


**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: Santa Barbara County Board of Supervisors

FROM: Glenn Russell, Ph.D., Director 

DATE: January 31, 2011

RE: Land Use and Development Code
Department Item #1 on 2/1/11 Board of Supervisors Agenda

At the hearing on January 18, 2011, the Board of Supervisors directed staff to discuss the potential resolution of key suggested modifications with the Executive Director of the Coastal Commission to assist the Board in determining whether or not to pursue alternatives to the suggested modifications to be resubmitted to the Coastal Commission as a new amendment. The purpose of this memorandum is to provide a summary of the discussions P&D staff have had with the Coastal Commission's Executive Director Peter Douglas and the Coastal Commission staff in the Commission's Ventura office.

Staff's discussions with Coastal Commission staff began with a conference call with Peter Douglas on January 20th. P&D staff conveyed the comments and concerns of the Board of Supervisors. We generally discussed the concerns with respect to suggested modification language regarding cultivated agriculture, grazing, permit triggers for houses on agriculturally zoned property (focusing on the residential development area trigger), animal keeping and private bluff stairways. Mr. Douglas expressed interest in trying to work out these remaining issues and requested that we work with Coastal Commission staff in Ventura. We followed up with two conference calls with Commission staff in Ventura, one on January 21st and one on January 26th. The latest discussion with Coastal Commission staff occurred this afternoon at the Commission's office in Ventura. The following is a summary of the discussions regarding the significant suggested modifications and potential approaches to address concerns. Coastal Commission staff was careful to point out that this is input from staff, that they reviewed this input with their Executive Director, but that they could not predict how the Coastal Commission itself would view these potential changes.

Cultivated Agriculture

The adopted suggested modification for cultivated agriculture includes an exemption for historic cultivated agriculture, orchards and vineyards and exempts from a Coastal Development Permit new cultivated agriculture if it meets the following development standards:

- Grading of 100 cubic yards or less that does not occur on slopes of 30% or greater or require cut or fill that exceeds three feet in vertical distance;
- Is not located within 100 feet of the top of bank of any creek, stream or watercourse;
- Is not located within 100 feet of environmentally sensitive habitat areas (ESHA), riparian areas, or wetlands;
- Does not result in the removal of native or non-native protected trees; and,
- The County issues an exemption confirming that all exemption development standards are met.

The Commission staff indicated that they would support an increase in the development standard for volume of grading, from 100 cubic yards, to somewhere between 1,000 to 5,000 cubic yards, perhaps on a sliding scale based on parcel size. They also indicated that rather than call out the protection of native and non-native protected trees as a development standard for cultivated agriculture, they would reference the tree removal requirements currently contained in the ordinance. To assist farmers in identifying ESHA on their property, specific habitat types that qualify as ESHA could be added to the development standard. We also discussed eliminating the requirement for the County to issue an exemption. The Coastal Commission staff did not agree, believing that verification of the exemption is necessary.

Grazing

The adopted suggested modification for grazing includes an exemption for historic grazing areas including normal rotation of livestock from one pasture to another. New or expanded grazing would be exempt from a Coastal Development Permit if it meets the following development standards:

- Does not occur on slopes of 30% or greater or require cut or fill that exceeds three feet in vertical distance or grading in excess of 100 feet;
- Is not located within 100 feet of the top of bank of any creek, stream or watercourse;
- Is not located within 100 feet of environmentally sensitive habitat areas (ESHA), riparian areas, or wetlands;
- Does not result in the removal of native or non-native protected trees; and,
- The County issues an exemption confirming that all exemption development standards are met.

The Commission staff indicated that they could eliminate the 30% slope development standard. Further, they would recommend considering grasslands as “grazing areas” not requiring a coastal development permit. However, expanded grazing in ESHAs would trigger the requirement for a coastal development permit. Similar to cultivated agriculture, the Commission staff agreed to remove the development standard regarding tree removal and instead reference the existing permit requirements for tree removal. Again, we also discussed eliminating the requirement for the County to issue an exemption for expanded grazing. The Coastal Commission staff did not agree, believing that verification of the exemption is necessary.

Residential Use on Agriculturally Zoned Properties

The adopted suggested modification for the primary residence on agriculturally zoned land provided that a residence would be considered a principal permitted use (requiring a non-appealable coastal development permit) if:

- The residence is occupied by the operator of the agricultural use of the property or the property owner;
- The residence does not exceed a floor area of 5,000 square feet; and,
- The area devoted to the residence and all structures and landscaping associated with the residence (residential development area) does not exceed 10,000 square feet.

These are considered permit triggers. A residence that does not comply with these triggers would require an appealable coastal development permit.

Our discussions with Commission staff focused on the residential development area permit trigger. The Commission staff indicated that they could support a residential development areas based on a sliding scale, similar in some respects to the standard in the Uniform Rules for Agricultural Preserve Contracts. Commission staff cited a model provided by the City of Malibu which was developed for the protection of ESHA. Under their standards, the minimum development area is 10,000 square feet, but for parcels over 40 acres, the minimum development area may be increased by 500 square feet for each additional acre over 40 acres in parcel size up to a maximum of a one acre development area.

Animal Keeping

The adopted suggested modification for animal keeping requires a permit for all confined animal facilities. Once a property has legally established facilities for animal keeping (e.g., barns, paddocks), then a Coastal Development Permit is not required for keeping additional animals, including new foals, up to the maximum animals allowed in the zone district within the legally established facilities. Constructing new animal keeping facilities, or adding animals to a property where animal keeping does not presently occur and keeping them outside of legally established facilities, would constitute new animal keeping that would require either an appealable or non-appealable coastal development permit, depending on the type of animal and zone district in which new animal keeping is proposed. Further, the suggested modification was amended to specify that the keeping of horses for private use in the larger lot residential zone districts is a principal permitted use. The animal keeping tables contained in the suggested modification also include an inadvertent requirement for an appealable CDP for keeping of small animals, such as chickens and rabbits.

The Commission staff could support identifying development standards, similar to those applied to cultivated agriculture, which, if met, would allow confined animal keeping to be found exempt from a coastal development permit. The Commission staff also agreed to correct the inadvertent language regarding keeping of small animals and to make other changes to clarify the intent of the regulation.

Private Bluff Stairways

The adopted suggested modification for private bluff stairways prohibits the development of new private bluff stairways. Lawful, existing private staircases are considered nonconforming uses

subject to the following limitations on repair:

- may be structurally repaired provided any structural replacement (not including steps, handrails) is limited to 50 % (cumulative).
- may be rebuilt in the same location if destroyed by a natural disaster.

The Commission staff could support treating existing legal private bluff stairways as conforming uses, which would allow consideration of permits to repair or replace the stairways without limitations. New private stairways would continue to be prohibited.

Options for Action:

Staff recommends that your Board:

- A) Receive and file this report and the January 18, 2011 report on the Coastal Commission's action on the County and Montecito Land Use and Development Codes; and,
- B) Direct the Planning and Development Department to prepare necessary documents to either:
 - 1) Accept the Coastal Commission's certification of the County and Montecito Land Use and Development Codes with suggested modifications; or,
 - 2) Reject the Coastal Commission's certification of the County and Montecito Land Use and Development Codes with suggested modifications; or,
 - 3) Develop alternatives to the suggested modifications to be resubmitted to the Coastal Commission as a new amendment.