



## Santa Ynez Band of Chumash Indians

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*BUSINESS COMMITTEE*

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July 22, 2009

The Honorable Joe Centeno, Chairman  
Santa Barbara County Board of Supervisors  
105 E. Anapamu Street  
Santa Barbara, CA 93101  
Phone: (805) 568-2240 / Fax: (805) 568-2249

RE: Santa Ynez Valley Community Plan ("SYVCP")  
Opposition to Blanket Prohibition as to Annexations: LUG-SYV-6.0 & 6.1

Dear Chairman Centeno:

The Santa Ynez Band of Chumash Indians ("Tribe") appreciates the amount of time that the Planning Commission has spent on its recommendations for the Board of Supervisors as to the SYVCP. However, on certain issues, the Planning Commission could not reach a consensus and left them for your Board to decide. One such issue is a blanket opposition against all annexations of land within SYVCP jurisdiction in the latest version of the Santa Ynez Valley Community Plan, specifically LUG-SYV-6.0:

**LUG-SYV-6 (p. 21) The County shall oppose the loss of jurisdictional authority over land within the Plan area where the intended use is inconsistent with the goals, policies and development standards of the Plan or in the absence of a satisfactory legally enforceable agreement.**

[http://longrange.sbcountyplanning.org/planareas/santaynez/syv\\_cp.php](http://longrange.sbcountyplanning.org/planareas/santaynez/syv_cp.php)

Such annexation opposition is not part of the County General Plan nor does it exist in any other Specific/Community Plan in the County. We asked the Planning Commission to no avail whether there is some requirement for consistency between the general and any specific plans. We asked again to no avail whether, if such policy is facially neutral but implemented solely to oppose Tribal annexations, if such a provision is in violation of State law? Regrettably, the Planning Commission refused to tackle such difficult questions and the Tribe is forced to raise them again with your Board.

### **1. The Santa Barbara County General Plan Has No Blanket Prohibition on Annexations**

The Land Use Element of the General Plan requires a case-by case determination whether a particular project should be approved or denied:

Santa Barbara County, Comprehensive General Plan, Land Use Element (Republished 2009),

<http://longrange.sbcountyplanning.org/programs/genplanreformat/PDFdocs/LandUseElement.pdf>

It should be emphasized that the Land Use Element does not guarantee that a particular project will be allowed at the density or intensity of use shown on the land use maps. Although environmental factors were one of the criteria used in establishing the land use designations, it was impossible to do specific site analysis for all of these factors in all areas. For example, a parcel designated as "residential, one acre or more per dwelling unit" could include areas with excessively steep slopes. A proposed project under this designation would require specific design review to insure that this problem is mitigated. As a result, the development may be of a lesser density than shown on the land use map. Similarly, new or more detailed information may be found during project review which could necessitate project design changes or amendment of the land use designation. (P. 16).

The Land Use Element also requires all zoning ordinances and general plan amendments be consistent with this and all other General Plan Elements:

Santa Barbara County Comprehensive General Plan, Land Use Element (Republished 2009),  
<http://longrange.sbcountyplanning.org/programs/genplanreformat/PDFdocs/LandUseElement.pdf>

In 1974, the State Planning Law was amended to require that zoning ordinances be consistent with the general plans. All zone changes and general plan amendments must be consistent with the other general plan elements, and no element may be amended more frequently than three times during a calendar year except for projects providing at least 25 percent affordable housing. (p. 16).

## **2. State Law as to Annexations Prohibits Conditioning Annexation Approval on Changes in Land use Regulation, Property Development or Subdivision Requirements**

Annexations by Cities and Counties are governed by the State Cortese-Knox-Hertzberg Law which established Local Agency Formation Commissions (LAFCO). A LAFCO may conditionally approve a change of organization or reorganization subject to the acquisition, improvement, sale, transfer or division of any property, real or personal, Cal. Govt. Code § 56886(h). However, such terms and conditions must not regulate land use, property development, or subdivision requirements. Cal. Govt. Code § 56886.  
[http://74.125.155.132/search?q=cache:GDzbuICdkVQJ:www.cacities.org/resource\\_files/27490.Chapter%25201%2520Draft.doc](http://74.125.155.132/search?q=cache:GDzbuICdkVQJ:www.cacities.org/resource_files/27490.Chapter%25201%2520Draft.doc)

Specifically, LUG-SYV-6.1 goes beyond merely environmental or boundary considerations and includes land use compatibility:

**LUG-SYV-6.1 (p. 21):** The County shall pursue legally enforceable government-to-government agreements with entities seeking to obtain jurisdiction over land within the Plan Area to encourage compatibility with the surrounding area and to mitigate environmental and financial impacts with the County.

[http://longrange.sbcountyplanning.org/planareas/santaynez/syv\\_cp.php](http://longrange.sbcountyplanning.org/planareas/santaynez/syv_cp.php)

**3. Governor's Office of Planning and Research (OPR)—Community Plans Cannot be Inconsistent with the General Plan or State law.**

Governor's Office of Planning And Research (OPR), State of California, General Plan Guidelines, 2003, p. 13

All principles, goals, objectives, policies, and plan proposals set forth in an area or community plan must be consistent with the overall general plan.

[http://www.opr.ca.gov/planning/publications/General\\_Plan\\_Guidelines\\_2003.pdf](http://www.opr.ca.gov/planning/publications/General_Plan_Guidelines_2003.pdf)

Governor's Office of Planning and Research (OPR), State of California, the Planner's Guide to Specific Plans (1998), Part Five, Page 1

**Consistency With The General Plan**

A specific plan may not be adopted or amended unless the proposed plan or amendment is consistent with the general plan pursuant to §65454.

[http://ceres.ca.gov/planning/specific\\_plans/sp\\_part5.html](http://ceres.ca.gov/planning/specific_plans/sp_part5.html)

**4. County of Santa Barbara Long Range Planning: Community Plans Cannot be Inconsistent with the General Plan or State law**

County of Santa Barbara, Office of Long Range Planning Online, About Land Use Policy: Guide to the Comprehensive General Plan (2009).

**General Plan and Coastal Land Use Plan Consistency**

All elements of the General Plan, whether mandatory or optional, must be internally consistent with another. Each element's data, analysis, goals, policies, and implementation programs must be consistent with and complement each other. Community Plan principles, goals, objectives, policies, and plan proposals must be consistent with the overall General Plan and all elements have equal legal status (i.e. no element is legally subordinate to another). The Coastal Land Use Plan should be internally consistent with the General Plan elements.

[http://longrange.sbcountyplanning.org/about\\_landuse.php](http://longrange.sbcountyplanning.org/about_landuse.php)

**5. County Opposition to Annexations Must be Applied Equally and Not Illegally Discriminate**

Within the SYVCP Area, Buellton, Solvang and the Tribe are the only governments that can annex County lands out of SYVCP jurisdiction. However, to date, the County has never opposed the current Buellton Connolly property annexation. The Buellton Planning Commission voted September 18, 2008 to recommend Buellton City Council approval of an annexation of approximately 2.24 acres of agriculturally zoned property into the City of Buellton located at 590 McMurray Road (APN 137-170-055). The Buellton City Council voted to approve such annexation in December 2008.

The Tribe therefore must conclude that LUG-SYV-6.0 is not intended to codify existing practice as to Buellton or Solvang. That implies that LUG-SYV-6.0 is intended to only apply to Tribal annexations. The Planning and Zoning law prohibits any local entity from denying any individual or group of the enjoyment of residence, land ownership, tenancy, or any other land use in California due to the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the individual or group of individuals. Govt. Code Sec. 65008.

#### **6. The Origin of LUG-SYV-6.0 & 6.1 is Suspect at Best**

Much of the SYVCP originated from the exhaustive work undertaken by the General Plan Advisory Committee (GPAC) and Valley Plan Advisory Committee (VPAC).

However, the genesis of LUG-SYV-6.0 & 6.1 traces its origin to a letter from then Third District Supervisor Brooks Firestone to the Board dated September 20, 2006. In that letter, Firestone claimed he and Supervisor Gray acting as a subcommittee of the Board conducted a single community meeting at the Solvang Veteran's Hall on September 13, 2006 to gather additional public comment on the SYVCP.

While the SYVCP claims an arduous 10 plus year history, the evils of LUG-SYV-6.0 & 6.1 are part of the more recent history of the polarization of the Santa Ynez Valley by certain dissident groups.

#### **7. Future Flexibility of the Board Must Be Maintained.**

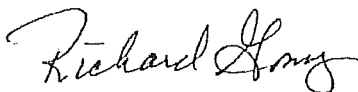
Since all Boards whether past or present are of equal authority, the action of a past Board cannot bind the current Board and the current Board cannot bind a future Board.

Therefore, in the unlikely event that the Board desires to retain them, the Board might want to consider amending LUG-SYV-6.0 & 6.1 as follows:

LUG-SYV-6 (p. 21) The County shall [CONSIDER] oppos[ING] the loss of jurisdictional authority over land within the Plan area where the intended use is inconsistent with the goals, policies and development standards of the Plan or in the absence of a satisfactory legally enforceable agreement.

LUG-SYV-6.1 (p. 21): The County shall [REASONABLY] pursue legally enforceable government-to-government agreements with entities seeking to obtain jurisdiction over land within the Plan Area to encourage compatibility with the surrounding area and to mitigate environmental and financial impacts with the County.

Sincerely,



Richard Gomez,  
Tribal Vice Chairman

CC: All other Supervisors---

Supervisor Carbajal

Supervisor Farr

Supervisor Wolf

Supervisor Gray

