Valley area; what *new* policy/development standards will apply to the eastern Goleta Valley area; and what policy/development standards are being *modified* for eastern Goleta Valley? One way to identify each change is by providing an annotated copy of the existing, certified GCP by marking in the margins if the policy was deleted, retained, or retained with modifications AND by providing a companion annotated copy of the proposed GVCP by marking in the margins if the policy is new, retained from the GCP, or retained from the GCP with modifications. We recognize that this is time consuming but find that it is critical to evaluating and explaining to our Commission the background, scope, and extent of how the LCP would be modified as a result of the Amendment. We would also anticipate that the changes be accompanied by a summary explanation of the changes.
- Identification of Any Changes to Land Use and Zoning Maps Within the Coastal Zone. We would request that any changes to land use designations or zoning maps be specifically identified, including any changes to the Urban/Rural boundary. Also, it would be helpful to have larger size maps to be kept in our office which represent the final Land Use and Zoning Maps for clarity (preferably overlaid on an aerial photograph if feasible).
- Changes to Any Figures or Maps Within the Coastal Zone. As part of the amendment, we would also request that any changes to the Figures/Maps in the certified GCP be identified as well as identification of new Figures that were added or whether some of the GCP Figures would not be included in the GVCP.
- Coastal Act Consistency Analysis. Section 13511(a) requires that the amendment submittal include "an analysis of the potential significant adverse cumulative impacts on coastal resources and access of existing and potentially allowable development proposed in the LCP or LRDP." Thus, for each substantive change<sup>1</sup>, the potential impacts to coastal resources (e.g., visual resources, recreation, public access, environmentally sensitive habitat, water quality, etc.) must be identified. Additionally, changes which impact the kind, location and intensity of land and water uses must be evaluated for conformity with the Chapter 3 policies of the Act.

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<sup>1</sup> Substantive changes include ALL changes to the certified LCP except changes to formatting such as text modifications (e.g., bold and underlining), page numbering, and/or relocation of data. In addition, such minor changes cannot inadvertently reprioritize or emphasize a policy or provision in lieu of others, nor place the policy or provision out of context.

- Modification of the existing Goleta Community Plan. We would recommend that the existing certified GCP be modified, at a minimum to reflect the revised Planning Areas Boundaries indicating that the GCP will only apply to western Goleta Valley. Perhaps replacing a graphic in the certified GCP, as part of the Amendment, would serve that purpose.
- Zoning Ordinance Changes. We understand that a new zone district would be created called Urban Agriculture – East Goleta Valley (UAG-EGV). We have not seen the accompanying land uses, standards, or other requirements of the new zone. The agriculture policies in the GVCP are broad, thus, it will be critical that the Commission evaluate the implementation, via the Zoning Ordinance, for consideration at the same time as the GVCP itself. Please include a description of the acreage of land proposed to be rezoned from the existing agricultural zone district to UAG-EGV.

## **Draft GVCP Issue Areas**

The Coastal Act includes policies and provisions to ensure that local planning documents protect coastal resources, including public access, environmentally sensitive resources, agriculture, and coastal water quality. We offer the following comments on some overarching topics of the draft GVCP, including general implementation and conflict resolution; exceptions to policies for “reasonable use of property;” urban agriculture; bluff stairways; environmentally sensitive habitat areas (ESHA); flood control measures; fuel modification practices; tree protection; and water quality provisions. We recognize that some of the provisions within the GVCP are taken from the existing Goleta Community Plan. However, when new comprehensive updates or area plans (such as this) are being developed, we recommend that policies and provisions be updated and/or clarified where necessary to reflect current practices and resolve identified issues or conflicts.

- Identification of Coastal Zone vs. non-Coastal Zone Portions of the Document. Given that the proposed GVCP includes both Coastal and non-Coastal Zone areas, the document must give clear guidance on what policies, development standards, or other provisions apply within the Coastal Zone (and thus, are subject to review by the Coastal Commission).
- Section I, Introduction. Section I.A should describe the context and legal authority of the Coastal Act for the Coastal Zone portion of the Plan. Additionally, Figure 2 should identify which documents are certified as part of the Local Coastal Program. Page 8 describes the amendment process – this should include mention of the requirement for an LCP amendment for the Coastal portion of the Plan. Section I.B should reflect that the LCP is part of the Comprehensive Plan and that the GVCP is a document that further implements the Coastal Act and LCP. Page 10 indicates that the environmental resource constraints, community land use goals and public service needs have equal weight within the document. It should be clear that the Coastal Act provides authority for land use and policies in the document, including Chapter 3 of the Coastal Act which describes priority uses and requirements for protection of coastal resources.
- Identifying the Coastal Land Use Plan and Implementation Plan Components of the GVCP. For portions of the document intended to apply within the Coastal Zone, the hierarchy of goals, objectives, policies, actions/programs, and development standards needs to identify

which categories are considered part of the Land Use Plan (thus the standard of review is the Coastal Act) and which categories are considered part of the County's Implementation Program (and thus the standard of review is the Land Use Plan). From the description, it appears that goals, objectives, and policies would be considered LUP and actions, programs, and development standards would be considered IP components.

- Conflicts. To address potential conflicts, we recommend the addition of a provision to the GVCP that specifies that: (1) the policies and provisions of the certified Local Coastal Program, including the Coastal Land Use Plan and Coastal Zoning Ordinance shall continue to apply within the EGV Planning Area. Should any policy or provision of the EGV Plan conflict with any policy or provision of the certified Local Coastal Program, the policy or provision that is most protective of resources shall prevail; and (2) the certified Local Coastal Program shall prevail over other Comprehensive Plan elements to resolve conflicts.
- General Application of Development Standards. Policy EGV-1.4 (Page 37) states that development standards shall implement the policies of the Plan, and further states "Where appropriate, each of these standards shall be applied to the project under review unless the standard would be inapplicable or ineffective and/or other standards have been required which implement the policies." As proposed, this language would create ambiguity as to whether the standards of the document will actually be applied. Presumably the standard would be appropriate except when "inapplicable." "Ineffective" is vague in that any development standards could be interpreted as "ineffective" if it is no longer considered a priority. Our concern would be that without clarification, the development standards in the Plan may be subject to changes in interpretation over time, thus reducing or eliminating protection of coastal resources at some point.
- Identify When An LCP Amendment is Necessary. A provision of the GVCP should specify that any future modification(s) to this Plan or the implementing actions, including any recommended modifications, studies, plans, programs, or other changes shall not be effective within the coastal zone until and unless it has been certified by the Coastal Commission as an amendment to the LCP. We recommend adding similar language to Policy EGV-1.2. Additionally, text language at the bottom of Page 58 describes the relation of the County's Housing Element and Comprehensive Plan. It implies that the Housing Element / Comprehensive Plan is automatically updated based upon State directives and local needs. The Housing Element is not a certified part of the LCP; however, any changes to land use and housing policy in the GVCP or rest of the LCP would require an Amendment approved by the Coastal Commission
- Reasonable Use. The GVCP (Page 13) appears to incorporate legal "takings" language which authorizes exceptions to the policies and standards of the GVCP where application of such standards would preclude "reasonable use of property." This language creates a very broad exception to the proposed policies and standards. We would recommend the deletion of this language throughout the document. The deletion of the general "takings" language would not preclude reasonable use of property. To address issues where it is known that the environmentally sensitive habitat area (ESHA) policies would preclude development on vacant parcels, and where exceptions may be necessary to avoid an

unconstitutional taking of private property, we recommended modifications which would allow applicants to demonstrate that an exception to an ESHA policy or standard is necessary to avoid a taking. Such a review would require detailed information to determine whether application of the ESHA policy or standard would be a taking, and if so, to determine the extent of development that must be allowed to avoid a taking. A method for this review was identified as part of the Toro Canyon Plan and we would recommend similar implementation for the GVCP.

- Clustering of Development. Policy EGV-3.2 “strongly encourage[s]” clustering of development to less sensitive areas to conserve open land and environmental resources. Where coastal resources would be impacted, clustering of development to avoid resource impacts should be “required” as well as “encouraged.”
- Bonus Density Residential Projects. Policy LUR-EGV-1.5 refers to bonus density residential projects, the approval of which are only allowed as specified in the Zoning Ordinance. It is unclear whether this policy is intended to further restrict or relax the density bonus rules in the Zoning Ordinance; thus, this policy should be clarified. In addition, the portion of the policy that states “... but shall mitigate any significant impacts only in compliance with State law” requires additional clarity (e.g., does this refer only to impacts on neighborhood character? What State laws apply?).
- Affordable Housing. Policy LUR-EGV-2.1 indicates that County-owned lands within the urban area should be considered as potential locations for affordable housing. Note, in the Coastal Zone, rezone of County-owned parcels to a residential designation would require an LCP Amendment.
- Residential Neighborhood Development (RND). It is unclear whether Policy LUR-EGV-2.2 would apply to agriculturally zoned parcels. The policy indicates that RNDs would be considered in “the urban area” which is defined to include agriculture zones. If so, the residential subdivision for five or more lots on agriculturally-zoned lots in the Coastal Zone would be subject to rigorous review pursuant to Sections 30240-20243 of the Coastal Act which describes means of protecting prime agricultural land, existing agricultural uses, and prime soils. This includes but is not limited to: an analysis of the viability of maintaining existing agricultural uses, an assessment of existing urban and agricultural conflicts, and an economic feasibility evaluation of agricultural use of the parcel(s). We recommend a clarification that agriculturally zoned parcels would not be subject to this policy.
- More Mesa (page 62). It is our understanding that the portion of the document discussing the More Mesa area has not been updated from the GCP in any way. Therefore, there continues to be a reference to a 1982 Biological Evaluation. We would recommend that this section be revised with any available updated information. In any case, it should be made clear that regardless of the zoning, the development of the site must conform to all other provisions of the LCP, including protection of ESHA based on the on-the-ground conditions at the time development is proposed. There seems to be some measure of reliance on Figure 19 which may no longer represent the applicable site conditions. DevStd LUDS-EGV-1G should specify that development shall be located outside of ESHA *buffers* as well as ESHA, as determined by on-the-ground conditions at the time development is proposed.

DevStd LUDS-EGV-1I allows for a belt of native and non-native trees to be planted along the perimeter of the developable area. Given the ESHA constraints in and along the area, such plantings should be limited to native trees. DevStd LUDS-EGV-1K requires emergency access for the Fire Department to Via Roblada to the east of More Mesa. However, if the developable area shown in Figure 19 is modified to avoid ESHA, Via Roblada may no longer serve as an appropriate emergency access route.

- More Mesa County Owned Parcel. Policy LUDS-EGV-1.1 indicates that the County-owned parcel (APN 65-320-04) shall be designated Open Lands and zoned Recreation (REC). However, Figure 15 shows the zoning of that property as Resource, 100 acre. This is an internal inconsistency within the document that should be resolved.
- Urban Agriculture Definition. It is our understanding that Mountainous Areas and Rural Agriculture apply to Inland Areas only and that within the Coastal Zone the Urban Agriculture zone applies. There are many references throughout the document to “urban agriculture,” “urban agriculture businesses,” “urban agricultural activities,” etc. We were unable to locate a clear definition of these terms in order to understand their significance. We recommend that formal definitions be included as part of the Zoning Ordinance Implementation, and that the GVCP clarify whether any provisions that utilize the term “urban” can include urban agricultural zones.

Section II.E. states that agricultural uses are either urban or rural depending on their location. The text implies that the County’s Agricultural Element applies these terms. However, it must be clarified that the County’s Agricultural Element has not been certified as part of the LCP. Any applicable definitions or provisions in the County’s Agricultural Element that are intended to apply to the Coastal Zone should be incorporated into this document for review as part of the LCP.

- Urban Agriculture Expansion of Uses. The text regarding the Urban Agricultural areas (page 78) provides that Eastern Goleta Valley growing operations are hindered by encroachment of incompatible urban uses which are cited as barriers to the appeal and profitability of agricultural businesses in the urban area. The list of barriers covers issues of concern for maintaining agriculture that are common Statewide. The text provides that agriculture in the 400 acres of South Patterson Agricultural Area requires expanded uses beyond those typical of agriculture in order to sustain the profitability of the primary agricultural use. Presumably, this is the purpose of the new Urban Agricultural zone district which is proposed. The Plan proposes to allow for “innovative and productive cultivation, craft, business, and agritourism” in the South Patterson Agricultural Area. As an example, agritourism would allow for commercial enterprises, at a working farm, that are conducted for the enjoyment or education of visitors and that generates supplemental income for the owner. In order to ensure that the agricultural lands and uses in the Coastal Zone are protected consistent with Coastal Act Sections 30240-30243, the variety of uses must be identified in more detail. While there may be some compatible uses on these “Urban Agriculture” properties, Policy LUA-EGV-2.4 and supporting Actions, as currently drafted, are too broad. In particular, these alternative commercial uses may equate to the physical loss of area available for agricultural cultivation.

- Agricultural Land Use Policies. Some of the agricultural policies reference sustaining and enhancing “agricultural characteristics.” We recommend defining this term. DevStd LUA-EGV-1A provides that where agricultural resources are present in the urban area, urban land uses shall not partition or interrupt contiguous blocks of agriculturally-designated lands to the greatest extent feasible. In addition, it is unclear what is meant by the presence of agricultural resources (e.g., all lands zoned UAG; existing agricultural operations; prime soils; etc.). Similarly, it is not clear if non-agricultural uses would or would not be allowed on agriculturally-zoned parcels per DevStd LUA-EGV-1C. If so, fence and wall buffers could inadvertently partition agricultural areas. Policy LUA-EGV-1.3 indicates that two creeks shall serve as buffers between agricultural areas. While that may occur, the implication is that since the creeks are the buffer, that the creeks themselves do not require a buffer from agricultural or urban development. However, streams and associated riparian vegetation are designated environmentally sensitive habitat (ESHA) in the County’s LCP and require a buffer from all development. Policies LUA-EGV-1.5, 1.6, 1.7, 2.6, and 2.7 address conversion of agricultural land. Within the Coastal Zone, conversion of agriculture is allowed under limited circumstances, as described in Coastal Act Sections 30240-20243. Consideration of such conversions would, at a minimum, require an analysis of the viability of maintaining existing agricultural uses, an assessment of existing urban and agricultural conflicts, and an economic feasibility evaluation of agricultural use of the parcel(s). In addition, it should be noted that if the conversion includes a rezone, this would require an LCP Amendment certified by the Coastal Commission.
- Parks, Recreation, Trails. Section II.D includes references to documents that have not been reviewed or included as part of the certified LCP. There is also a mention of the Atascadero Creek Greenway, which includes active pocket parks. However, it is not clear what development would be planned for this greenway within the Coastal Zone. The Plan should clarify that open space and sensitively-designed trails may be appropriate within a creek buffer but developed parks would not be allowed within the riparian setback. Public accessways and trails may be considered resource dependent uses and thus allowed within ESHA or ESHA buffers. However, public accessways and trails located within or adjacent to ESHA must be sited to minimize impacts to ESHA to the maximum extent feasible. Measures to protect ESHA may include, but not limited to, signage, placement of boardwalks, and limited fencing.

Additionally, the Trails Section does not include the existing trail from More Mesa to the beach. This trail has been used by the public for many years and is likely to be a notable public access point in the future and; therefore, should be included within the section.

Policy PRT-EGV-7.4 and DevStd PRT-EGV-7A address coastal access, and in part, states “Where staircases or other engineered access structures are proposed, public access shall be strongly encouraged where appropriate.” In this area of the County, coastal bluffs are present. In numerous past permit and LCP actions, the Commission has clearly found that coastal bluffs are sensitive resources that warrant protection under the County’s LCP. The construction of individual stairways or paths down the bluff face for private property owners has the potential for individual and cumulative impacts to these resources. Therefore, new or replaced stairways on bluffs should be limited to circumstances that allow public access

to the beach, where public access to the beach is not already available or where distance is an issue.

Policy PRT-EGV-3.2 and Program PRT-EGV-3A (Page 109) address Goleta Beach planning issues. We recommend clarification regarding what is meant by the park "shall be maintained and enhanced." Specifically, Program PRT-EGV-3A indicates that alternative park configurations would be considered with respect to potential recreational, environmental, and fiscal impacts. We recommend the addition of language prioritizing protection of ESHA and public access with regard to determining the optimum alternative configuration.

- Application of ESHA Policies/Development Standards. Policy ECO-EGV-5.5 indicates a minimum buffer strip and setbacks for activities "within the ESHA overlay that are regulated by the County Zoning Ordinances..." We recommend a clarification that states that any areas not mapped as ESHA, but found to be ESHA during the application review process, shall be afforded all the protection provided for ESHA in the applicable zoning ordinances, GVCP and LCP. And further, that any ESHA area mapped, or otherwise identified through historic evidence, shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated. Policy ECO-EGV-2.3 provides that sensitive species identified during County review only requires protection of the associated species' habitat "to the maximum extent feasible." Thus, ECO-EGV-2.3 would potentially allow for the removal of ESHA since there are many interpretations of "feasibility." Additionally, we would recommend expanding the list of sensitive plant species to additional categories of CNPS inventory, rather than limiting it to "endangered" plants.

Development standard DevStd ECO-EGV-5C is confusing in that it requires restoration for "[d]evelopment within ESHA areas." There should be no new development within ESHA areas. Secondly, the development standard indicates that no restoration would be necessary if it precluded reasonable use of the parcel. We recommend this policy be updated for clarity and intent.

We have not commented on any polices or provisions regarding "rural" areas or where the "RC Overlay" may apply on the assumption that these policies will be determined to be "Inland Only" and will not apply in the Coastal Zone.

- Reasonable Use Related To ESHA Policies. As discussed above, the GVCP incorporates "takings" language which authorizes exceptions to the ESHA polices and standards where application of such standards would preclude "reasonable use of property." We recommend removal of the term "reasonable use of property," instead adding two overarching provisions: (1) if the application of the ESHA policies and standards contained in the Plan regarding use of property would likely constitute a taking of private property, then a use that is not consistent with the Environmentally Sensitive Habitat provisions of the LCP shall be allowed on the property, provided such use is consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking as determined through an Economically Viable Use Determination and (2) that the determination of a



taking shall be pursuant to the formal economically viable use determination method in the Coastal Zoning Ordinance.

- ESHA Buffers. Policy ECO-EGV-5.5 indicates that the minimum buffer for streams and creeks and the ESHA Overlay shall be 50 feet from top-of-bank of creeks or existing edge of riparian vegetation, whichever is further. Additional buffers for habitats are described under Objective ECO-EGV-6. ESHA buffers should generally meet or exceed 100 ft. from the edge of an ESHA. As mentioned above, we recognize that many of the policies and development standards regarding buffers are taken from the existing Goleta Community Plan; however, when new or revised area plans are being developed, we recommend updating relevant policies and provisions.

With that in mind, we would note that some of the ESHA policies allow for minimum ESHA buffers to be adjusted upward or downward (e.g., DevStd ECO-EGV-5D). However, a reduction in the minimum buffers from ESHA should not be granted because buffers are necessary for the long-term protection of ESHA and the 'minimum' setbacks must be assured for predictable implementation of the LCP.

- ESHA Impacts and Restoration. Policy ECO-EGV-2.4 implies that new development can be approved if it "minimizes" degradation of sensitive habitats. One of the ways to reduce impacts is described as providing monetary contributions toward habitat acquisition and management. The Coastal Act requires that ESHA be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. Additionally, development in areas adjacent to ESHA and parks and recreation areas must be sited and designed to prevent impacts which would significantly degrade those areas. Further, such development must be compatible with the continuance of those habitat and recreation areas. Therefore, new development must first avoid impacts. Policy ECO-EGV-2.4 implies that in lieu fees would be equally as appropriate as on-site restoration. However, where impacts are unavoidable, on-site restoration would be the first measure.

Policy ECO-EGV-2.5 requires a minimum 2:1 replacement ratio where adverse impacts to native habitat and biological resources cannot be avoided. Mitigation of ESHA impacts should include restoration of riparian and other sensitive habitats at ration of 3:1 and wetlands at a ratio of 4:1.

Policy ECO-EGV-2.2 implies that non-native plants may be allowed in restoration projects within open space and adjacent to ESHA, if the non-native plants are considered fire-resistant. Restoration in and adjacent to ESHA should include only native plants of locally appropriate genetic stock.

- Flood Control. The GVCP address flood control issues in various portions of the document. Flood control issues may be characterized as routine maintenance of floodways; engineered or "hardbank" control measures; and the location and siting of new development to avoid exacerbating flood control issues.

Policy HYD-EGV-2.3 appears to address routine maintenance by requiring the District to "minimize impacts to stream channels where feasible and consistent with sound flood control practices..." Additionally, the policy references the Flood Control Maintenance Program Environment Impact Report which is a document that is not a part of the certified LCP. Our interpretation of routine maintenance is that such activities would not result in the enlargement, extension, expansion of the existing drainage channels, or placement of new materials but would be limited to the removal of vegetation, debris, and sediment buildup. Even routine maintenance would require revegetation and/or restoration of the adjacent riparian area to offset periodic impacts. We recommend more specificity with regard to routine flood control practices.

Policy HYD-EGV-2.2, along with associated development standards DevStd HYD-EGV-2A and 2B, appear to provide the basis for setbacks for new development to protect life and property from flood hazards. These provisions appear to: (1) require a minimum 50-foot setback from the top of bank; (2) allow for channel improvements for new development where deemed appropriate by the Flood Control District; and (3) encourage the use of "natural building materials such as rock, heavy timber, and erosion control shrubs and wire revetment planted with native or naturalized plants" for new or replacement flood control infrastructure. We recommend that the provisions for new development reflect that, as a first measure, new development be sited, designed, and sized to minimize flood risks to life and property, and further, that new development be designed to maintain creek banks, channel inverts, and channel bottoms in their natural state.

Additionally, with regard to use of building materials in streams, we recommend modification of the policies to reflect that alteration of streams for flood control purposes would be allowed only where all other feasible options have been exhausted. Channelizations or other substantial alterations of streams and desiltation/dredging projects, shall be prohibited except for: 1) necessary water supply projects where no feasible alternative exists; 2) flood protection for existing development where there is no other feasible alternative, or 3) the improvement of fish and wildlife habitat. Any channelization or stream alteration permitted for one of these three purposes shall minimize impacts to coastal resources, including the depletion of groundwater, and shall include maximum feasible mitigation measures to mitigate unavoidable impacts. Less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) shall be preferred for flood protection over "hard" solutions such as concrete or riprap channels. Solutions that address existing flood hazards shall be the least environmentally damaging alternative consistent with all applicable policies of the Local Coastal Program and shall consider routine maintenance or other less intrusive solutions as a first priority over engineering structural solutions. Flood control measures shall not diminish or change stream capacity, percolation rates or habitat values. "Hardbank" measures (e.g., use of concrete, riprap, gabion baskets) or channel redirection may be permitted only if all less intrusive flood control efforts have been considered and have been found to be technically infeasible. Less intrusive measures shall include, but not be limited to biostructures, vegetation, and soil bioengineering. Where hardbank channelization is required, the material and design used shall be the least environmentally damaging alternative and site restoration and mitigation on or adjacent to the stream channel shall be required, subject to a Restoration Plan. The study shall consider less intrusive measures as the primary means of defense against flood

hazard and shall require maximum mitigation for all impacts to wetland, riparian, or other native trees and habitat.

Therefore, we recommend that the flood control / hydrology policies be updated to reflect the protection of riparian and other ESHA resources. Additionally, Policy ECO-EGV-6.3 allows removal of vegetation for free flowing channel conditions and "the provision of essential public services." DevStd ECO-EGV-6G requires "reasonable riparian restoration measures" based on a project's potential to directly or indirectly damage riparian habitat through activities such as grading, brush clearing, construction, etc. Further, all development, including dredging, filling and grading within stream corridors shall be limited to activities necessary for construction. Dredging, filling, and grading of a stream and/or other "channel Improvements" should only occur in under very limited circumstances and such circumstances must be specifically described in the GVCP. Along similar lines, Policy WAT-EGV-1.6 should also be updated.

- Fuel Modification. Section II.C addresses various public safety services which includes policies and development standards for fuel modification. Fuel modification such as removal or thinning of vegetation is required for fire protection; however, these activities, and thus the associated policies, have the potential to adversely impact environmentally sensitive habitat. In particular, Development Standards FIRE-EGV-1A and FIRE-EGV-1C would allow for vegetation management practices within ESHA. DevStd FIRE-EGV-1A indicates that the "compliance with State and local defensible space and vegetation management requirements for structures and properties shall be demonstrated prior to development." We recommend additional language that states that fuel modification is not allowed in ESHA and that avoidance of fuel modification into ESHA must be demonstrated for development projects. Additionally, the reference to State and local requirements is too broad and such standards should be incorporated in detail. DevStd FIRE-EGV-1C should specify that the vegetation management required in riparian, oak woodland, or other native plant communities would only be allowed for existing development and all *proposed* projects must be setback to avoid vegetation management within such areas. Additionally, details regarding what constitutes "defensible space areas" should be defined. Policy FIRE-EGV-1.3 implies that defensible space requirements, landscaping guidelines, and other standards for high fire hazards will be developed and used in the future. This presents a difficulty in that the Coastal Commission cannot review these specifications since they have yet to be created. Policies FIRE-EGV-2.2, 2.3, and 2.5 should allow for modifications or exceptions to these requirements where ESHA may be impacted.
- Fuel Modification In or Adjacent to ESHA. There are various references within the Ecological Section, Section IV.D, to managing fuel loads. For instance, Policy ECO-EGV-1.2 mentions active management of natural areas to diminish fire hazard. We recommend more specificity with regard to what constitutes active management of natural areas. With regard to development setbacks to protect ESHA and ESHA buffer from the impacts of fuel modification, vegetation fuel management within ESHA and ESHA buffer areas should be differentiated for *new* development in contrast with *existing* legal development.

Vegetation fuel management implemented in association with *existing* development should be permitted where, subject to a coastal development permit, findings are made that fuel

modification in ESHA or ESHA buffer is minimized to the maximum extent feasible. We recommend in such cases that the coastal development permit include a Fuel Management Plan approved by Planning and Development and the local fire protection agency. P&D may require that the Fuel Management Plan be prepared by a qualified biologist to ensure vegetation clearance/trimming minimizes the impacts to ESHA.

Due to the strict protection afforded to ESHA under the Coastal Act, new development requiring vegetation fuel management within ESHA and ESHA buffer areas can only be permitted where it is found that, subject to a formal Economically Viable Use Determination, that the application of these provisions would constitute a taking of private property and where such new development will be designed and located in a manner to minimize adverse impacts to ESHA to the maximum extent feasible. In either such case, findings must be made that, pursuant to a coastal development permit, the proposed development has been designed and located in a manner that minimizes fuel modification impacts to ESHA to the maximum extent feasible, including a finding that the fuel modification is the minimum amount necessary to protect the structure(s). Additionally, the approving body must find that all feasible measures including reduction in scale of development, use of alternative materials, and siting have been implemented to minimize encroachment into ESHA and ESHA buffer. In these cases, the coastal development permit must include a Fuel Management Plan approved by Planning and Development and the local fire protection agency. P&D may require that the Fuel Management Plan be prepared by a qualified biologist to ensure vegetation clearance/trimming minimizes the impacts to ESHA.

The above should be reflected in the Fire Section as well as applicable fuel modification-related policies in the Ecology Section (e.g., DevStd ECO-EGV-4C).

- Tree Protection. Section 35-140 of the Coastal Zoning Ordinance regulates certain tree removal including but not limited to oak trees and monarch habitat trees. This would include trees that are six inches in diameter measure four feet above the ground and six feet or more in height. Where a Coastal Development Permit is approved, such trees may be removed when: (1) the trees are dead; (2) the trees prevent construction of a project for which a CDP has been issued and a project redesign is not feasible; (3) the trees are diseased and pose a danger to healthy trees in the immediate vicinity; or (4) trees are in a weakened condition that present an imminent danger to persons or property.


The policies in the Draft GVCP regarding protected trees seem to reduce the protection of oak trees, monarch butterfly and raptor habitat trees afforded in the County Zoning Ordinance. The GVCP policies require that these trees be protected from damage or removal except where the requirement would preclude reasonable use of a parcel. Only "mature" native trees that are healthy, structurally sound, and have grown into the natural stature particular of the species are considered protected trees. These criteria are more limiting. There is also a development standard (DevStd ECO-EGV-4B) which addresses buffers around raptor nesting sites. It is not clear how this standard would be implemented, e.g., whether the preservation of raptor nesting trees would be required long-term or only during construction or whether the standard would apply to only one tree or multiple trees comprising raptor habitat. It should be noted that where raptor habitat, monarch butterfly habitat, oak woodland, or riparian communities are impacted, the tree habitat would be

subject to ESHA standards as well as protected tree standards. Additionally, we note that the tree protection provisions include references to non-certified documents. From these observations, we recommend that the tree protection policies be updated to remove references to "reasonable use of property; address protection of ESHA communities in relation to protected trees; remove uncertified references (or alternately submit them for certification); modify the definition of protected trees to separate out requirements for individual native or naturalized trees versus habitat-related trees; and provide more specifics on what constitutes "mature" tree and "the natural stature".

- Water Quality. Goal #12 of the GVCP addresses water runoff. We recommend updating the water quality provisions of the GVCP. The water quality policies include minimizing the introduction of "contaminated" runoff. Though it is not clear what contaminated runoff may include, runoff associated with new development should be treated, filtered, or infiltrated prior to introduction to coastal waters. Additionally, there should be no new untreated outfalls.
- Green infrastructure. We recommend providing a definition of green infrastructure so that the significance within the policies and provisions of the GVCP can be identified.

Please feel to contact me in the future if you have concerns or questions regarding this correspondence. If I am unavailable, please contact Steve Hudson or Amber Tysor in the Commission's Ventura office. We look forward to continuing to work cooperatively with you and your staff on these important coastal issues.

Sincerely,

  
for Shana Gray

Supervisor, Planning & Regulation