



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

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

Department Name: Planning & Development
Department No.: 053
For Agenda Of: May 15, 2018
Placement: Departmental
Estimated Time: 1 hour and 45 minutes
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Dianne M. Black, Director, Planning and Development
Director (805) 568-2086
Contact Info: Daniel T. Klemann, Deputy Director, Long Range Planning
(805) 568-2072
SUBJECT: Gaviota Coast Plan – California Coastal Commission Local Coastal Program
Amendment No. LCP-4-STB-16-0067-3 Staff Report, Third Supervisorial District

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence:

As to form: N/A

Recommended Actions:

That the Board of Supervisors (Board):

- a) Receive and file a report on the California Coastal Commission staff's suggested modifications to Local Coastal Program Amendment No. LCP-4-STB-16-0067-3 to certify the Gaviota Coast Plan and associated amendments to Article II;
- b) Provide direction to staff on the contents of a comment letter to be sent to the Coastal Commission, authorize the Chair of the Board to sign a comment letter on behalf of the Board regarding the suggested modifications, and direct staff to present the Board's comment letter to the Coastal Commission at its hearing on the Gaviota Coast Plan and associated amendments to Article II (Attachment 1);
- c) Authorize staff to withdraw and resubmit the Gaviota Coast Plan associated amendments to Article II to the Coastal Commission to allow their hearing on this matter to occur in July in the Central Coast area; and,
- d) Determine that the Board's action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15265 (Attachment 2).

Summary Text:

On December 6, 2016, the Board authorized staff to submit the Gaviota Coast Plan and associated amendments to the Coastal Zoning Ordinance, Article II of Chapter 35 of the County Code (Article II), for review and certification by the Coastal Commission, in order to incorporate the Gaviota Coast Plan and associated amendments to Article II as part of the LCP. Coastal Commission staff reviewed this LCP Amendment application and is recommending that the Coastal Commission certify the LCP Amendment subject to a number of suggested modifications. The purposes of this Board letter and the hearing on May 15, 2018, are to: (1) provide the Board with a staff report regarding the suggested modifications; (2) afford the public the opportunity to provide the Board with input on the suggested modifications; (3) authorize the Chair of the Board to sign a comment letter on behalf of the Board regarding the suggested modifications (Attachment 1) and direct staff to present the Board's comment letter to the Coastal Commission at its hearing; and (4) authorize staff to withdraw and resubmit the Gaviota Coast Plan and associated amendments to Article II to the Coastal Commission to allow their hearing on this matter to occur in July in the Central Coast area.

Background:

On November 8, 2016, the Board approved the Gaviota Coast Plan and associated amendments to Article II and certified an Environmental Impact Report for the project (15EIR-00000-00003). On December 6, 2016, the Board directed staff to submit the LCP Amendment to the Coastal Commission for certification, in order to incorporate the Gaviota Coast Plan and associated amendments to Article II as part of the LCP. Coastal Commission staff and County staff have spent a considerable amount of time discussing the LCP Amendment's compliance with the requirements of the Coastal Act and the modifications to the Gaviota Coast Plan and associated amendments to Article II that Coastal Commission staff believes are required in order to find the LCP Amendment consistent with the Coastal Act. As a result of these discussions, Coastal Commission staff removed or revised a number of the Coastal Commission staff's initially-suggested modifications, pursuant to County staff's request. County staff is appreciative of Coastal Commission staff's willingness to discuss and modify the recommended modifications. However, a number of Coastal Commission staff suggested modifications remain in the LCP Amendment that may be of concern to the Board.

The Coastal Commission staff suggested modifications are set forth in Exhibits 2 and 3 to the Coastal Commission staff report regarding the LCP Amendment, dated April 24, 2018. The staff report and all exhibits can be found on the Coastal Commission website at <https://www.coastal.ca.gov/> (see May 10th meeting agenda – South Central Coast area). To facilitate Board and community review of the suggested modifications, County staff has included the Coastal Commission staff report, suggested modifications to the Gaviota Coast Plan, and suggested modifications to Article II as Attachments 3, 4, and 5, respectively, to this Board Letter.

Although there are a number of suggested modifications that the Board might find concerning, staff have identified the following suggested modifications as being particularly controversial based on public input received during the preparation and adoption of the Gaviota Coast Plan and associated amendments to Article II and seek guidance from the Board.

1. Permitting Requirements for Certain Types of Agricultural Development on Agricultural Designated Lands

The LCP Amendment included a number of amendments to Article II to allow new development, and to change the permitting requirements for certain types of development that are currently allowed within the Coastal Zone portion of the Gaviota Coast Plan area. As part of the suggested modifications, Coastal Commission staff recommends that new agricultural cultivation or grazing require the issuance of a Coastal Development Permit (CDP). However, an exception to the permit requirement (and thus, a permit exemption) would be allowed for cultivation or grazing within an area that has been subject to cultivation or grazing within the previous 10-year period. (See Attachment 5, page 15, proposed Sections 35-430.D.2 and -4 of the Coastal Commission staff suggested modifications to Article II.)

Historically, the County has not required the issuance of a CDP for agricultural cultivation or grazing on lands designated for Agriculture, regardless of whether the area proposed to be cultivated or grazed had been used as such within the previous 10-year period. The Coastal Act (Public Resources Code Section 30241) states, in relevant part:

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following: ...

Considering the County's historic practice of exempting agriculture, County staff would prefer no CDP requirement for agriculture. Since this is not considered to be consistent with the Coastal Act, County staff recommend that a CDP not be required for new agricultural cultivation and grazing if it complies with the following standards:

- Does not occur on slopes of 30% or greater, or require any cut or fill that exceeds three feet in vertical distance or require grading over 50 cubic yards.
- Is not located within 100 feet of the top of bank of any creek, stream, or watercourse.
- Is not located within 100 feet of ESH areas (e.g., riparian corridors and wetlands).
- Does not result in the removal of protected trees.

These standards for exempting new agricultural cultivation and grazing were adopted by the Coastal Commission in November 2010 as modifications to the LCP Amendment to convert Article II into the LUDC format. However, these modifications (along with other modifications to the LCP Amendment) were rejected by the Board of Supervisors on February 1, 2011.

Furthermore, the specific permitting requirements for new agricultural cultivation or grazing that are set forth in Table 18-2 of the Coastal Commission staff suggested modifications to Article II (Attachment 5, page 20) should be revised to: (1) clarify the distinction between historic and new agricultural cultivation or grazing, consistent with the new Sections 35-430.D.2 and -4 in the Coastal Commission staff suggested modifications to Article II; and (2) include the additional qualifications regarding when a CDP is required for new agricultural cultivation and grazing, as described above.

Request: Staff recommends that the Board request that (1) the Coastal Commission revise its modifications to allow new agricultural cultivation and grazing to be exempt from the issuance of a

CDP if it complies with the standards listed above that were previously approved by the Coastal Commission, and (2) the Coastal Commission revise the Article II amendments to clarify the distinction between historic and new agricultural cultivation and grazing as described above.

2. Permitting Requirements for Certain Residential Accessory Structures

Coastal Commission staff suggested modifications to Article II sets forth new definitions for a “principal permitted use” versus a “non-principal permitted use” (Attachment 5, pages 9-10). This is the first time principal permitted uses have been identified in Article II. It would have the effect of dividing the existing “permitted uses” of Article II into uses that are considered principally permitted and those that are not.

The key distinctions between a “principal permitted use” and “non-principal permitted use” are: (1) the degree to which they implement the designated land use and intent and purpose of a zone; and (2) principal permitted uses are not subject to a hearing and appeal to the Coastal Commission, whereas non-principal permitted uses require a hearing and are subject to appeal to the Coastal Commission. As a consequence, allowable land uses that today may be permitted with a CDP, without a hearing and without being appealable to the Coastal Commission, would, after certification, require a hearing and be subject to appeal.

County staff worked with Coastal Commission staff to appropriately categorize these uses; however, the permit requirements for certain residential accessory structures remain an area of difference. Table 18-2 of Article II, as proposed to be modified by Coastal Commission staff, identifies which types of development would be considered a “principal permitted use” versus a “non-principal permitted use” (Attachment 5, pages 20-23). As shown in Table 18-2 (Attachment 5, page 21), Coastal Commission staff is recommending that a one-family dwelling be considered a principal permitted use in the AG-II (Agriculture II) and RR (Rural Residential) zones; County staff concurs with this permitting requirement for one-family dwellings. However, Coastal Commission staff is recommending that certain residential accessory structures and uses (e.g., guest house, home occupation, or pool house/cabana) be considered non-principal permitted uses. County staff does not agree with this approach. Accessory uses to a principal permitted use should be classified as principal permitted. To do otherwise would subject most residential development (as most includes accessory structures) to a local hearing and a potential appeal to the Coastal Commission.

Request: Staff recommends that the Board request that the Coastal Commission revise its modification to identify residential accessory structures as “principal permitted uses.”

3. Gaviota Coast Plan Natural Resources Stewardship Policy NS-4: Environmentally Sensitive Habitat (ESH) Criteria and Habitat Types

The Gaviota Coast Plan includes Policy NS-4, which sets forth criteria to be used for determining which habitats within the Gaviota Coast Plan area qualify as ESH (Attachment 4, pages 2-3 presents the Coastal Commission staff’s suggested modification to the Policy). The Board-adopted Policy states in pertinent part that plant communities which have certain California Natural Diversity Database (CNDDDB) rarity rankings qualify as ESH (Attachment 6, highlighted portions). The Policy then lists “Rare Native Chaparral and Coastal Scrub Habitats” that have a CNDDDB rarity ranking which qualify them as ESH.

Coastal Commission staff is recommending that the Coastal Commission modify Policy NS-4 in part to remove “Rare,” which would have the effect of treating all native chaparral – regardless of the CNDDDB rarity ranking – as ESH and, consequently, subject to the protections afforded to ESH. This would be a departure from how the County historically has treated native chaparral whereby only rare native chaparral qualified as ESH. County staff expressed concern that this modification would greatly expand ESH and potentially limit new agricultural activities. Therefore, County staff requested that “Rare” be maintained in Policy NS-4. However, this request was not granted because Coastal Commission staff has indicated that all chaparral qualifies as ESH (Attachment 3, pages 21-23).

Native chaparral exists within the Coastal Zone portion of the Gaviota Coast Plan area north of U.S. Highway 101 on the Arroyo Hondo Preserve property extending westward to the easterly portion of the Hollister Ranch properties. See Figures 2-1 and 2-2 of the Gaviota Coast Plan for maps that show the distribution of chaparral in the Gaviota Coast Plan area (Attachment 7).

Request: Staff recommends that the Board request that the Coastal Commission restore “Rare” to Policy NS-4 to reflect the County’s intent to protect the rare and not the demonstrably secure types of chaparral.

4. Gaviota Coast Plan Land Use Policy LU-13: Bluff-Top Development

Coastal Commission staff is recommending that the Coastal Commission add a new Policy LU-13 to the Gaviota Coast Plan (Attachment 4, page 19) that only would allow public – not private – staircases on a bluff face, similar to a policy that the Coastal Commission required and the Board adopted for the Eastern Goleta Valley Community Plan. Policy LU-13 would cause existing, private staircases on bluff faces to become nonconforming with regard to the Article II zoning regulations, and only would allow repair and maintenance of the private staircases pursuant to the provisions of Article II (§35-161). However, new private staircases on bluff faces would be prohibited.

Staff does not believe this suggested modification raises new policies issues since it is substantially the same as the recent modification for the Eastern Goleta Valley Community Plan certified by the Coastal Commission and accepted by the Board of Supervisors.

Furthermore, Policy LU-13 would require development on coastal bluff-top property to be designed and located “... considering 100 years of bluff erosion that factors in the long-term effects of climate change and sea-level rise based on best available science.” Other published Coastal Commission guidance; however, states that development on bluff-top property should be designed and located considering 75 to 100 years of bluff erosion, and defers to the local jurisdiction to select the appropriate timeframe for the analysis (California Coastal Commission. *Residential Adaptation Policy Guidance: Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs*. March 2018. Revised Draft.). As part of the Coastal Resiliency Project, County staff is recommending that the analysis be based on a minimum 75-year timeframe, thereby allowing – but not requiring – consideration of a 100-year timeframe, and after factoring in site-specific characteristics. This is in alignment with existing Coastal Land Use Plan Policy 3-4 which requires that new bluff-top development be set back to be safe from the threat of bluff erosion “for a minimum of 75 years.” County staff recommends the 75-year timeframe given the uncertainty in sea level rise projections and actual bluff erosion rates that might occur 100 years after development

occurs. Staff also believes that one standard should be used for the entire Coastal Zone-portion of Santa Barbara County, and should be addressed as part of the Coastal Resiliency Project which is a countywide project, rather than in ad hoc fashion for only certain communities and areas within the Coastal Zone.

Request: Staff recommends that the Board request that the 100-year factor for bluff erosion be deleted from Policy LU-13 and allow the Coastal Resiliency Project LCP Amendment to address this concern throughout the Coastal Zone.

Next Steps:

Based on statutory requirements, the Coastal Commission must take action to approve the LCP Amendment to certify the Gaviota Coast Plan and associated amendments to Article II before the end of June 2018. County staff recommends that the Board direct staff to withdraw and resubmit the Gaviota Coast Plan and associated amendments to Article II to allow the Coastal Commission's hearing on this matter to occur in July, when the hearing will be located in the Central Coast area, closer to Santa Barbara than the June hearing. This would effectively extend the deadline within which the Coastal Commission must act, and allow County staff additional time to continue working with Coastal Commission staff to address additional technical issues. Staff has included an administrative item on your agenda for this hearing date to submit other Local Coastal Program amendments to the Coastal Commission. Resubmittal of this item is included in that agenda item.

Fiscal and Facilities Impacts:

Budgeted: Yes

Funding for the current work effort (to complete the Coastal Commission certification process for the Gaviota Coast Plan) is included in the Board of Supervisors-adopted Planning and Development Department budget in the Long Range Planning Budget Program on page D-302 of the adopted Fiscal Year 2017-2018 budget. Current fiscal year project cost, to date, is approximately \$32,300 with approximately \$30,000 funded by a Coastal Resource Enhancement Fund (CREF) grant. There are no facilities impacts.

Special Instructions:

The Clerk of the Board shall provide a copy of the minute order to P&D, attention: David Villalobos.

Attachments:

1. Board of Supervisors Letter to the Coastal Commission regarding the Gaviota Coast Plan
2. Notice of Exemption
3. Coastal Commission Staff Report dated April 24, 2018
4. Coastal Commission Suggested Modifications to the Coastal Land Use Plan (Gaviota Coast Plan)
5. Coastal Commission Suggested Modifications to the Implementation Plan (Article II Coastal Zoning Ordinance)
6. Gaviota Coast Plan Policy NS-4 as adopted by the Board of Supervisors
7. Figures 2-1 and 2-2 of the Gaviota Coast Plan Existing Vegetation East Portion and West Portion

Authored by:

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