

Santa Barbara County Board of Supervisors

**California Coastal Commission
Suggested Modifications to the
County & Montecito Land Use & Development Codes
January 18, 2011**



RECOMMENDED ACTIONS

- Receive this report on the Coastal Commission's action on the County and Montecito Land Use and Development Codes
- Direct the Planning and Development Department to prepare the necessary documents to either 1) accept or 2) reject the Coastal Commission's certification of the County and Montecito Land Use and Development Codes with suggested modifications.

POTENTIAL THIRD OPTION

- Direct staff to investigate the option of resolving differences with the suggested modifications through resubmittal of a new amendment and report back to the Board on a future agenda.

BACKGROUND

- 11/9/2010 County Board Hearing
 - Board authorized sending a letter to the Coastal Commission
 - Selected Supervisor Farr to represent the Board at the Coastal Commission's November 18, 2010 hearing
- 11/18/2010 Coastal Commission Hearing
 - Coastal Commission, on a 10-2 vote, approved the County and Montecito Land Use Development Code with suggested modifications

TIMELINE FOR DECISION

- Board has six months from Coastal Commission action, May 17, 2011, to decide whether to accept or reject the suggested modifications
 - The Coastal Commission may extend the six month time limit for a period not to exceed one year to allow completion of certification
- Either option will require a significant amount of staff time
- If the Board decides to accept, staff recommends requesting an extension from the Coastal Commission

TIMELINE FOR DECISION

Option 1: Accept the modifications

- **County Process:**
 - January through May 2011 – Revise County and Montecito LUDCs to incorporate the certified modifications
 - June/July 2011 – Review by County and Montecito Planning Commissions
 - August 2011 – Review by Board of Supervisors, adoption of revised LUDCs, transmit action to Coastal Commission
- **Coastal Commission Process:**
 - Review by Coastal Commission Executive Director to determine if County action is legally adequate
 - Coastal Commission accepts Executive Director's determination; LUDCs deemed certified
 - Coastal Commission begins review of other pending submitted amendments

TIMELINE FOR DECISION

Option 2: Reject the modifications

- January through June 2011 – Prepare amendments to Article II to add:
 - #1 Isla Vista Master Plan Implementing Zone and Regulations
 - #2 Santa Barbara Ranch Townsite Zone and Transfer of Development Rights Program
 - #3 Eastern Goleta Residential Design Guidelines, Process improvements (including appeals, noticing, solar systems), Time extensions due to economic hardship situation
- July/August 2011 – Review by County and Montecito Planning Commissions
- September 2011 – Review by Board of Supervisors, adoption of amendments to Article II
- October 2011 – Transmit amendments to Coastal Commission for certification
- Revise LUDCs to delete Coastal Zone regulations and text

TIMELINE FOR DECISION

Potential Option 3

- January through March – Investigate potential amendment to resolve differences in suggested modifications
- April - Report back to Board of Supervisors for action
- May through September – Prepare amendment for resubmittal
- October /November – Review by County and Montecito Planning Commissions
- December – Review and adoption by BOS, submit to Coastal Commission

STATUS OF SIGNIFICANT SUGGESTED MODIFICATIONS

CDP Requirement for Cultivated Agriculture

LUDC (as submitted by County)	Original CC staff proposal (3/30)	As revised by CC staff (7/28)
Exempt if associated grading does not require a CDP	All new cultivated agricultural, orchards & vineyards require a CDP	<p>Historic use: Exempt if constitutes historic use.</p> <p>New or expanded areas: Exempt if if complies with development standards regarding:</p> <ul style="list-style-type: none"> •Slopes do not exceed 30%;cut & fill height less than 3’; grading less than 50 cubic yards •Minimum 100’ from the top of bank of any watercourse •Minimum 100’ from ESH areas •Does not remove native or non-native protected trees <p>County issues exemption</p>

STATUS OF SIGNIFICANT SUGGESTED MODIFICATIONS

MOD 9 CDP Requirement for Grazing

LUDC (as submitted by County)	Original CC staff proposal (3/30)	As revised by CC staff (11/5)
Exempt	All new grazing or intensification of grazing requires a CDP	<p>Historic use: Exempt if constitutes historic use.</p> <p>New or expanded areas: Exempt if if complies with development standards regarding:</p> <ul style="list-style-type: none"> •Slopes do not exceed 30%;cut & fill height less than 3'; grading less than 50 cubic yards •Minimum 100' from the top of bank of any watercourse •Minimum 100' from ESH areas •Does not remove native or non-native protected trees <p>County issues exemption</p>

STATUS OF SIGNIFICANT SUGGESTED MODIFICATIONS

MOD 9 CDP Requirement for Animal Keeping

LUDC (as submitted by County)	Original CC staff proposal (3/30)	As revised by CC staff (11/5)
Exempt	<p>Exempt only if designated exempt in the Animal Keeping Tables (e.g., household pets, wildlife care rehabilitation).</p> <p>Keeping of livestock and small animals (e.g., poultry) designated as:</p> <ul style="list-style-type: none"> •A Principal Permitted Use in Agricultural zones; new animal keeping requires a CDP w/o hearing •A Permitted Use in Resource Management and Residential zones; new animal keeping requires a CDP w/ hearing. 	<p>Exempt only if designated exempt in the Animal Keeping Tables (e.g., household pets, wildlife care rehabilitation) .</p> <p>Keeping of livestock and small animals (e.g., poultry) designated as:</p> <ul style="list-style-type: none"> •A Principal Permitted Use in Agricultural zones; new animal keeping requires a CDP w/o hearing •A Permitted Use in Resource Management and Residential zones; new animal keeping requires a CDP w/ hearing. •Except horses in residential zones only

STATUS OF SIGNIFICANT SUGGESTED MODIFICATIONS

MOD 9 Restrictions on school facilities in agricultural zones

LUDC (as submitted by County)	Original CC staff proposal (3/30)	As revised by CC staff (11/5)
<p>Schools allowed by CUP in Agricultural zones</p>	<p>Schools not allowed by CUP</p>	<p>New schools not allowed by CUP. Existing schools may expand/reconstruct:</p> <ul style="list-style-type: none"> •Includes expansion of facilities onto adjacent lots owned by the school •Adjacent includes land separated by a road •Schools may reoccupy former facilities.

STATUS OF SIGNIFICANT SUGGESTED MODIFICATIONS

MOD 9/13 CDP for subdivisions, lot line adjustments, voluntary mergers

LUDC (as submitted by County)	Original CC staff proposal (3/30)	As revised by CC staff (7/28)
<p>CDP only required for subdivisions involving vesting maps; CDP not required for lot line adjustments and voluntary mergers</p> <ul style="list-style-type: none"> •Voluntary mergers approved by County Surveyor; not subject to planning approval 	<p>CDP with hearing required for all subdivision, lot line adjustments and voluntary mergers</p>	<p>No change</p>

STATUS OF SIGNIFICANT SUGGESTED MODIFICATIONS

MOD 10 Agricultural Dwellings

LUDC (as submitted by County)	Original CC staff proposal (3/30)	As revised by CC staff (7/28)
<p>Primary agricultural dwelling allowed with a CDP w/o hearing unless constitutes appealable development (e.g., located in the Appeals Jurisdiction)</p>	<p>Appealable CDP required for all residences</p>	<p>Designated as a Principal Permitted Use if:</p> <ul style="list-style-type: none"> •occupied by operator or owner of lot •5,000 SF limit on dwelling floor area •Development area: 10,000 SF limit on lot area devoted to dwelling and all accessory structures, and landscaping associated with the dwelling <p>If does not comply with standards may still be allowed by CDP w/hearing</p>

STATUS OF SIGNIFICANT SUGGESTED MODIFICATIONS

MOD 10 Accessory Uses

LUDC (as submitted by County)	Original CC staff proposal (3/30)	As revised by CC staff (11/5)
<p>All accessory uses have the same CDP requirement</p> <ul style="list-style-type: none"> •Exception: residential second units considered appealable development; may be appealed to Coastal Commission 	<p>Very limited number of accessory uses are designated as a Principal Permitted Use; all remaining accessory uses are designated as a Permitted Use and require an appealable CDP</p>	<p>All accessory uses are designated Principal Permitted if the use:</p> <ul style="list-style-type: none"> •Is customarily incidental and secondary to the primary designated Principal Permitted use •Does not change the character of the primary PP use <p>Artist studios/guesthouses now designated as a Principal Permitted accessory use</p> <ul style="list-style-type: none"> • Residential second units remain appealable development

STATUS OF SIGNIFICANT SUGGESTED MODIFICATIONS

MOD 21 Bluff Development

LUDC (as submitted by County)	Original CC staff proposal (3/30)	As revised by CC staff (11/5)
<p>Engineered staircases & access ways allowed on bluff face; private versus public use not specified</p>	<p>Engineered staircases & access ways permitted on bluff faces that are not available for public use are considered nonconforming structures that may not be structurally repaired</p>	<p>Engineered staircases & access ways permitted on bluff faces that are not available for public use are considered nonconforming structures</p> <ul style="list-style-type: none"> •may be structurally repaired provided any structural replacement (not including steps, handrails) limited to 50 % (cumulative) •may be rebuilt in the same location if entirely destroyed by a natural disaster

STATUS OF SIGNIFICANT SUGGESTED MODIFICATIONS

MOD 34 Sea Level Rise

LUDC (as submitted by County)	Original CC staff proposal (3/30)	As revised by CC staff (11/5)
<p>No standards addressing potential sea level rise</p>	<p>Projects located near the shore must submit coastal hazards analysis</p> <p>Must use prescribed sea level rise scenarios based on type of project:</p> <ul style="list-style-type: none"> •minimum 4.6 feet per century for energy-related facilities, critical facilities, or infrastructure •three to six feet per century for residential and commercial development 	<p>Projects located near the shore must submit coastal hazards analysis.</p> <ul style="list-style-type: none"> •4.6 feet per century for critical facilities and infrastructure •16 inches of sea level rise by the year 2050, and 4.6 feet by 2100 <p>Sea level rise scenarios based on modification adopted by Coastal Commission in October 2010 for Samoa, California</p>

ANALYSIS OF ISSUES

- Principal Permitted Use Requirement
- Permitting for Cultivated Agriculture/Grading
- Permit Requirements for the Keeping of Animals
- Appealable CDP Requirement for Mergers and Lot Line Adjustments
- Private Bluff Stairways
- Sea Level Rise Standards
- Future Local Coastal Program Amendments

PRINCIPAL PERMITTED USE

- Central to many of the suggested modifications
- Article II – Permitted Uses and Conditionally Permitted Uses
- Appealable development
 - Within geographic appeals area
 - Within or adjacent to ESHA
 - Conditionally permitted (not identified as a permitted use)
 - Major public works or energy facility
 - 2008 Amendment changes in definition

PRINCIPAL PERMITTED USE

Significance

- General:
 - Appealable development – permit costs and time
 - Potential for appeal of coastal development permit outside the geographic appeals area
- Specific:
 - Residences in agricultural zones
 - Habitat restoration projects

PERMITTING OF CULTIVATED AGRICULTURE/GRADING

- Existing Article II includes CDP exemption for grading that does not require a grading permit
- County's certified LCP includes a requirement that grading in excess of 50 cubic yards requires a CDP; exempt if less than 50 cubic yards, at least 50 feet from top of bank of a creek and less than 3 feet cut and fill
- Requirements in suggested modification (except 100 cy threshold) are more restrictive than certified LCP
- Under Article II, Grazing operations do not typically trigger CDP requirement

REQUIREMENTS FOR ANIMAL KEEPING

- Many concerns addressed by suggested modification:
 - Animal keeping accessory to a residential use
 - Exemption for animal keeping up to the maximum allowed when animal keeping is legally established on a property
 - Clarifying that a new foal does not require a permit

Remaining issues – requirement for a CDP where animal keeping has not already been legally established

Under Article II, keeping of animals, and fencing, is exempt, while structures that house animals would require CDP

PRIVATE BLUFF STAIRWAYS

- Article II currently allows all bluff stairways, whether public or private, subject to the approval of a Conditional Use Permit that may be appealed to the Coastal Commission
- The Coastal Commission's suggested modifications would:
 - Prohibit new private bluff staircases
 - Limit the repairs of existing private staircases to 50 percent of its structural members cumulatively
 - Allow complete rebuilding of private staircase if it is entirely destroyed by natural forces

MERGERS AND LOT LINE ADJUSTMENTS

- Currently Article II does not specifically require a CDP for mergers and lot line adjustments
- The Coastal Commission's position is that mergers and lot line adjustments are considered development under the Coastal Act and require a coastal development permit
- The County was not successful in creating a CDP exemption for mergers that would not result in increased development potential
- Mergers at issue with Santa Barbara Ranch Notices of Final Action

SEA LEVEL RISE STANDARDS

- Article II contains standards for development on or near coastal bluffs and the Coastal Land Use Plan includes policies addressing geologic constraints on a project site
- The proposed Sea Level Rise standards could be incorporated into existing studies and analysis already required for coastal properties
- If the Board accepts the Coastal Commission's suggested modification, develop a definition of "near shore" to implement new standard

FUTURE LOCAL COASTAL PROGRAM AMENDMENTS

- Adopting new community plans and updating existing plans will be subject to review and certification by the Coastal Commission
- If the County rejects certification of the LUDC suggested modifications, it is very likely that the Coastal Commission staff will propose similar modifications in the context of comprehensive amendments proposed by the County

CEQA REVIEW

- The Coastal Commission's certification of LCP amendments is expressly subject to CEQA
- The Coastal Commission is not required to prepare an EIR or ND when it acts on an LCP amendment because the Commission's regulatory program relating to its review of LCPs is equivalent to the EIR process
- The County's acceptance of the Commission's certification, including County's adoption of the suggested modifications, is statutorily exempt from CEQA
- Rejection of the suggested modifications would also not require CEQA review by the County

RECOMMENDATIONS

- Receive this report on the Coastal Commission's action on the County and Montecito Land Use and Development Codes
- Direct the Planning and Development Department to prepare the necessary documents to either 1) accept or 2) reject the Coastal Commission's certification of the County and Montecito Land Use and Development Codes with suggested modifications; or 3) Direct staff to investigate a resubmitted amendment and report back to the Board April 6 or 20.