

ATTACHMENT

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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
 89 SOUTH CALIFORNIA ST., SUITE 200
 VENTURA, CA 93001
 (805) 585-1800



DEFICIENCY NOTICE

DATE: February 4, 2009

TO: John Baker
 Assistant County Executive Officer
 Santa Barbara County, Planning and Development
 123 E. Anapamu Street
 Santa Barbara, CA 93101

FROM: Steve Hudson, District Manager

RE: Notice of Final Action for "Santa Barbara Ranch Project" (*including all separate permits, actions, and other discretionary approvals as described in your cover letter dated December 12, 2008, and listed in the attached document titled "Table 4 - Inland and Coastal Approvals" Attachment C-2 of the Conditions of Approval and Exhibit 13 of the Conditions of Approval*).

Pursuant to California Code of Regulations, Title 14 (14 CCR), section 13572 and 13572(b), please be advised of the following deficiencies in the above-referenced Notice of Final Action, which was received by our office on February 2, 2009 (updating the previously submitted Notice of Final Action dated December 12, 2008), and which addresses multiple separate permits, actions, and other discretionary approvals collectively described in the notice as the "Santa Barbara Ranch Project" (hereinafter sometimes referred to simply as the "project").

Applicant(s): Santa Barbara Ranch, LLC

Description: The project entails the development of 71 new residential dwellings, an equestrian center, agricultural support facilities, a worker duplex, public amenities (including access roads, parking and restroom, and coastal access trails), and creation of conservation easements for permanent protection of open space and agriculture. The project also includes: (i) text and map amendments to Comprehensive Plan, Coastal Land Use Plan, and Zoning Ordinance; (ii) subdivision approvals consisting of a vesting tentative tract map, lot mergers, lot line adjustments and conditional certificates of compliance; (iii) cancellation, modification and re-issuance of Williamson Act contracts; (iv) creation of new Agricultural Conservation and Open Space easements; (v) discretionary permit approvals encompassing development plans, conditional use permits and minor conditional use permits, land use permits and coastal development permits; and (vi) miscellaneous actions including approval of development agreements and removal of the Special Problems Area designation currently applicable to Naples.

Location: The project site encompasses the Santa Barbara Ranch and Dos Pueblos Ranch totaling approximately 3,249 acres and 85% of the lots comprising the Official Map of the Naples Townsite at Dos Pueblos Canyon Road, Santa Barbara County.

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FEB 05 2009 *cc*

S.B. COUNTY
 PLANNING & DEVELOPMENT

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Deficiencies noted below:

1. Local action is not complete as described under 14 CCR Section 13570. That section states that a local decision on an application for development shall not be deemed complete until the local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is, or is not, in conformity with the certified LCP.

2. X Procedures for appeal of the decision to the Coastal Commission not included and/or inaccurate. The submitted Notice of Final Action constitutes a combined notice for multiple separate permits, actions, and approvals. In order to provide adequate notice regarding "the procedures for appeal," pursuant to 14 CCR section 13571, such notice must accurately describe which of the actions and different components included in the notice of final local action are subject to those appeals procedures. However, several of the appealable actions and approvals included in the combined Final Action Notice for this project were incorrectly described as not appealable, including:
 - **Lot Mergers.** The Final Action Notice incorrectly states that "Lot mergers...are ministerial actions under the County's development and subdivision regulations; therefore are not appealable." However, lot mergers constitute "development" that require a coastal development permit and are not exempt from permit requirements pursuant to either the California Coastal Act or the County's certified Local Coastal Program, regardless of whether the action is characterized as a ministerial or discretionary decision. In response to the County's letter dated January 28, 2009, please note that the both the California Coastal Act and the certified Local Coastal Program for the County of Santa Barbara define "development" requiring a coastal development permit, in relevant part, as any "change in the density or intensity of use of land including, but not limited to, subdivision pursuant to the Subdivision Map Act...and any other division of land, including lot splits..." As we have previously informed the County, a merger constitutes a redivision of land resulting in a change in the density or intensity of use of that land and requires a coastal development permit. In this case, although some of the individual appealable coastal permits approved for new residences correctly include lot mergers as part of their proposed project descriptions, the Notice of Final Action also identifies several other approved lot mergers (which have been authorized as part of this project as non-appealable actions) without the required appealable coastal permits.

 - **Subdivision of land.** In addition, the combined Notice of Final Action also incorrectly indicates that the subdivision of a parcel which is partially bisected by the Coastal Zone Boundary (pursuant to Vesting Tentative Tract Map 08TRM-00000-00006) and the subdivision/redivision of land related to the after-the-fact approval of three parcels (pursuant to Conditional Certificates of Compliance 08COC-00000-00001 through 00003) are not actions requiring appealable coastal development permits. Pursuant to the California Coastal Act and the County's certified Local Coastal Program, the subdivision of land constitutes "development" requiring a coastal development permit. In addition, the above referenced subdivisions of land constitute non-principle permitted uses and would, therefore, be appealable actions regardless of whether they are located within the Commission's mapped Geographic Appeals jurisdiction. In response to the County's letter dated January 28, 2009, please note that unpermitted or

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illegal development that occurred prior to the effective date of the Coastal Act is not considered as "vested development" for the purpose of coastal development permit requirements. Thus, a coastal development permit is required for the after-the-fact authorization of a subdivision if such subdivision occurred prior to the effective date of the Coastal Act in non-compliance or violation of the applicable laws at the time of lot creation/subdivision. Therefore, the above referenced actions require appealable coastal development permits.

3. ___ Final Local Action Notice was not received by the Coastal Commission consistent with 14 CCR Section 13571, which states that the local government shall notify the Commission, and any persons who specifically requested notice of such action, by first class mail.
4. ___ Written findings and conditions of Approval not included.
5. ___ Notice not given to those who requested it.

As a result of the deficiencies noted above:

Post-Certification LCP

XX The effective date of the local government action has been suspended, and the 10 working day Commission appeal period will not commence until a sufficient notice of action is received in this office. (14 CCR Sections 13570, 13572).

Post-Certification LUP

___ The effective date of the local government action has been suspended, and the 20 working day Commission appeal period will not commence until a sufficient notice of action is received in this office. (14 Cal. Admin. Code Sections 13330, 13332).

In our previous letter dated December 19, 2008, Commission staff requested the County identify the above referenced actions as appealable to the Commission by submitting a revised Notice of Final Local Action. The letter received from County staff dated January 28, 2009, indicates that the County staff disagrees that the above referenced actions are appealable. Thus, it is clear that there is a dispute regarding the appealability of the above referenced actions; therefore, we are scheduling a dispute resolution hearing on this matter for the Commission's April 2009 meeting, pursuant to CCR Title 14, Section 13569. However, in lieu of that hearing, the County may issue a revised Notice of Final Local Action identifying the above referenced actions as appealable to the Commission.

Commission staff is available to meet with County staff to discuss this matter or any of the issues raised in this letter. Please feel free to contact Amber Tysor or Steve Hudson at the South Central Coast Area office with any questions regarding this matter.

cc: Dianne Black, Director, SB County
Tom Figg, Project Manager, SB County
John Ainsworth, Deputy Director, CCC
Alex Helperin, Staff Counsel, CCC