



August 6, 2010

Bonnie Neely, Chair,  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

**Re: Santa Barbara County and Montecito Land Use and Development Code  
Amendments; California Coastal Commission Suggested Modifications**

Dear Honorable Chair Neely and Commissioners:

The following comments are submitted in support of the California Coastal Commission (CCC) Suggested Modifications to the Santa Barbara County and Montecito Land Use and Development Codes (LUDC) by the Environmental Defense Center (EDC), and the Santa Barbara Surfrider Foundation.

In April 2010, the CCC suggested modifications to Santa Barbara County's LUDC amendments to ensure LUDC compliance with the Coastal Act. Our groups support these suggested modifications and urge the Commission to require the LUDC amendments to comply with the Coastal Act 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. Without the Coastal Act, places like Ellwood, Naples and Gaviota would likely be far more developed than they are today.
- 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 1982 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 (the County's old Coastal Zoning Ordinance). Recently approved amendments to the LUDC that would affect the coastal zone would have to be reprocessed pursuant to Article II and resubmitted to the CCC for certification, further delaying implementation. If this were the case, the County would lose updates to the Isla Vista 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 mandate (RHNA) numbers.
- Typically local land use decisions are and will continue to be made at the local level. 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.

Our groups would like to express 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 letter from Santa Barbara County, however, does identify certain aspects of the proposed LUDC update that are of concern to the County. EDC and Surfrider urged the County to accept the suggested modifications, in order to achieve prompt certification of the LCP (including the projects identified above) and to ensure compliance with the Coastal Act.

EDC testified at several Board of Supervisors (BOS) hearings on the LUDC and proposed CCC modifications. There are several points we would like to reiterate for the CCC's consideration, set forth below. In each case, the CCC suggested modification clarifies when coastal development permits (CDPs) are required for activities in the coastal zone. During the County hearings, there was substantial confusion regarding the difference between an *exemption* and a *prohibition* on an activity in the coastal zone. Many people, including some County officials, interpreted the recommended criteria as prohibiting a certain activity, rather than requiring a CDP. It is important to realize that the criteria recommended by CCC staff relate to *exemptions* from normal permitting requirements; the activity may still be allowed subject to permit review.

- **Lot Mergers (Modifications 9 and 13)**: 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 in Santa Barbara has shown, lot mergers *do* have the potential to change and increase the intensity of land use, and should require an appealable CDP. Therefore our groups support Modifications 9 and 13.
  
- **Ag Intensification – Grazing (Modification 9)**: The CCC staff proposes that grazing that occurs within existing grazing areas where the intensity of use is not significantly increased would be exempt from a CDP. In addition the CCC recommends that grazing in new or expanded areas would be exempt if the grazing:
  - Does not occur on slopes of 30 percent or greater or require any cut or fill that exceeds three feet in vertical distance or require grading over 50 cubic yards.
  - 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, riparian areas, or wetlands.
  - Does not result in the removal of native or non-native protected trees.
  - The Director provides specific written confirmation that the proposed new or expanded agricultural operation conforms to the exemption criteria above, prior to implementing the new or expanded operation.

The County proposes to eliminate all criteria for new or expanded grazing areas, regardless of whether there is an intensification of operations. While there may be some room for further compromise<sup>1</sup>, we agree with CCC staff that expanded and intensified grazing operations can significantly affect important coastal resources, and we therefore support these criteria, and in particular, the standard that requires protection of oak woodlands, riparian areas, and other sensitive ESHA. While these criteria for expansion or intensification may present additional permitting requirements for landowners, they would help to address potential impacts from expanded or intensified ag operations in sensitive areas.

- **Restrictions on primary residences in agricultural zones in order to qualify as a principal permitted use (Modification 10)**: We support the recommendation that in order to qualify as a principally permitted use in agricultural zones, a primary residence must not exceed 3,000 square feet, and the development area for the primary dwelling and all accessory structures must not exceed 10,000 square feet.

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<sup>1</sup> Potential compromises include exemptions for ongoing intensities of grazing on slopes over 30% (i.e. up to 40%), and for agricultural grading over 50 cubic yards (i.e. up to 100 cubic yards) if located away from streams, wetlands and buffers.

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This limitation will help to maintain agricultural land values and reduce the potential for speculative investment in agricultural properties. The County seeks to increase the size of the primary dwelling to 5,000 square feet and the development area to up to 2 acres. We are concerned that these increases, especially the 2-acre development area, would have a significant potential to incentivize large, non-ag related developments for residential uses that may conflict with agricultural operations and permanently convert prime agricultural land in the coastal zone.

- **Clarification of the principally permitted use in each zone district (Modification 9)**: this suggested modification is necessary to comply with the Coastal Act (PRC section 30603(a)(4)).

Concerns were initially raised that this modification would dis-incentivize habitat restoration by triggering more costly appealable County CDPs. While this has been shown not to be the case, we believe the County should actively support efforts to facilitate voluntary habitat restoration projects by waiving fees for permit processing and giving priority to the processing of restoration project permits.

In conclusion, EDC and Surfrider thank Coastal Commission staff for working actively with the County staff to refine the language contained in the proposed revisions, and believe that the ongoing exchange of ideas with County 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.

Our groups appreciate the opportunity to provide comments on the proposed LUDC amendments, and look forward to the Commission's deliberations on this important issue.

Sincerely,



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Chief Counsel



Brian Trautwein  
Environmental Analyst

cc: Santa Barbara County Board of Supervisors  
Dianne Black, Santa Barbara County  
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