

 *Turenchalk Planning Services*

August 3, 2010

The Honorable Janet Wolf, Chair
Santa Barbara County Board of Supervisors
105 E. Anapamu Street, Fourth Floor
Santa Barbara, CA 93101

Re: Suggested Modifications to County's LUDC Proposed by Coastal Commission Staff

Dear Chair Wolf and Members of the Board,

Thank you for the opportunity to comment yet again on this very important issue for our community. County staff has done a great job in working with CCC staff on revising the suggested modifications, and we have appreciated the additional time this has provided for those that are aware of the modifications to contemplate the potential policy issues implicated by the proposed changes. However, the fact remains that adequate public participation is sorely missing from this process and that many questions remain as to whether the proposed modifications are truly required by the Coastal Act.

In their staff report, the Coastal Commission's staff references a series of hearings as evidence of having met the Coastal Act's requirement of public participation. However, the hearings referenced in their staff report happened almost 3 years ago, and well before the Coastal Commission released any of their suggested modifications to the public. For them to claim those hearings provided adequate public participation to our community on these proposed modifications is disingenuous at best.

Additionally, some have suggested that having the proposed modifications presented at various hearings in the last few months has been a public process. However, policy shifts of this magnitude require a comprehensive approach to noticing, outreach, and truly interactive participation by the public. During the last few months, several members of our community have brought up very real issues that were not intended by the proposed modifications. Some of these have been fixed, but many still remain unresolved. It is not hard to imagine that there may be many more of these unique circumstances out there that will only come to light when all affected are aware of, and fully understand, the proposed policy changes.

Additionally, there is wide disagreement as to whether many of the proposed modifications are indeed required by the Coastal Act. Coastal Commission staff has stated that these suggested modifications are needed to ensure consistency with the Coastal Act and to update our "outdated" LCP. However, the fact remains that our LCP was certified by the Coastal Commission in 1982 as being consistent with the Coastal Act. That fact that our certification was in 1982 should not matter, as the Coastal Act has not changed. Additionally, all of our policy documents that affect the Coastal Zone have been subsequently certified by the Coastal Commission. And lastly, the Coastal Act does not address many of the issues in the suggested modifications proposed by Coastal Commission staff.

For example, there is no language in the Coastal Act that limits beach access stairs to those providing public access. Nor does the Coastal Act call for a CDP with a hearing for homes or residential envelopes that exceed some arbitrary size or aren't occupied by specific inhabitants. A requirement that a parcel be in active agriculture to avoid a CDP with a hearing for a new house is also not included in the Coastal Act. And while the Coastal Act does include language regarding Principal Permitted Uses, there is wide consensus among land use professionals and attorneys in our community that there is no requirement to adopt a single Principal Permitted Use for each zone

district. I could go on and on, but my point is that these suggested modifications, by and large, are not requirements of the Coastal Act, they are simply interpretations by Coastal Commission staff.

As others have pointed out, the Coastal Act does, however, have many instances of language regarding encouraging and supporting agriculture. Additionally, The Coastal Act has the following language which we believe to be very clear:

Section 30006 Legislative findings and declarations; public participation

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

and,

Section 30512.2 Land use plan; criteria for decision to certify or refuse certification

The following provisions shall apply to the commission's decision to certify or refuse certification of a land use plan pursuant to Section 30512:

(a) The commission's review of a land use plan shall be limited to its administrative determination that the land use plan submitted by the local government does, or does not, conform with the requirements of Chapter 3 (commencing with Section 30200). In making this review, the commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan. *(emphasis added)*

The interesting thing about this is that the term "Principal Permitted Use" is found only two times in the Coastal Act. Once in section 30603 and a second time in section 30624. *There is no mention of a requirement for one Principal Permitted Use per zone district in Chapter 3.* On that basis alone there is reason to argue that the Coastal Commission does not have the authority to impose such a policy requirement on our community.

It may very well be the case that some of these interpretations may make for good public policy for our community, but that decision should be made by our elected officials, and after a fully engaged public process with adequate noticing of all potentially affected property owners and wide community dialogue. As a result, we think County staff's recommendation of asking the Coastal Commission to certify the LUDC as reformatted, with the minor clarifications and edits that everyone agrees to is a sound one. Then we can continue with our local planning processes currently underway, such as the Gaviota Community Plan, the Goleta Community Plan and the Summerland Community Plan and decide if any of these issues make sense for our community.

Sincerely,



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