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ENVIRONMENTAL LAW

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County of Santa Barbara
Board of Supervisors
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By hand delivery and by email to
sbcob@co.santa-barbara.ca.us

RE: The Las Varas Ranch Project – Subdivision/Lot Line Adjustment of a Working Gaviota Coast Ranch; 9/1/15 Agenda Item #7

Dear Chair Wolf and Board Members,

This office represents the Gaviota Coast Conservancy (GCC) in this matter. The Las Varas Ranch Project (Project) would fragment a working Gaviota Coast ranch into saleable parcels to ultimately be developed into luxury residential estates. The Project would intensify residential development potential in the Coastal Zone south of Highway 101 within cattle pastures, a Rural Historic Landscape, and in a proposed public recreational area that has historically and is currently used by the public. Discussed below, the Project is fundamentally inconsistent with the County's Local Coastal Plan (LCP) and Comprehensive Plan.

After thoroughly reviewing the Project, its EIR, and Applicant and public testimony, on April 29, 2015 the County Planning Commission voted 3-2 (Blough and Ferini voted no) to recommend denial of the Project with the exception of the Rezones and Certificate of Compliance (COC) for which they voted 5-0 to recommend approval. We respectfully request that the Board follow the Planning Commission's recommendation. Specifically **GCC urges the Board to take Recommended Actions 1 and 2 as described in the Board Letter.**

Denial of the Project retains the status quo of a working farm and cattle operation. The same number (7) or fewer¹ residentially developable lots would exist without the Project, but with 3-4 south of Highway 101 instead of the 5 proposed as part of the Project. Currently only one home could be constructed in the immediate vicinity of Edwards Point, instead of the two the Project proposes (existing Lot C is only 8 acres, is highly constrained and abuts the western property line). Retaining the two large lots between the railroad and highway ensures that there is sufficient flexibility to avoid impacting views, the Rural Historic Landscape, and sensitive archaeological sites. Public trail amenities offered by the Applicant are poorly sited and do not comport with the community's vision for the California Coastal Trail and Edward's Point as a public park as envisioned in the Local Coastal Plan. Overall, the community is better off with some uncertainty than with a flawed Project that would set an adverse precedent for other Gaviota Coast properties.

¹ The developability of the 8-acre Lot C is highly questionable given its many constraints.

1. Required Administrative Findings of Approval Cannot Be Made

Findings of approval required for the Tentative Parcel Map and LLA (as well as Coastal Development Permit (CDP)s for these land divisions and proposed infrastructure) each require a finding of conformity with the Comprehensive Plan and Coastal Land Use Plan (CLUP). Approval of the Tentative Parcel Map also requires a finding that the site is physically suitable for the type and density of development proposed. The Tentative Parcel Map together with the two LLAs effectuate a reconfiguration of lots that shifts residential development potential into the coastal zone south of Highway 101, and sets the groundwork for large homes to be built on each lot.

Attachment 1 of the Board Letter includes detailed denial findings for the Tentative Parcel Map, LLAs, and CDPs. **GCC fully supports the denial findings as drafted.** Each finding is supported by substantial evidence in the record, and reveals the analytic route between evidence and conclusions. Below we offer additional detail and record citations that support findings that the Tentative Parcel Map and coastal LLA are inconsistent with CLUP Policies protecting views, agriculture, historic and cultural resources, biological resources, and public access and recreation.

a. Tentative Parcel Map Findings

i. The Subdivision Is Inconsistent with Applicable Policy

Pursuant to the Subdivision Map Act, the “county shall deny approval of a tentative map” if it finds that the proposed map *or* the design or improvement of the proposed subdivision, is not consistent with applicable general and specific plans including the Comprehensive Plan and CLUP. (Government Code § 66474; *see also* Government Code § 55473.5; Attachment 1, Finding 2.3.) The proposed subdivision increases the number of buildable lots between Highway 101 and the railroad, and includes infrastructure and residential development envelopes designed to accommodate two acres of contiguous development on each of the newly created lots.

The area to be subdivided is arguably the most visually iconic landscape on the Gaviota Coast visible from Highway 101, including historic buildings on a rolling coastal terrace, framed by the Pacific and Channel Islands. (*See* FEIR Figure 4.1-7 (p. 4.1-24); *see also* p. 4.1-5 (“There are few locations along the Gaviota Coast between the City of Goleta and Gaviota State Park that offer the combination of unobstructed visual resources and visibility afforded within the project site.”)) Adding to its visual significance, portions of Las Varas Ranch including the area proposed for subdivision is part of a Rural Historic Landscape, with the following character defining features:

the terraces with grazing land and citrus and avocado orchards; the creeks and drainage troughs with their windrows; vegetation encompassing grazing grasses, orchards, windrows and chaparral; the clusters of ranch buildings; the historic views of the ocean and the mountains as seen from these ranch buildings; and the rural setting as seen from U.S. Highway 101.

(RFEIR p. 4.5-29.)

The proposed subdivision map, design of the subdivision, and improvements included in and facilitated by the subdivision each conflict with County policy protecting the character and visual resources of this unique coastal area. Specifically, Coastal Act § 30251 (incorporated into the CLUP via Policy 1-1) provides:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of the surrounding area and, where feasible, to restore and enhance visual quality in visually degraded areas...

“Scenic views looking south toward the coastal terrace in the foreground and Pacific Ocean in the background would be . . . affected to varying degrees by future residential development within the development envelopes south of the highway.” (*Id.*, p. 4.1-25.) The EIR acknowledges that future estate-style residential development within the project site “would have the potential to alter the [existing] visual character by introducing potentially large residences that would be incompatible with the scale and character of existing development and the natural undeveloped landscape.” (RFEIR p. 4.1-37.) The EIR and Historic Resources Report further acknowledge that “views from U.S. Highway 101 of character defining features of the Rural Historic Landscape could be materially impaired by inappropriately sited or incompatibly sized new buildings or structures.” (*Id.* at p. 4.5-29.)

Residential development within the proposed envelopes could be much more visible than the EIR discloses, because the EIR assumes only 3/4 acres of contiguous residential development per lot, when up to 2 acres of contiguous residential development is allowed. (*See* RFEIR p. 4.1-17.) Moreover, the EIR understates the potential visual impacts associated with new or improved access roads based on the assumption that paving of existing ranch roads to serve future residential development will have similar impacts to existing paved roads onsite. However the existing paved roads are modest and agricultural in nature, whereas roads serving estate development can be lavish and include gates, lighting and other elements that are not visually compatible with the agricultural character of the surrounding area. Reliance on future CBAR review will not preclude estate-style gates and uncharacteristically large residences that are visually incompatible with the agricultural and historic character of the area regardless of their design. Reliance on future historic review of the residences is inadequate to ensure that the scenic and visual qualities, and ocean views are protected. Moreover, these future review processes will be limited to considering locations within the residential envelopes that may ultimately not be the best location on the site. For these reasons, the proposed subdivision map and design and improvement of the proposed subdivision are inconsistent with Coastal Act § 30251.

Before approving any division of agriculturally zoned land, the LCP compels the County to find that the division will not diminish the long-term agricultural productivity of the property. Specifically, CLUP Policy 8-4 provides “*As a requirement for approval of any proposed land division of agricultural land designated as Agriculture I or II in the land use plan, the County shall make a finding that the long-term agricultural productivity of the property will not be diminished by the proposed division.*” The proposed subdivision includes residential development envelopes adjacent to orchards and within cattle pastures, resulting in direct, indirect, and cumulative impacts to agriculture. The proposed development envelope on proposed parcel 5 contains the heifer weaning field and first calf heifer calving pasture, recognized by Mr. Sage for their exceptional sensitivity to human presence. (RFEIR pp. 4.2-8, 6-48.) The only safeguards of the Ranch’s long-term agricultural productivity are a) the residential development envelopes, and b) CC&Rs. (See 4/29/15 Staff Report, pp. 9-10.) However, even with the development envelopes the EIR acknowledges that “[t]here is the potential for residential uses to spill over into the adjacent pastures, thus potentially impacting the cattle operation” (RFEIR p. 4.2-12.) The only control against this spill over is “the ranch manager and the CC&Rs”, and the possibility that future landowners may not want to continue the collective ranching operation is addressed solely through CC&Rs. (*Id.* at pp. 4.2-12 – 4.2-13.) The only example given of a successful cattle operation sustained through CC&Rs is Hollister Ranch (*see* RFEIR p. 4.2-13), however the size of the property and agricultural operation (2,000 head of cattle) and number of landowners involved (133 individual parcels) is so fundamentally different from Las Varas Ranch (7 parcels, 74 head of cattle) that it is not a useful example. Because the proposed subdivision parcelizes a working agricultural operation into individually salable luxury residential estate lots without adequate safeguards for long-term agricultural productivity, the Tentative Parcel Map conflicts with CLUP Policy 8-4.

The proposed subdivision map and subdivision design further conflict with LCP cultural resource protection policy. CLUP Policy 10-2 provides: “*When developments are proposed for parcels where archaeological or other cultural sites are located, project design shall be required which avoids impacts to such cultural sites if possible.*” The area to be subdivided is a Rural Historic Landscape and includes the significant archaeological site CA-SBA-80. The subdivision intensifies development potential within the Rural Historic Landscape, and creates one lot (Parcel 3) that is highly constrained by the presence of CA-SBA-80 such that the Parcel 3 development envelope overlaps a portion of this significant Chumash site. (See RFEIR p. 4.5-25.) The proposed map and subdivision design do not avoid encroaching into CA-SBA-80, but instead permit development in “low density” areas. (RFEIR p. 4.5-10.) Other areas of Parcel 3 are constrained by different resources such that staff concluded that there are no other suitable areas on the proposed parcel that would not result in significant impacts to other resource areas (7/10/14 Staff Report, pp. 39-40.) Creating a new parcel by subdivision that will have insufficient flexibility to avoid a significant cultural site is fundamentally inconsistent with CLUP Policy 10-2.

ii. The Site Not Physically Suitable for Type and Density of Development Proposed

The Subdivision Map Act provides that a tentative parcel map shall be denied if the site is not physically suitable for the proposed type and density of development. (Gov. Code § 66474). The area proposed for subdivision is a Rural Historic Landscape, which is not suitable for the addition of residential development potential. Moreover, the proposed subdivision results in the creation of a lot (Lot 3), which has no developable area that avoids sensitive resources. The RFEIR states:

Complete avoidance of the entire CA-SBA-80 site is not feasible without impacting other important coastal resources. Specifically, shifting the envelope to another location of the site, either closer to the highway or further west on the other side of the orchard, would significantly increase the visibility of future development, resulting in significant and unavoidable visual impacts. The rest of the parcel is constrained by avocado orchards and sensitive biological resources.

(RFEIR pp. 4.5-27). Moreover, the Parcel 3 development envelope is located atop prime soils (*see* RFEIR Figure 4.2-1; *c.f.* Figure 6.8-1). Under these circumstances, it is clear that the area between the highway and UPRR is not suitable to accommodate three lots with their associated building envelopes. Accordingly, pursuant to the Subdivision Map Act, the County must deny the proposed subdivision.

b. LLA Findings

The proposed coastal LLA also must be in conformity with the General Plan and LCP. (Attachment 1 Findings 2.1 – 2.2) The LLA effectively shifts the lot line between the two westernmost bluff lots to create two lots of more equal size. This in turn allows for future development of two large estates in the immediate vicinity of Edwards Point. The proposed LLA is inconsistent with CLUP 8-4 protecting the long-term agricultural productivity for the reasons discussed above, and for the additional reason that the coastal bluff lots are already below viability thresholds making them particularly vulnerable to conversion out of agriculture in the future. The proposed LLA is also inconsistent with Coastal Act § 30251 protecting views to and along the ocean and of scenic coastal areas because the lot configuration and proposed residential development envelopes locate future residential development in locations highly visible from Edward's Point and surrounding beaches, as well as from the railroad (*see e.g.* RFEIR p. 4.1- 33 (Figure 4.1-12 – View of Lot 2 from Beach at Edward's Point); p. 4.1-32 (Figure 4.1-11 – View of Lot 2 from Southbound UPRR) with inadequate mitigation to protect views and the area's rural character (see above discussion).

The LLA intensifies development potential on the biologically sensitive coastal bluff, by enabling more development on proposed Parcels 1 and 2 than on existing Parcels A, B and C

combined. Additionally Proposed Parcel 1 would allow for development in closer proximity to Edwards Point and Gato Creek. Proposed Parcel 2 which includes Edwards Point and the mouth of Gato Creek has exceptionally rich biological resources. Specifically,

It contains the riparian corridor and floodplain of Gato Creek, in addition to broad flat, terraces on either side of the main Gato Creek corridor. . . . The parcel overall contains annual grassland dominated by Harding grass, purple needlegrass native grasslands, Venturan (coyotebrush) coastal sage scrub, lemonadeberry coastal bluff scrub, coast live oak woodlands, and California sycamore riparian. Approximately 8,950 sq. ft. (0.2 acres) of native grasslands is located within the DE. The California Red-Legged Frog and the coast range newt have been documented in Gato Creek on this parcel (Tierney and Hunt, 2006).

RFEIR p. 4.4-17.

The Proposed Project would have significant and unavoidable Class I impacts to the significant biological resources on Parcel 2, and the Parcel 2 development envelope under Alternative 3C will also significantly impact purple needlegrass and coastal sage scrub habitat. Specifically, the EIR provides “[t]his alternative envelope location would result in future residential development on Parcel 2 disturbing native grassland (purple needlegrass) and coastal sage scrub (coyotebrush scrub and lemonadeberry scrub), though to a lesser degree than under the proposed project due to the reduction in the envelope relative to the proposed project.” (RFEIR p. 6-19). The encroachment of future residential development on these sensitive habitats is inconsistent with County policy including with CLUP Policy 9-36, requiring that areas with significant amounts of native vegetation shall be preserved. Moreover, the spill-over of residential uses outside the designated development envelopes on Parcels 1 and 2 cannot be effectively controlled with the mitigation measures proposed, rendering the LLA inconsistent with CLUP Policy 2-11 which requires that development adjacent to environmentally sensitive habitat areas shall be regulated to avoid adverse impacts on habitat resources.

Additionally, the proposed coastal LLA entails additional conflicts with CLUP and Coastal Act policies protecting public access and recreation including Coastal Act Policy 30221 which provides that “Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.” The coastal LLA covers an area that has long been used by local surfers as well as fishermen, beachcombers and others to access the beach and enjoy Edward’s Point. (*See* RFEIR p. 4.10-11; *see* Documentation of Existing Public Access Analysis at Edwards Point, Las Varas Ranch (Trails Council, 9/16/14.) Additionally Edward’s Point is designated in the Land Use Plans as a “Proposed Public or Private Park/Recreational Facility”. (RFEIR Figure 4.9-1; CLUP Policy 7-18.) The coastal LLA includes residential development envelopes that directly obstruct existing informal trails used historically by the public, and that are highly visible from Edward’s Point and surrounding beaches. The EIR acknowledges that “development of the two coastal bluff parcels within the project site (proposed Parcels 1 and 2) could degrade the quality of the recreational experience if not sited and designed properly to be compatible with the surrounding land uses and rural character and set back

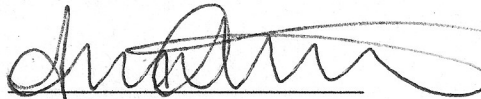
sufficiently from the bluff edge in order to reduce their prominent visibility from the recreating public" (RFEIR p. 4.10-15). Discussed above and in our 2/13/15 letter to the Board, mitigation that relies on future CBAR review of specific home designs is insufficient to reduce impacts below significance, particularly here where the home sites are so prominent from the beach and will have significant impacts regardless of their design. For the myriad reasons discussed in our 2/13/15 letter to the Board, and in the 336-page package the Trails Council provided to the Board, the coastal LLA is inconsistent with applicable CLUP and Coastal Act recreation and public access policy.

2. Conclusion

Discussed above and throughout the environmental document(s), the site proposed for the Las Varas Ranch Project is exceptionally resource sensitive and is a rare example of a viable working Gaviota Coast farming and ranching operation. As proposed, the Project, including the proposed subdivision and LLA, is not consistent with County and Coastal Act policies protecting the site's sensitive resources and long-term productivity of agriculture, and accordingly we urge the Board to deny the Project, and specifically to take Recommended Actions 1 & 2 as outlined in the Board Letter.

Respectfully submitted,

LAW OFFICE OF MARC CHYTILO



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