

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Santa Barbara, CA 93101
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Agenda Number:

Prepared on: October 22, 2003
Department Name: Planning & Development
Department No.: 053
Agenda Date: October 28, 2003
Placement: Departmental
Estimate Time: 1.5 hours
Continued Item: YES (set hearing 10/21/03)
If Yes, date from:
Document File Name:

TO: Board of Supervisors

FROM: Val Alexeeff, Director

STAFF CONTACT: Greg Mohr
Comprehensive Planning Division

SUBJECT: Hearing to consider response to California Coastal Commission regarding proposed changes to the Toro Canyon Plan

Recommendation(s):

That the Board of Supervisors:

1. Consider various options for responding to the California Coastal Commission regarding changes proposed by Commission staff to the Toro Canyon Plan as an amendment to the county's certified Local Coastal Program;
2. Approve staff's recommended option to urge the Commission to certify the Toro Canyon Plan as submitted, and transmit the attached letter to the Commission for consideration at their hearing in Los Angeles on Thursday, November 6.

Alignment with Board Strategic Plan: The recommendations are primarily aligned with Goal No. 1., An Efficient Government Able to Respond Effectively to the Needs of the Community, Goal No. 4., A Community that is Economically Vital and Sustainable, and Goal No. 5., A High Quality of Life for All Residents.

Executive Summary and Discussion: The Toro Canyon Plan was adopted by the Santa Barbara County Board of Supervisors in February 2002, and was submitted to the Coastal Commission in May 2002 as a proposed amendment to the county's certified Local Coastal Program (LCP). The Commission staff accepted it for processing in August 2002, and in November 2002 the statutory deadline for action was extended by the Commission for one year, to November 2003.

The Coastal Commission's original staff report was released on September 25, 2003, and recommended 172 separate modifications to the Toro Canyon Plan as approved by the county. This lengthy staff report is attached to this agenda report for the Board members, and a copy is available for review by others in the Clerk of the Board's office. Many of these changes are substantial and problematic. The Commission heard this item at its meeting in San Diego on October 8, 2003, and the item was continued to their next hearing in November in Los Angeles. Due to the Commission's statutory deadlines, this will be the last opportunity for the Commission to act on this matter.

Staff was unable to bring this matter to the Board prior to the October 8 Coastal Commission hearing due to the late release of the extensive staff report. However, on October 1, P&D prepared and sent a letter to the Commission outlining our broad concerns over the scope and magnitude of the proposed changes and requesting a continuance to the November meeting. A copy of this letter was attached to the Board letter for setting today's hearing, which appeared on the Board's agenda of October 21. Staff also attended the October 8 Commission hearing. Staff's comments generally emphasized the points made in the letter, including:

- The extensive local review process that occurred, which concluded in reaching a delicate balance in the adopted Toro Canyon Plan;
- The disruptive nature of extensive modifications by the Commission after the local public process;
- The appropriate role of the Commission to ensure that Local Coastal Program amendments are consistent with the Coastal Act rather than re-writing the work of local agencies "to make it better";
- The chilling effect that this approach, which we also experienced in the Carpinteria Greenhouse Program, may have on local governments' future efforts to update their LCPs;
- The current LCP will continue to apply in Toro Canyon unless and until the Plan is certified, with the current LCP being less protective of resources and allowing more development potential.

Staff also reviewed examples of problematic suggested modifications, including those related to water quality, flood control, fire protection, biological resources, and the repair and replacement of non-conforming structures.

The Coastal Commission staff emphasized five major areas where they believe the Toro Canyon Plan is deficient: biological resources; water quality; agriculture (related to development on steep slopes and where native cover removal occurs, as well as to the county's proposed rezoning of seven small lots at Foothill & Toro Canyon Roads from AG-I-40 to 2-E-1); protection of scenic resources; and their proposed new Watershed Protection Overlay District. After careful consideration, county staff does not believe that the Plan is deficient or inconsistent with the Coastal Act. While the Plan may not be the "ideal" plan, it is the best compromise that

the county could find to address coastal resource protection and community concerns, and it is sufficiently protective and consistent with the Coastal Act.

Comments made by individual Coastal Commissioners present at the October 8 hearing were sympathetic to the county and the points made by the county. The Commission gave direction to its staff to work with county staff over the ensuing weeks to substantially narrow the scope of proposed changes prior to the November meeting.

The Commission also requested the County to consider withdrawing and resubmitting the Plan to allow more time to work with Commission staff on their proposed modifications. County staff met with the Commission staff three times, with one meeting focusing on water quality and two on the bulk of the suggested modifications. The Commission staff should complete their staff report by the end of the day on Wednesday October 22, and copies of this staff report will be delivered to the Board as soon as possible.

Options for response to the Coastal Commission. There are several ways in which the Board can respond to the Coastal Commission in light of the last hearing.

1. Withdraw and re-submit the proposed Toro Canyon Plan LCP Amendment. This would allow more time to discuss changes with the Commission staff, as well as for the Commission to hold additional hearings, possibly including one in Santa Barbara in April 2004. However, this would allow up to another fifteen months of Commission review (initial 90 days plus a one-year extension), during which time the Toro Canyon Plan would not be in effect within the Coastal Zone. This option would require substantial additional staff time. Since the budget for Plan adoption has been exhausted, this option would defer other work currently being undertaken in Comprehensive Planning or require additional resources to accomplish. Staff does not recommend this option.
2. Present a counter-proposal to the Commission. This would involve recommending that the Commission adopt a county-proposed modification of its own staff's recommendations, wherein the county would tentatively agree to some changes in exchange for others being dropped. One obvious problem is the complexity of such a proposal, and the very limited time left for the Board to consider which changes might be acceptable and which would not. Also, the Board could not foreclose its future discretion in reviewing the Commission's ultimate action and either accepting, rejecting, or proposing changes to any modifications approved by the Commission. Staff does not recommend this option.
3. Recommend that the Commission certify the Plan as submitted. The Toro Canyon Plan represents an update and improvement in the LCP as it applies to this area, and has been prepared to be consistent with the state Coastal Act. This option would request that the Commission recognize the substantial time and care that the county invested in preparing and adopting the Plan, including the active participation of numerous local residents and other

agencies. The only changes that would be made to the Plan as adopted by the Board in February 2002 would be to revise the various map figures affected by the Commission's approval of the Coastal Zone Boundary Adjustment in June 2003. **Staff recommends this option, as reflected in the attached letter for transmittal from the Board to the Commission.**

If the Commission nevertheless acts to certify with modifications as recommended by their staff, the Board would be faced with the choice of either agreeing to all of the Commission's proposed changes, or proposing further modifications which then would be submitted for another round of review by the Commission. In the latter instance, several iterations of this loop are conceivable over the course of months or even years.

Mandates and Service Levels: No immediate change in mandates or service levels. This is an expected part of processing the Toro Canyon Plan LCP Amendment, although much more extensive than anticipated.

Fiscal and Facilities Impacts: Work on the Coastal Commission certification phase of the Toro Canyon Plan was funded in the latter part of last fiscal year (2002-03) and in the current fiscal year (2003-04) through a \$40,000 Coastal Impact Assistance Program (CIAP) grant. Due to the extensive amount of effort involved in reviewing the Coastal Commission's proposed changes, this grant has been nearly exhausted (\$1,926.57 remaining as of 9/30/03). Additional work to date certainly has more than used the remainder of the CIAP grant funds.

Should the Coastal Commission act to certify the Plan with changes, this would require an unknown but substantial amount of future staff time, materials, mailing, and hearing costs associated with reviewing the changes and responding back to the Commission. Such effort would require either an augmentation of P&D's budget, or an adjustment of work priorities to delay or cancel some programmed work efforts.

Special instructions: P&D will transmit the signed Board letter to the Coastal Commission and other copied parties.

Attachments: Proposed letter from the Board to the Coastal Commission

First Coastal Commission staff report, September 2003 (Board member copies and Clerk of the Board file only)

NAOMI L. SCHWARTZ

First District, Chair

SUSAN J. ROSE

Second District

GAIL MARSHALL

Third District

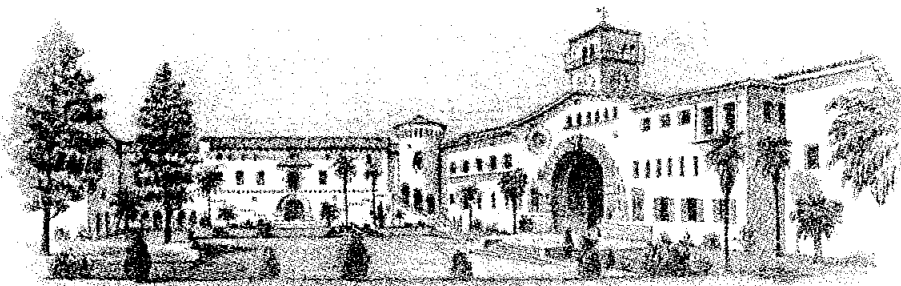
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COUNTY OF SANTA BARBARA

October 28, 2003

Mr. Mike Reilly, Chair

California Coastal Commission

45 Fremont, Suite 2000

San Francisco, California 94105-2219

RE: Toro Canyon Plan, Santa Barbara County LCP Amendment No. MAJ-3-02, Santa Barbara County (Agenda Item No. 5.b, Thursday November 6, 2003)

Dear Mr. Reilly and Commissioners:

Santa Barbara County requests that your Commission certify the Toro Canyon Plan LCP amendment as submitted, except for revising various map figures to match the Coastal Zone Boundary Adjustment approved by your Commission in June 2003. This Plan represents an improvement in coastal resource protection and public access planning as compared to the existing certified LCP that applies to this area, and is deserving of certification without further revision.

The Toro Canyon Plan was adopted by the Santa Barbara County Board of Supervisors in February 2002 and was submitted to the Commission in May 2002. The Commission staff accepted it for processing in August 2002, and in November 2002 its statutory deadline for action was extended by the Commission for one year, to November 2003. As the Commission's review process took an additional eleven months, very little time is left for serious review and discussion of the many changes now being recommended by the Commission staff, more than a year and a half after the county's adoption of the Plan.

Santa Barbara County conducted an extensive public review process, including more than 35 public hearings and workshops, in preparing and adopting the Toro Canyon Plan. Throughout this nearly four-year local process of preparing and adopting this Plan, the county invited involvement by the Coastal Commission staff, but very little feedback was received. Had the Commission staff's apparently extensive concerns with the specific language of numerous goals, policies, development standards, and ordinance text been known at that time, these concerns could have been folded into the local review process for full analysis and discussion. However, now your Commission is being asked to certify all of your staff's proposed changes after little more than a month of public availability and review. This is not right.

This same pattern was experienced with the Carpinteria Greenhouse Program LCP amendment, which was heard by your Commission earlier this year. The certification process appears to be “broken” when local efforts to prepare LCP updates that protect coastal resources and balance other community interests receive little comment from the Commission staff during lengthy periods of plan development and local review, only to be followed by an overwhelming number of significant proposed changes long after the local review process has concluded.

We acknowledge and thank the Commission staff for spending a substantial amount of time with county staff earlier in September, discussing the proposed changes prior to release of the original staff report, and for spending additional time working with our staff at your Commission’s direction following your hearing on October 8. However, it still appears that many of the county’s comments have not been taken to heart, especially our overarching plea to ***make only those changes that clearly involve a demonstrated inconsistency between the locally approved Plan and the Coastal Act.***

The Coastal Commission staff emphasized five major areas, among others, where they believe the Toro Canyon Plan is deficient: biological resources; water quality; agriculture (related to development on steep slopes and where native cover removal occurs, as well as to the county’s proposed rezoning of seven small lots at Foothill & Toro Canyon Roads from Agriculture to Residential); protection of scenic resources; and a proposed new Watershed Protection Overlay District that addresses geologic, visual and other issues. After careful consideration and discussions with Commission staff, ***the county does not believe that the Toro Canyon Plan is deficient or inconsistent with the Coastal Act.*** While the Plan may not be the “ideal” plan, it is the best compromise that the county could find to address coastal resource protection and community concerns, and it is sufficiently resource-protective and consistent with the Coastal Act.

In addition, since the Plan applies to a larger area that lies inland of the Coastal Zone boundary, the extensive proposed changes would result in substantially different development policies and standards within and outside the Coastal Zone but within the Toro Canyon Plan boundary. Also, general provisions suggested for change in the Toro Canyon Plan would result in substantially different policies and standards between the Toro Canyon coastal area and the rest of the county’s Coastal Zone. This is untenable as a matter of good government and public policy, confusing both the affected public and permit review staff. It also is contrary to planning process improvements currently underway by the county to simplify what is already a complex system of development regulation, while continuing to promote quality development and resource protection.

The coastal resource enhancements and other benefits embodied in the Toro Canyon Plan have not been realized during the lengthy period of time that this Plan has been under review by your staff. Please certify it now without further delay or amendment, except as needed to reflect the Coastal Zone Boundary Adjustment previously approved by your Commission.

County staff will be present at your Commission's hearing in Los Angeles on November 6. If you have any questions about the matters discussed in this letter, please contact County Planning & Development project manager, Greg Mohr, directly by phone at (805) 568-2080 or by e-mail, greg@co.santa-barbara.ca.us. Thank you very much for your consideration.

Sincerely,

Naomi Schwartz, Chair

xc: Charles Damm, Gary Timm, Melanie Hale, and Shana Gray, Coastal Commission staff
Flood Control District (Tom Fayram, Larry Fausett, Dale Weber)
Water Agency (Rob Almy)
Val Alexeeff, P&D Director
Dianne Meester, P&D Assistant Director
P&D staff (Campbell, Lackie, Mohr, Ward)