



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 East Anapamu Street, Room 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning & Development
Department No.: 053
For Agenda Of: 7/27/2010
Placement: Departmental
Estimated Tme: 60 minutes
Continued Item: Yes
If Yes, date from: 4/6/10, 7/6/10, 7/13/10
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director Glenn Russell, Ph.D. (805.568.2085)
Contact Info: Dianne Black, Development Services Director (805.568.2086)
SUBJECT: Information and Discussion Regarding Coastal Commission Suggested Modifications to County and Montecito Land Use and Development Codes

County Counsel Concurrence
As to form: N/A

Auditor-Controller Concurrence
As to form: N/A

Other Concurrences: N/A

Recommended Actions:

That the Board of Supervisors:

- A. Provide direction to the Planning and Development Department regarding how the Board of Supervisors would like to proceed in presenting its comments regarding the recommended modifications to the Coastal Commission for their consideration at the August 12, 2010 hearing;
- B. Authorize the Chair of the Board of Supervisors to sign the letter to the Coastal Commission (see Attachment A) as revised by the Board of Supervisors; and,
- C. Select up to two Board members to represent the County at the Coastal Commission hearing on August 12th, 2010.

1.0 BACKGROUND

This item was to have been considered by the Board at the April 6, 2010 hearing. However, because the Coastal Commission's staff report containing the final recommended modifications for the Coastal Commission April 15, 2010 hearing was not released until April 1, 2010, at the April 6, 2010 Board hearing your Board directed the Planning and Development Department to contact the Coastal Commission staff and request that the April hearing be delayed until August 2010. The purpose of this delay was to provide additional time for County commissions and committees, and the public, to review the recommended modifications and provide input to the Board.

At your Board's hearing on July 6, 2010, you received the staff report and public comment on the item, closed the public hearing and continued the item until July 13, 2010 to afford Supervisor Carbajal the opportunity to review the hearing tape and participate in providing staff direction regarding the upcoming Coastal Commission hearing on August 12th.

At your Board's hearing on July 13, 2010, staff provided the Board with a comparison of the suggested modification language with the current Article II language and submitted Land Use and Development Code language. Staff also updated the Board on a meeting with the Coastal Commission staff which occurred on July 12, 2010 in the late afternoon. At this meeting staff reviewed the public comments that were made on the suggested modifications and received some positive feedback from Commission staff. As a result of this information, the Board reopened the public hearing, and continued the item until July 27, 2010 to provide an additional opportunity for public comment as well as additional time to finalize any agreed-upon language changes for the suggested modifications with Coastal Commission staff.

Several Board members also expressed concerns that the suggested modifications (1) represent a major policy revision to the County's Local Coastal Program without any local public process and input, (2) apply general principles to the Coastal Zone without Santa Barbara County without understanding land use nuances specific to the County, and (3) that the extensive nature of the modifications may lead to unintended consequences, especially in regards to the County's important agricultural areas. These concerns were also expressed by several members of the public, both at the July 7th Board hearing and the meetings the Planning and Development Department conducted with the County and Montecito Planning Commissions, the Agricultural Advisory Committee, and several other interested citizen groups.

Your Board further requested that staff provide the Board with a draft letter to the Coastal Commission addressing concerns of the Board on the suggested modifications and provide options for the Board as to how to deal with the upcoming Coastal Commission hearing and communications. The draft letter is attached.

2.0 DISCUSSION/ANALYSIS

Summary of Proposed Changes to Suggested Modifications

At County staff's meeting with the Coastal Commission staff on July 12th, the Commission staff was willing to consider changes in suggested modification language in response to public comments received to date. The following is a summary of the changes discussed. Specific language is included as an attachment to the draft Coastal Commission letter. This language was sent to Coastal Commission staff for their input Friday morning, July 16th. Commission staff responded that they will likely not be able to get back to the County until late in the week of July 19th. Staff will report to the Board in writing in advance of the hearing if possible once we receive input from Commission staff.

1. Modification 9: Requirement for Coastal Development Permit for all intensifications of agriculture.

Suggested modification proposed by Coastal Commission staff: The suggested modification to the land use tables could arguably require that any agriculture that represents new development or intensification first obtain a Coastal Development Permit. Also, in zones other than agricultural zones, agriculture is not designated as a principal permitted use, and therefore any Coastal Development Permit would be subject to a public hearing and potential appeal to the Coastal Commission.

Revised language proposed by Planning and Development Department staff: Staff requested that Modification 11 (Exemptions) be revised to provide that agriculture that (a) does not occur on slopes of 30 percent or greater or require any cut or fill that exceeds three feet in vertical distance, (b) is not located within 200 feet of a lot line, or within 50 feet of the top of bank of any creek, stream or watercourse, or within 500 feet of an Urban area as designated on the Comprehensive Plan maps, and (c) is not located within environmentally sensitive habitat and

buffer areas, is exempt from the Coastal Development Permit requirement. These are similar to the standards used in determining if proposed agricultural grading operations are exempt from a grading permit.

2. Modification 9: Requirement for Coastal Development Permit for keeping of animals.

Suggested modification proposed by Coastal Commission staff: This modification could arguably require that a Coastal Development Permit be approved in order to keep any animal in most instances. Additionally, in residential zones, the keeping of large animals (e.g., horses) is not designated as a principal permitted use, and is therefore subject to a public hearing and potential for appeal to the Coastal Commission.

Revised language proposed by Planning and Development Department staff: Staff requested that Modification 11 (Exemptions) be revised to specify that animal keeping is exempt from a Coastal Development Permit in all zones provided it (a) does not occur on slopes of 30 percent or greater or require any cut or fill that exceeds three feet in vertical distance, (b) is not located within 50 feet of the top of bank of any creek, stream or watercourse, and (c) is not located within environmentally sensitive habitat and buffer areas.

3 Modification 9: Restrictions on school facilities allowed by Conditional Use Permit in agricultural zones.

Suggested modification proposed by Coastal Commission staff: As recommended this modification would appear to provide that in agricultural zones only the expansion or reconstruction of existing school facilities would be allowed by Conditional Use Permit.

Revised language proposed by Planning and Development Department staff: Staff requested that the modification be revised to include additional language that specifies that the expansion of school facilities on a lot adjacent to the existing school that is owned by the school may also be allowed by Conditional Use Permit, and that existing, legally permitted schools are considered conforming uses.

4 Modifications 9 and 13: Requirement for Coastal Development Permits for voluntary mergers of existing, separate legal lots.

Suggested modification proposed by Coastal Commission staff: The suggested modification specifies that all voluntary mergers are required to be approved with a Coastal Development Permit, and, since they are not designated as a principal permitted use, are subject to a public hearing and potential appeal to the Coastal Commission.

Revised language proposed by Planning and Development Department staff: Staff requested that Modification 11 (Exemptions) be revised to provide that mergers that would not result in an increase in the development potential of the property would be exempt from the Coastal Development Permit requirement.

5. Modification 10: Restrictions on primary residences located in agricultural zones in order to qualify as a principal permitted use.

Suggested modification proposed by Coastal Commission staff: In order for a primary residence on an agriculturally-zoned lot to qualify as a principal permitted use, (a) the occupancy of the dwelling is restricted to the operator of the primary agricultural use of the property, (b) the floor area of the primary dwelling does not exceed 3,000 square feet, and (c) the residence and all accessory structures and landscaping associated with the residence occupies a development area of no more than 10,000 square feet.

Revised language proposed by Planning and Development Department staff: Staff requested that the modification be revised to (a) allow the dwelling to be occupied by either the operator of the agricultural use or the owner of the lot, (b) increase the size of the residence to 5,000 square feet of floor area, and (c) increase the size of the development area to the following:

- For lots that are at least 10 acres but less than 20 acres in area, the development area is limited to 10,000 square feet except that for each full acre of lot area in excess of 10 acres the development area may be increased by an additional 1,000 square feet to a maximum of 20,000 square feet (same as Agricultural Preserve Uniform Rules requirement for super-prime preserves).
- For lots that are 20 acres or greater in area, the development area is limited to two acres or three percent of the gross lot area, whichever is less (same as Agricultural Preserve Uniform Rules requirement for prime and non-prime preserves).

6. Modification 10: Restrictions on accessory uses designated as principal permitted uses in all zones.

Suggested modification proposed by Coastal Commission staff: For all of the different zones, only a very restricted list of accessory uses and structures are proposed to be designated as principal permitted uses; all others would be non-principal permitted uses, subject to a public hearing and potential appeal to the Coastal Commission.

Revised language proposed by Planning and Development Department staff: Staff requested that the modification be revised to state that any structure and/or use that is customarily incidental and secondary to the principal permitted use, and that does not change the character of the principal permitted use, be allowed as a principal permitted accessory use.

7. Modification 14: Elimination of flexibility is approving certain lot line adjustments.

Suggested modification proposed by Coastal Commission staff: The existing finding regarding lot line adjustments that result in lots that are substandard in size is proposed to be revised from requiring that development of a substandard size lot resulting from the adjustment shall avoid or minimize impacts to environmentally sensitive habitats including buffer areas where appropriate to instead require that that such development avoids, in all cases, impacts to environmentally sensitive habitats including buffer areas. This revision reduces or possibly eliminates the flexibility of the existing finding and may preclude the County from approving a lot line adjustment that may provide for better resource protection overall.

Revised language proposed by Planning and Development Department staff: Staff requested that the modification be revised to delete the proposed revision to the finding in order to retain this flexibility.

8. Modification 21: Restrictions on minor improvements located near coastal bluffs and bluff staircases and access ways.

Suggested modification proposed by Coastal Commission staff: New language is proposed to be added that arguably would (a) prohibit any improvements to be located within 15 feet from the edge of the coastal bluff and (b) only allow bluff staircases and access ways if they provide public access to the beach.

Revised language proposed by Planning and Development Department staff: Staff requested that the modification be revised to (a) allow fences required for safety purposes and public facilities (e.g., public bike paths and trails) to be located closer than 15 feet provided they are at least five feet from the bluff edge and (b) state that lawful staircases and access ways existing as of the date

that the Land Use and Development Code is certified are considered to be lawful, conforming structures, thus allowing for structural repairs to occur.

9. Modification 34: Codifying potential sea level rise scenarios.

Suggested modification proposed by Coastal Commission staff: This suggested modification would add specific sea level rise scenarios that the County must use in analyzing near-shore projects for potential coastal hazards. After certification these could only be changed by amending the County's Local Coastal Plan.

Revised language proposed by Planning and Development Department staff: Staff requested that the modification be revised to allow the use of a different rate if supported by the best scientific information available at time of project review.

Draft Letter to the Coastal Commission for consideration at their August 12th Hearing

Attached to this Board Agenda Letter is a draft letter to the Coastal Commission for their August 12th hearing. The letter includes a discussion of the potential revisions to the suggested modifications that were outlined at the July 13th hearing. The following options are provided for your Board's consideration for inclusion in the draft letter as direction to the Coastal Commission.

1. Certify the amendment as submitted without substantial suggested modifications.
2. Bifurcate the process and certify the amendment without suggested modifications 9, 10, 13, 14, 21, and 34.
3. Provide input on suggested modifications 9, 10, 13, 14, 21, and 34 to the County and your staff, and direct CCC staff to work with the County and the local community on the language of the suggested modifications.
4. Certify the amendment with changes to suggested modifications 9, 10, 13, 14, 21, and 34 shown in the attachment to this letter.

Staff seeks input on the draft letter and authorization for the Chair of the Board to sign the letter.

Options for the August 12th Coastal Commission Hearing

The main options for the Board of Supervisors are included in the draft letter to the Coastal Commission and outlined above. Additionally, the Board has the option of requesting a continuance of the item for as long as January 2011, which is the Commission's statutory deadline to act on the amendment, or your Board could withdraw the amendment and not pursue its certification by the Coastal Commission. Staff does not recommend that the Board take either of these actions. As to a continuance, County staff believes that in order to move the discussion regarding the appropriateness of the suggested modifications forward, it is time to hear from the Coastal Commission itself. While County staff has made significant progress with Commission staff, Commission staff appears to have reached its limits to amend its suggested modifications without policy direction from the Coastal Commission.

As to the withdrawal, County staff does not recommend that the Board withdraw the amendment. The Board will have six months from Coastal Commission action to decide whether or not to accept the suggested modifications adopted by the Coastal Commission. Staff recommends that the Board evaluate the suggested modifications once they are adopted, and retain the options to accept or reject certification with the suggested modifications. To review, if the Board decides not to accept all the certified modifications within the six month period, then the County and Montecito LUDCs would not be certified and Article II would continue as the implementation portion of the County's certified

Local Coastal Program. The County and Montecito LUDCs would need to be amended to remove all Coastal Zone specific zoning regulations. Additionally, any recently approved amendments to the County and Montecito LUDCs that affect the coastal area would have to be reprocessed as amendments to Article II and resubmitted to the Coastal Commission for certification, further delaying their implementation. These include:

- Eastern Goleta Valley Residential Design Guidelines (County LUDC)
- Isla Vista Master Plan (County LUDC)
- Santa Barbara Ranch Naples Townsite Zone (County LUDC) and Transfer of Development Rights Program (County and Montecito LUDCs)
- Process improvements regarding permit applications for overall sign plans, road naming, septic systems within Special Problem Area, solar energy systems, special care facilities, and time extensions (County and Montecito LUDCs)
- Time extensions due to economic hardship considerations (County and Montecito LUDCs).

If your Board chooses to reject the suggested modifications, it is likely that the Coastal Commission staff will propose very similar modifications in the review and certification process of any future amendments to Article II that the County may wish to make.

Fiscal and Facilities Impacts:

Budgeted: Yes.

Fiscal Analysis:

Funding for this ordinance amendment work effort is budgeted in the Planning Support program of the Administration Division on page D-324 of the adopted Planning and Development Department's budget for fiscal year 2010-2011. There are no facilities impacts.

Special Instructions:

The Clerk of the Board will send a copy of the Minute Order to the Planning and Development Department, attention Noel Langle.

Attachments:

Attachment A: Draft letter to the Coastal Commission dated July 27, 2010

Authored by:

Noel Langle (805.568.2067)