

Daly, Julia Rutherford

From: Ana Citrin <ana@lomcsb.com>
Sent: Friday, November 04, 2016 11:24 AM
To: sbcob
Subject: GavPlan Letter for Board
Attachments: LOMC to BOS_GavPlan Approval_11-4-16_FINAL.pdf

Dear Clerk, attached please find a letter submitted by our office on behalf of the Gaviota Coast Conservancy and Naples Coalition regarding the Gaviota Coast Plan item on Tuesday's Board agenda. I have hard copies printed and will drop them off shortly. Ana

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LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

November 4, 2016

County of Santa Barbara
Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101

*By hand delivery and by email to
sbcob@co.santa-barbara.ca.us*

RE: Gaviota Coast Plan

Dear Chair Adam and Members of the Board of Supervisors,

Please accept the following comments on behalf of the Gaviota Coast Conservancy (GCC) and the Naples Coalition, two groups that have been involved in Gaviota Coast issues for many years. The Gaviota Coast Plan (GCP or Plan) reflects the goals and objectives of the community, developed with the input of a diverse range of stakeholders and landowners during the GavPac process, the expertise of County Staff and Planning Commissioners, and the input of the community at large.

It is critical that the GCP strike an appropriate balance between protecting agriculture which is vital to maintaining the Gaviota Coast's rural character, controlling development that threatens to change the character of the coast, and the reasonable protection of the Gaviota Coast's world class resources. There are a handful of changes, supported by a broad coalition of community groups, that would help refine this balance and ensure that the Gaviota Coast's agricultural economy and irreplaceable resources will be protected for future generations. These changes include ensuring that Farmstays are incentivized over other forms of transient lodging, that additional protection is afforded to public views from the railroad, that Environmentally Sensitive Habitats are protected from uncontrolled large-scale land clearing for new agricultural activities, and that the Gaviota Coast is protected from additional industrialization including oil and gas projects using enhanced extraction technologies.

We request that the Board incorporate these important changes into the Plan documents and adopt the GCP to guide the long-term preservation and use of the Gaviota Coast.

1. Incentivize Farmstays as the Preferred Lodging Option on Ag-II Zoned Lands in the Plan Area

One key feature of the GCP is that it adds "Farmstays" as an allowable use on AG-II zoned lands within the Plan area. A Farmstay is defined as:

A type of working farm or ranch operation that is partially oriented towards visitors or tourism by providing guest accommodations. Such an operation may include interactive activities where guests participate in basic farm or ranch operations such as collecting eggs

and feeding animals, or a work exchange agreement where the guest works a set number of hours in exchange for free or reduced rate accommodation.

To qualify for a Land Use Permit (LUP) (or CDP in the Coastal Zone), the Farmstay would need to comply with a number of requirements including a 40-acre minimum lot size and consistency with Uniform Rule 2 (Compatible Uses within Agricultural Preserves), as well as meet limitations on the number of rooms, guests, and availability of food service. A Farmstay that does not meet all the requirements for a LUP/CDP, can be pursued with a Conditional Use Permit (CUP).

The Farmstay program was carefully crafted by the GavPAC to ensure that opening the Gaviota Coast's agriculturally zoned lands to overnight visitation does not compromise long-term agricultural viability and disincentivize participation in the County's Agricultural Preserve Program. Compatibility with Williamson Act requirements is especially important in the Gaviota Plan area where 76% of the privately held land is in Williamson Act contract, and Plan Policy AG-1.I strongly encourages and supports use of the Williamson Act ("The use of the Williamson Act (Agricultural Preserve Program) shall be strongly encouraged and supported.") Effectuating Policy AG-1.I, and the GCP's broader goals of protecting and promoting agriculture, requires that the GCP avoid disincentives for farmers and ranchers to stay in Williamson Act contract.

Currently, the only forms of "Lodging" allowed in Ag-II zones are guest ranches and hostels, both of which require CUPs. (*See* LUDC Table 2.1.) Of concern however is the County's pending consideration of the Short Term Rental (STR) Ordinance which the Planning Commission recommended authorize STRs on Ag-II zoned lands with an LUP.

The County's Agricultural Preserve Advisory Committee (APAC) unanimously voted that that STRs are not a compatible use on Williamson Act Contracted lands and cautioned against allowing STRs on non-contracted agriculturally zoned lands as well, stating: "APAC is also concerned about potential impacts of allowing STRs on non-contracted agricultural lands. STRs can be very lucrative and the potential economic return could be an incentive for landowners to non-renew their agricultural preserve contracts to pursue this use on non-contracted lands." (Exhibit 1, APAC letter to Planning Commission, 2/8/16). Further, APAC expressed support for the Farmstay concept and suggested "If the County Planning Commission is interested in new agri-tourism lodging uses on agricultural land, the APAC recommends the County consider these uses as part of the Gaviota Coast Plan and Agricultural Permit Streamlining projects instead of in isolation as part of the STR ordinance." (*Id.*, emphasis added.)

Should the STR Ordinance be adopted in its current form, a Gaviota Coast agricultural landowner could pursue a much more lucrative set of visitor accommodations and uses through STR with the same level of permitting and none of the GCP Farmstay requirements. To guard against this possibility, and to ensure that Farmstays are incentivized as the preferred lodging option on Ag-II zoned lands within the Plan Area, we urge the Board to adopt the following revision to the Farmstay section of the Zoning Ordinances:

b. A Farmstay operation that may not be allowed in compliance with Subsection D.3.a., above, as well as all other forms of Lodging (including but not limited to Guest ranches and Hostels) may be allowed with a Conditional Use Permit approved in compliance with Section 35.82.060 (Conditional Use Permits and Minor Conditional Use Permits) provided the following additional findings are first made.

- (a) The operation will not result in significant adverse impacts to visual resources.
- (b) The operation will not include a new at-grade crossing of Highway 101.

This addition would ensure that at a minimum, new Lodging uses such as STR would require a higher tier permit than a Farmstay that meets the specified LUP requirements. Requiring a CUP on Ag-II zoned lands for uses such as STR which bear no relationship to the primary agricultural use of the property is wholly consistent with the structure and provisions of the existing Zoning Ordinance, the Williamson Act and with the proposed provisions specific to the Gaviota Coast Plan Area.

2. Enhance Critical Viewshed Corridor Policies to Protect against Blufftop Development Impacts

The GavPac proposed a Critical Viewshed Corridor to provide heightened analysis and mitigation of the potential impacts of development to the most visually critical area of the plan – the area between highway 101 and the ocean, as well as the area north of 101 with nearfield views from the highway. (GCP p. 6-9.) GavPac proposed that “Development within the Critical Viewshed Corridor shall be screened to the maximum extent feasible as seen *from public viewing places.*” (emphasis added.) The Planning Commission raised the concern that this policy (Policy VIS-13) would require screening from all public viewing places including public trails, which may have the unintended consequence of discouraging landowners from offering trail easements across their property. Accordingly the Commission revised Policy VIS-13 to state “Development within the Critical Viewshed Corridor shall be screened to the maximum extent feasible as seen *from Highway 101.*” (emphasis added.) This change however had the unfortunate consequence of weakening protections of the world-class views from Amtrack’s Pacific Surfliner.

Hundreds of thousands of rail travelers annually¹ experience the very best views the Gaviota Coast has to offer. Some areas within the Critical Viewshed Corridor including the Naples blufftop through Santa Barbara Ranch are not readily visible from Highway 101. Preserving this prized coastal bluff area from the irrevocable harm from readily visible development can only be accomplished by expressly requiring that development be screened to the maximum extent feasible as seen from the railroad.

We propose the following specific policy changes.

¹ See e.g. https://www.narprail.org/site/assets/files/1038/states_2015.pdf (see p. 4) stating that 332,047 passengers in 2015 either boarded or detrained in Santa Barbara.

Policy VIS-12: Critical Viewshed Corridor. Protection of the ocean and mountain views of the Gaviota Coast from Highway 101 and the Railroad is critically important. Therefore, a Critical Viewshed Corridor Overlay, providing more protective viewshed policies for development permits within the overlay, is designated for the Gaviota Coast.

Policy VIS-13: Development Visibility. Development within the Critical Viewshed Corridor shall be screened to the maximum extent feasible as seen from Highway 101 and the Railroad. Screening shall be achieved through adherence to the Site Design Hierarchy and Design Guidelines.

Without these changes, the Plan fails to include adequate protection from the potential impacts of development that the critically important coastal bluff requires. Accordingly we request that the Board to include the above changes in the Plan.

3. Narrow Agricultural Exemption from the ESH Overlay to Protect against Large-Scale Clearing of Environmentally Sensitive Habitat

As proposed, the GCP exempts unlimited removal of Environmentally Sensitive Habitat (ESH) from permitting requirements if done for agricultural purposes. (*See* Attachment 6, p. 21, § 35.28.100.C.1.a.) Should the GCP be adopted with this provision intact, the County would be powerless to restrict even large-scale removal of ESH including the denuding of entire hillsides of sensitive vegetation.

We support an approach, proposed by the Environmental Defense Center (EDC), that preserves the ability of farmers to clear ESH within areas that are currently farmed or grazed with no permit. However, before a significant area (5 acres or more of ESH vegetation, 250 linear feet or more of creek vegetation, or removal of 5 or more native trees of specified size) could be cleared for *new or expanded* agricultural cultivation, a Land Use Permit would be required. Specifically we support adding the following section to the Zoning Ordinance:

35.28.230(C)(4): Land Use Permit Requirements for Agriculture. Within an area zoned as Agriculture, a Land Use Permit in accordance with Section 35.28.110 (Land Use Permits) shall be required for the following **new or expanded agricultural cultivation**, in addition to those required to have a Land Use Permit by the primary zone.

- a. The removal of vegetation from an area greater than **5 acres** or removal that, when added to the previous removal of vegetation from an area, would total **5 acres** or more of vegetation.
- b. The removal of a significant amount of vegetation along **250 linear feet** or more of creek bank, or the removal of vegetation that, when added to the previous removal of vegetation, would total **250 linear feet** or more of vegetation along a creek bank.

- c. The removal of vegetation that, when added to the previous removal of vegetation within the affected habitat, would total **5 acres** or more, or longer than **250 linear feet** of vegetation along a creek bank.
- d. Grading in excess of **250 cubic yards** of cut or fill.
- e. The removal of any five native trees greater than six inches in diameter measured four feet above the existing grade, or more than six feet in height, or non-native trees used as raptor nesting habitat unless the Department makes one of the following findings:
 - (1) The tree is dead and not of significant habitat value.
 - (2) The tree prevents the installation of an orchard or crops.
 - (3) The trees are diseased and pose a danger to healthy trees in the immediate vicinity. The Department may require evidence of this to be presented by an arborist, or licensed tree surgeon.
 - (4) The tree is so weakened by age, disease, storm, fire, removal of adjacent trees or any injury so as to pose an imminent threat to persons or property. The Department may require evidence of this to be presented by an arborist, or licensed tree surgeon.

We urge the Board to adopt this new section to ensure that the Plan properly balances the needs of farmers with the protection of the Gaviota Coast's sensitive biological habitats.

4. Avoid Additional Industrialization by Prohibiting Enhanced Oil and Gas Extraction Technologies

New industrial uses on the Gaviota Coast are inconsistent with the Plan's Vision of preserving the rural character of the Plan Area. As proposed, the Plan leaves the door open to further industrialization of the Gaviota Coast including the development of new oil and gas projects that use fracking, steam injection, and/or other unconventional enhanced oil and gas extraction technologies. GCP Policy TEI-12 discourages these uses but does nothing to prevent their future development. To protect the Gaviota Coast from further industrialization, we urge the Board to change the word "discouraged" to "prohibited" in Policy TEI-12 as follows:

Policy TEI -12: Impacts of Enhanced Oil and Gas Recovery Techniques. The use of enhanced oil and gas recovery techniques such as hydraulic fracturing and steam injection should be ~~discouraged~~ prohibited in the Gaviota Coast Plan Area.

5. Retain Robust Public Access and Recreation Provisions

The California Coastal Trail is intended to provide "a continuous trail as close to the ocean as possible". (Completing the California Coastal Trail, Coastal Conservancy (January 2003).) Recognizing the importance of a near-shore alignment for the California Coastal Trail (CCT), the GCP proposes an alignment that traverses the coastal bluffs wherever feasible. We urge the Board to maintain the near-shore alignment recommended by the Planning Commission, to ensure that the framework is in place to site and construct a coastal trail that is true to the vision for the CCT.

In addition, several trails are proposed in the Plan area besides the CCT, including a ridge-top trail segment that potentially enables the public to hike from Ojai all the way to Las Cruces, and connects the County's Baron Ranch trail to Camino Cielo. The critical missing segment of that trail traverses the southern boundary of the Reagan Ranch, which the owners of that property have vigorously opposed, albeit with little substance to their concerns. As made clear during the Planning Commission's proceedings, there are insurmountable physical challenges to a northerly routing of this segment of the trail to avoid the Reagan Ranch entirely. Accordingly, the Planning Commission recommended that the trail alignment on the southern boundary of the Reagan Ranch be retained. We urge the Board to follow the GavPac's and the Planning Commission's recommendation.

The policies and actions included in the Parks, Recreation, and Trails (PRT) section will advance the creation of a world-class trail network and recreational facilities on the Gaviota Coast. Changes to the initiation draft recommended by the Planning Commission clarify and strengthen these provisions and we urge the Board to include these Planning Commission-recommended changes in the final Plan.

6. Conclusion

The above changes would help ensure that the Plan strikes an appropriate balance between addressing the needs of agriculturalists to enhance production and retain agricultural viability, controls on development and the need to protect the world-class natural, cultural, visual, and recreational resources of the Gaviota Coast. We urge the Board to adopt the Plan with these changes incorporated.

Respectfully submitted,

LAW OFFICE OF MARC CHYTILO



Ana Citrin
Marc Chytilo

COUNTY OF SANTA BARBARA

Debbie Trupe
Chair



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Santa Barbara, CA 93101
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AGRICULTURAL PRESERVE ADVISORY COMMITTEE

February 8, 2016

Santa Barbara County Planning Commission
123 East Anapamu Street
Santa Barbara, CA 93101

Re: Short Term Rentals on Agricultural Preserve Contracted Land

On February 5, 2016, the Agricultural Preserve Advisory Committee (APAC) unanimously voted that Short Term Rentals (STRs) are not a compatible use on contracted lands according to the *Santa Barbara County Uniform Rules for Agricultural Preserves and Farmland Security Zones* (Uniform Rules). Land enrolled in the Agricultural Preserve Program must be principally used for commercial agriculture, and compatible activities should be supportive to that agriculture. The APAC is concerned that a commercial, non-agricultural use such as STRs can result in temporary increases in population and agriculture/urban conflicts impacting on-site and adjacent agricultural operations. Additional concerns include the lack of enforcement to monitor and enforce potential restrictions (e.g. limiting the number of rental days and owner requirements to be on the premises during the rental period) to ensure the short term rental remains incidental to the principal agricultural use of the land.

The APAC is also concerned about potential impacts of allowing STRs on non-contracted agricultural lands. STRs can be very lucrative and the potential economic return could be an incentive for landowners to non-renew their agricultural preserve contracts to pursue this use on non-contracted lands.

The APAC recognizes that opportunities exist for additional revenue streams that could be supportive of the primary agricultural use of the land. If the County Planning Commission is interested in new agri-tourism lodging uses on agricultural land, the APAC recommends the County consider these uses as part of the Gaviota Coast Plan and Agricultural Permit Streamlining projects instead of in isolation as part of STR ordinance.

The Gaviota Coast Plan Agricultural Tiered Permit Structure and Agricultural Permit Streamlining project are two planning efforts which would broaden and expand allowable uses

(both agricultural support and non-agricultural uses) on agricultural land. Both projects propose a new agri-tourism lodging opportunity to allow a small-scale guest ranch\farmstay to encourage overnight stays on farms and ranches where agricultural production is the primary source of income.

Truly yours,

A handwritten signature in black ink, appearing to read "D. Trupe", written in a cursive style.

Debbie Trupe, Chair,
Agricultural Preserve Advisory Committee

Cc: Agricultural Preserve Advisory Committee members