

kkimbell@aklaw.net

October 15, 2010

Supervisor Doreen Farr
County of Santa Barbara
Board of Supervisors
105 E. Anapamu Street
Santa Barbara, CA 93101

Re: LUDC Modifications

Dear Doreen:

As your Chair of the GAVPAC, I am writing to express my continuing deep concern over the Coastal Commission Staff's effort at injecting itself into the County planning process. I am particularly concerned for the GAVPAC that the extensive effort which is underway and proceeding well will be rendered useless by a Coastal Commission staff emboldened by success of its improper efforts at usurping the County's planning role delegated to it under the Coastal Act.

Coastal Act Section 30500(c) of the Coastal Act provides:

“The precise content of each local coastal program shall be determined by the local government, consistent with Section 30501, in full consultation with the Commission and with full public participation.”

Section 30512.2(a) of the Coastal Act provides as follows:

“(a) The Commission's review of the land use plan shall be limited to its administrative determination with the land use plan submitted by the local government does, or does not, conform with the requirements of Chapter 3 (commencing with Section 30200). In making this review, the Commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance the precise content of its land use plan.

(b) The Commission shall require conformance with the policies and requirements of Chapter 3 (commencing with Section 30200) only to the extent necessary to achieve the basic state goals specified in Section 30001.5”.

The effect of these provisions is to empower the local agencies to develop local coastal plans which are appropriate for their respective regions. The Coastal Commission’s review of those plans is limited to confirming that the local plan conforms with the requirements of Chapter 3 of the Coastal Act.

I submit to you that the proposed modifications are an attempt to take away from Santa Barbara County its right under the Coastal Act to determine the “precise content of its land use plan”.

These modifications are advanced under the rationale that they are required to bring the County’s local coastal plan into conformity with the Coastal Act. I submit to you that this is seriously incorrect for the following reasons:

1. Chapter 3 of the Coastal Act sets forth the standards by which the adequacy of local coastal programs are determined. Nowhere in Chapter 3 do I find any language which would justify the staff’s imposition of the following modifications: (i) a requirement that single family homes in agricultural zones be limited to 3,000 square feet and occupied by only the operator of the agricultural operation on the property unless a far more costly and time consuming permit process is undertaken; (ii) that permitted uses be divided into “principal” and other permitted uses with the requirement that non principal permitted uses are subjected to a much more onerous permit process; (iii) that owners of coastal property can be denied the right to construct and repair the beach access facilities and effectively denied access to the most valuable part of their property.

2. Furthermore the effort to burden farmers and ranchers to the highest level of permit processing for any “intensification of agriculture” is blatantly inconsistent with the Coastal Act for the following reasons:

1. The Coastal Act contains many provisions supportive of and encouraging the continuation of agriculture. Among them are the following: _____

2. The Coastal Act specifically exempts land clearing for agricultural operations from any permit requirement under Section 30106.

It is frankly disingenuous for the Coastal Staff to attempt to cloak its effort at usurping the local land use planning authority as justified by conforming what was essentially a reformatting of the previously approved local coastal plan to the provisions of the Coastal Act.

Doreen, in plain terms the County is facing a serious fork in the road in its relationship with the Coastal Commission. **Will the County insist on exercising its rights under the**

Supervisor Doreen Farr

October 15, 2010

Page 3

Coastal Act and require the Coastal Commission to act within its authority under the Coastal Act, or will the County allow the Coastal Commission to interject itself into the County's planning process and yield its rights under the Coastal Act to the Coastal Commission?

This is an insidious situation. It worries me greatly. If the County lets the Coastal Commission usurp the duties clearly delegated to the County in the Coastal Act in the instance of a reformatting of its previously approved local coastal plan, we can expect the locally generated and supported rural plan for Gaviota being developed by GAVPAC to be subjected to the same sort of overreach by the Coastal Commission Staff. If that happens, all the good work that is underway by GAVPAC, the public and County staff could be sabotaged. **This is a fundamental issue and must be met head on. The County must insist on compliance with the Coastal Act and respect for the County's role in developing its land use regulations. GAVPAC's efforts and the trust of the community are on the line here.**

Lastly we must keep in mind that these modifications are the work of a small handful of Coastal Commission Staff. We have no indication that the Commission itself would support what the staff is doing, and in fact from what I understand occurred at the hearing in San Luis Obispo many Commissioners were questioning why these modifications were necessary. Therefore we must not assume that the Commission will back the staff on this power grab. I believe the County should present to the Commission a restatement of the role of the two agencies, question how these specific modifications are required to comply with Chapter 3 and ask the Commission to act in compliance with the Coastal Act.

Very truly yours,

Charles D. Kimbell

CDK/dob
178167