

Correspondence from Save Mount Diablo
Dated July 23, 2012



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Christine Louie, Project Planner
Contra Costa County Community Development Department
County Administration Building
651 Pine Street, 4th Floor, North Wing
Martinez, CA 94553

Regarding: County Files: ZC011-798 (Parcel C, APN 003-010-016 (portion)); ZC011-799 (Parcel B, APN 003-010-017 (portion)); ZC011-800 (Parcel A, APNs, 007-150-017, 003-010-017 (portion)); ZC11-801 (Parcel D, APNs 007-150-018, 007-150-016 (portion))
Applicant: Ron Nunn et al
Location: Brentwood, East of Walnut Blvd. and North of Camino Diablo Rd.

Subject: Applicant's request to appeal the Zoning Administrator's decision to deny the issuance of four certificates of compliance for four units of land

Staff Directors

Ronald Brown
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Seth Adams
Land Programs Director

Julie Seelen
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Dear Ms. Louie,

Save Mount Diablo (SMD) respectfully submits these comments in response to the applicant's request to appeal the Zoning Administrator's decision to deny the issuance of four certificates of compliance for four units of land.

Founders

Arthur Bonwell
Mary L. Bowerman

This is the second attempt by the applicant to divide one legal lot into four legal lots. On June 19, 2008, the applicant submitted a Minor Subdivision application (File Number MS08-0010) to divide the subject property into four lots and a designated remainder. SMD submitted extensive written comments regarding our concerns with this application. Mainly, that an environmental review is legally necessary given the result of dividing the one lot into four legal parcels would result in additional entitlements to the applicant. The

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entitlements for houses, driveways, fences, barns on the 4 new rural ranchette parcels would have significant impacts on listed species, their habitat and wildlife corridors. This application remains open. Processing cannot proceed until the County receives information from the applicant to complete the CEQA review process.

In this second application the applicant has taken another approach to subdivide the one legal lot. The applicant is requesting an issuance of four certificates of compliance for four units of land. SMD's understanding of the applicant's reasoning for this to occur is because the one legal lot has been divided as a result of Vasco Road and the Contra Costa Water District's condemnation of the property. In a letter from Michael Durkee to Thomas Geiger dated November 30, 2011, Mr. Durkee states:

Therefore, as of 1997, these two separate and crisscrossing conveyances to governmental agencies of fee strip portions of the original single Dutra Ranch parcel divided that property into 6 new legal parcels: the two separate conveyances to the government of portions of the Dutra Ranch ("Conveyance Parcels"), and the 4 remaining "Remnant Parcels" resulting from (on the different sides of) those conveyances to the government.

SMD finds it intriguing that the applicant is now arguing that the one legal parcel is now 6 legal parcels. As noted in Aruna Bhat's letter dated April 19, 2012 to Lisa Borba, who is representing the applicant, Ms. Borba previously (in a letter dated September 30, 2009) stated:

The first major misconception SMD had with our project was with the number of legal parcels involved. We are not sure where the author of the letter got his information, but the Dutra Ranch is only one legal parcel. Had more legal parcels existed, we could have satisfied our business needs with a much more simple Lot Line Adjustment.

Whatever the case, the applicant's request for an appeal to the Zoning Administrator's decision on this application should be denied by the County Planning Commission. The Zoning Administrator concluded that conveyances of the government do not divide the subject property into four legal lots. In fact to approve such a request would set a dangerous precedent. As stated by Aruna Bhat in the April 29, 2012 letter:

If one accepts the notion that government condemnation of a strip of land through a privately-owned parcel automatically subdivides the parcel into multiple private lots, then one must also accept the notion that in addition to the power of eminent domain, the government has the right to subdivide private property without the owner's consent. We do not believe that is the intent of the Legislature.

In conclusion, if the applicant wants to pursue dividing this one legal lot into several legal lots, SMD recommends that the applicant pursue its original Minor Subdivision Application filed in

2008. Processing on that application can move forward once the applicant provides the information necessary to complete the CEQA review process.

Sincerely,

A handwritten signature in black ink, appearing to read "Seth Adams". The signature is fluid and cursive, with the first name "Seth" and last name "Adams" clearly distinguishable.

Seth Adams
Land Programs Director