

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



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

Agenda Number:
Prepared on: 2/16/05
Department Name: Planning & Development
Department No.: 053
Agenda Date: 3/1/05
Placement: Departmental
Estimate Time: 1.5 hours (10 minute staff presentation)
Continued Item: YES, FROM 9/7/04 and 11/23/04
Document FileName: G:\GROUP\PERMITTING\CASE FILES\APL\2000S\04 CASES\04APL-00000-00017\BOS RINCON APPEAL 3-1-05.DOC

TO: Board of Supervisors
FROM Val Alexeeff, Director
STAFF Anne Almy, Supervising Planner (568-2053)
CONTACT: Abe Leider, Planner (568-3508)
SUBJECT: Hearing on Appeal Number 04APL-00000-00017, the Sanders (Sierra Club)/Krolak Appeal of Zoning Administrator approval of 00-CP-68, Caltrans' Rincon Bridge Replacements and Highway 150 Realignment, Carpinteria Area, APNs 001-200-023, 001-200-024, 001-440-006, 001-450-002, and 001-450-007, First Supervisorial District

Recommendation:

That the Board of Supervisors :

1. Adopt the required findings for the project, as specified in the Zoning Administrator action letter dated June 30, 2004 , including CEQA findings;
2. Deny the appeal, upholding the Zoning Administrator's approval of Conditional Use Permit 00-CP-68;
3. Grant *de novo* approval of the revised project subject to the modified conditions included as Attachment G, thereby satisfying the procedure for Emergency Permits Pursuant to Article II Section 35-171.5.

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with actions required by law or by routine business necessity.

Executive Summary and Discussion:

I Background

On June 21, 2004, the Zoning Administrator approved Caltrans' request for a Conditional Use Permit (00-CP-68) to construct improvements to Highways 150 and 192 including:

1. *Replace two 75-year old steel pony truss bridges.* The two bridges (Caltrans #51-140, the western bridge, and #51-141, the eastern bridge), deemed substandard by Caltrans in both width and load capacity, would

be replaced by two wider and longer concrete box girder bridges. The proposed new single span bridges would not have any piers located in the active stream channel, and would be sited to minimize disturbance to the creek while adhering to Caltrans and Federal Highway Administration guidelines. As the bridges would almost double in length, the new abutments would be farther from the creek bed, at the outer portion of the banks. The creek channel would be made slightly wider and the steep creek banks would be recontoured to gentler slopes. Remnant concrete in the creek channel would be removed.

2. *Horizontally and vertically realign and upgrade the roadway.* The roadway would be made wider, straighter and more uniformly level to increase lane width and shoulder width. The operational speed of the new roadway would increase from minimum 15 MPH, maximum 35 MPH, to 35 MPH average. Portions of the roadway would be moved up and out of the most flood-prone areas.
3. *Reconfigure the intersection of highways 150 and 192.* Highway 192 currently feeds into 150 at an acute angle coupled with a steep grade change. The project would reduce the grade from four percent to two percent and the angle from 24° to 90° with a wider, rounded connection. Caltrans would also improve an existing driveway that outlets on Highway 150 to the west of the intersection and realign it to outlet to the north on Highway 192.

On July 1, 2004, the Zoning Administrator's approval was appealed to the Board of Supervisors by Julianna Krolak and by Al Sanders on behalf of the Sierra Club.

The Zoning Administrator staff report and action letter for the June 21, 2004 hearing, which are both attached to this Board Letter, include a more thorough project background; a detailed project description; the ordinance, policy and environmental review information for the project; and the Zoning Administrator's findings for and conditions of approval. Caltrans' 1995 Environmental Impact Report (EIR) and subsequent addenda are also attached.

The winter storms of December 2004 and January 2005 caused severe erosion and flooding in the foothill areas of the South Coast of Santa Barbara and Ventura counties. On January 15, Governor Schwarzenegger declared a State of Emergency. Shortly thereafter, President Bush declared a "major disaster" for California, via the Federal Emergency Management Agency (FEMA). Both of these declarations allow for use of state and federal emergency funds to help people and communities recover from the storms. The declaration covers damage to private and public property from severe storms, flooding, debris flows and mudslides that occurred over the period of December 27, 2004 through January 11, 2005. During and immediately after the storms, the subject stretch of Highway 150 and the associated stretch of Rincon Creek experienced severe flooding and erosion that inundated the road, destroyed the western of the two bridges (#51-140) and exacerbated the existing substandard condition of the eastern of the two bridges (#51-141).

On February 3, Caltrans submitted an application for an Emergency Permit for the project, as the road to both Santa Barbara and Ventura counties is currently impassable at the western creek crossing, and the weakened state of the eastern bridge and potential repeat flooding of the roadway pose serious hazards. On February 7, Caltrans submitted an application to Ventura County for an Emergency Permit for the project.

Bridge #51-140 requires replacement in order to restore service to Highway 150, which is impassable at Rincon Creek where the bridge previously stood. Because Caltrans must meet current safety standards,

replacement of the bridge in kind was not a viable option. Building to these standards also requires upgrading of road widths and vertical and horizontal alignment on either side of and between the bridges. Repair of sections of the road between the bridges and replacement of Bridge #51-141 are necessary to prevent loss of life and/or property and additional interruptions in service, as future storms could inundate the road again and/or undermine Bridge #51-141. Reconfiguration of the Highway 150/192 intersection and upgrading of other associated sections of the road not directly affected by the storms must be constructed at the same time so that those components are able to tie into the new size and alignment of the repaired bridges and repaired road sections, which must be built at a slightly higher and straighter alignment to meet current safety standards. Hence, the project submitted for the Emergency Permit was the same project presented to and approved by the Zoning Administrator on June 21, 2004. Normal permit processes in both counties, including potential appeals to the Boards of Supervisors and Coastal Commission, could take many months to complete, and the final outcomes of those processes are uncertain; hence, the Emergency Permit was the appropriate and prudent approach to the situation.

Because the bridges and roadway segments occur in two different counties, and are located in the Coastal Commission Appeals Jurisdiction, interregional and interagency coordination was vital to resolving the emergency situation. On February 10, Planning and Development staff and County Counsel met with Caltrans staff and counsel, Ventura County staff and counsel, and Coastal Commission counsel to confirm that the requested Emergency Permit would be consistent with the Coastal Act and local coastal ordinances and policies. All parties to that meeting agreed that the project could legally be approved under emergency permits and further agreed to coordinate on this effort. On February 16, as will be reported to the Board of Supervisors at the hearing of February 22, 2005, Planning and Development issued an Emergency Permit for the project pursuant to Section 35-171 of the Article II (Coastal) Zoning Ordinance. The Emergency Permit, #05EMP-00000-00010 (attached), provides more background and the basis for the granting of the permit. Ventura County staff has indicated their intention to issue an emergency permit for their jurisdiction by February 23.

The parties to the appeal of the Zoning Administrator-approved Conditional Use Permit were notified of Planning and Development's intent to issue the Emergency Permit by telephone on February 11 and 14; the legally-required mailed and posted noticing are in progress at the time of submittal of this Board Letter.

The issuance of the EMP does not nullify the appeal of the Conditional Use Permit. The project approved under the Emergency Permit is virtually identical to the one approved by the Santa Barbara County Zoning Administrator on June 21, 2004. (One difference is the inclusion of additional measures proposed by Caltrans to address impacts to potential historic resources, including providing as-built plans and archival-quality photographs of the bridges to the two jurisdictions, as well as the existing bridge railings themselves if requested.) All Emergency Permits require the follow-up discretionary and ministerial permits that would otherwise have been required for a given project; in this case the March 1 appeal hearing is the Board of Supervisors' opportunity to act on the follow-up permit to the Emergency Permit for the project. The Board has the option of upholding the Zoning Administrator's approval, and approving, on a *de novo* basis, the Conditional Use permit with additional historic resource protection measures, which is staff's recommendation, or overturning the Zoning Administrator's approval and denying the project.

II Appeal Issues and Staff Response

Following are the reasons the appellants provided for the appeal:

- Failure to comply with requirements for public notification.

Discussion: Planning and Development's public and agency noticing for the Board of Architectural Review and Zoning Administrator hearings on the Conditional Use Permit fulfilled, and in fact went beyond, minimum legal noticing requirements. The appellants' issue with noticing primarily concerns Caltrans' decision to forgo public circulation or notification of release of the 2002 addendum to the EIR (against the recommendation of Planning and Development), which would have been the public's first opportunity to review and comment on the project. Therefore, staff has consulted with County Counsel and can confirm that all noticing requirements were met.

- Violation of the California Environmental Quality Act (CEQA)
- Violation of the California Coastal Act
- Violation of the Santa Barbara County Local Coastal Plan and Zoning Ordinance
- Inadequate Conditional Use Permit 00-CP-68 Findings for Approval
- Inadequate subsections 1 through 9 of Section 6.1 Environmental Review of the staff report to the Zoning Administrator
- Inadequate Conditional Use Permit 00-CP-68 conditions 1 through 6.

Discussion: Although few specifics were provided at the Zoning Administrator hearing, in the appeal paperwork or at the facilitation meeting, the appellants' concerns appear to be focused on potential impacts to biological and historic resources, and to the winding, rural character of the subject stretch of Highway 150.

The appellants have indicated that their objections are similar to those raised in 1997, when the Coastal Commission denied the previous, larger-scale version of the project on appeal after approval by the Board of Supervisors (also on appeal). In this context it is important to note that the current project is a scaled back version of that project, which itself was the Environmentally Superior Alternative identified in the original project's EIR. The proposed alignment of Highway 150 in the current project is closer to the existing alignment than the previous proposal and thus would result in reduced impacts to the environment and to the scenic character of the roadway. It essentially takes the preferred, environmentally superior build alternative from the 1997 project and scales it back further, both in design speed and environmental impacts. The design speed would be 35 MPH (reduced from 40 MPH), less land would be removed from agricultural production, and fewer trees would be removed (for more details please refer to the 1995 EIR, available from P&D and Caltrans, and the 1996 and 2002 addenda, attached). Caltrans was required to process a "design exception" to allow for the 35 MPH speed, which is below the agency's standards for this class of highway and circumstances.

With respect to these issues, staff stands by the analysis and conclusions of the EIR and addenda, and in the staff report regarding project impacts, mitigation and policy consistency, and refers readers of this letter to those documents, which are attached to the Board's version of this letter and are available to others at Planning Development's offices in Santa Barbara. Impacts to biological resources are addressed in those

documents, and adequate mitigation is included in the project, based on the EIR, county policy and the regulations and requirements of responsible state and federal agencies. The issue of historic significance, however, deserves some further discussion, in light of recent heightened local interest in older bridges and the recommendations received in fall of 2004 from the Historic Landmarks Advisory Commission (HLAC).

The HLAC discussed the proposed project subsequent to the Zoning Administrator's approval at their August, September and October, 2004 hearings. Planning and Development had not brought the project before the HLAC prior to the Zoning Administrator's hearing because evaluation of potential historic impacts and historic resources were not a major issue in the 1997 project proceedings. (The decision to bring the project before the HLAC was also informed by recent controversy surrounding proposed projects involving the Nojoqui and Jonata bridges.) Planning and Development and Caltrans staff attended those hearings to present information and answer questions. The appellants received notice but did not attend. Echoing the comments of the appellants and some members of the public at large, the HLAC was concerned about the proposed changes to the bridges and roadway in light of their potential historic value.

At the first two hearings, the HLAC concluded that Caltrans' studies and environmental analysis were insufficient and inadequate for the Commission to make informed recommendations, and requested that Michelle Nellis, a frequent advisor to the HLAC, prepare an historic resource report and recommendations. At the October hearing, the Commission discussed Ms. Nellis's report (attached), endorsed its contents and concurred with the recommendations.

The recommendations of the HLAC are attached. In summary, the HLAC agreed with Ms. Nellis's conclusion that both the bridges and the road can be considered "historically significant" under the County's adopted Environmental Thresholds. (Note: Under CEQA Guidelines 15096, the County, as a responsible agency, is deemed to have waived any objection to the adequacy of the EIR. The County may prepare a subsequent EIR if permissible under CEQA Guidelines 15162, however staff does not believe any of the grounds for preparing an SEIR exist in that there are no substantial changes in the proposed project or project circumstances or no substantially new information that could not have been known prior with the exercise of reasonable diligence.) In any event, the HLAC recommends that the Board reverse the Zoning Administrator's approval and deny the project. In addition to the report's conclusion that the bridges and roads are "historically significant" and that impacts from the project would be potentially significant, the HLAC endorsed the following recommendations from Ms. Nellis' report:

1. Learn the criteria used to establish a scenic highway and develop a proposal to designate Highway 150 as one for review and adoption by the Board of Supervisors.
2. Work in conjunction with other groups (Ventura County, Sierra Club, Santa Barbara Conservancy, California Coastal Commission) interested in preserving Highway 150.
3. Encourage Abbott Ranch owners to have the ranch landmarked.
4. Consider evaluating this section of roadway and the surrounding agricultural use for their historic value following guidelines set out by the National Park Service and the National Register.

Neither Ms. Nellis nor the HLAC specified whether these are recommendations to the HLAC themselves, the Board of Supervisors, or the public at large. The HLAC did not resolve to undertake these actions as a group,

but rather to forward them to the Board as is. Recommendations 1 and 4 would require a sponsoring group or individual to begin formal processes for scenic highway and historic landmark designations, respectively.

The historic significance of the bridges and roadway are thus the subject of debate among experts. The EIR and supporting and subsequent documentation and the Zoning Administrator staff report conclude that the resource is not significant, that impacts are less than significant, and that the project is consistent with County and coastal policies that protect historic resources. The HLAC and some members of the public contend that the bridges and roadway are significant resources and that the project would result in potentially significant impacts. One aspect of this disagreement may be the context of the respective analyses. Caltrans' assessment takes into consideration the statewide as well as local significance of the bridges; in a statewide context, steel pony-truss bridges of this type are not particularly rare. Locally, however, they are rarer as only three exist in Santa Barbara County, including the two Rincon Bridges, one of which was destroyed in the recent storms. If the project were completed, only one example would remain in the county, on Highway 1 north of Highway 246 (though many more would remain elsewhere in California).

Since the HLAC hearing, Caltrans has proposed additional measures to reduce potential impacts to the historic value of the bridges. These measures, which were included in the Emergency Permit as conditions of approval, include providing copies of the bridges' as-built plans and archival-quality photographs of the existing bridges, and making the railings of the existing bridges available to the counties or historic groups.

It should also be noted that the Santa Barbara County Board of Architectural Review chose the rail design and the colors for the replacement bridges with the goal of maximum compatibility with the rural setting.

III Staff Recommendations

Staff recommends, based on the environmental review to date, the analysis in the Zoning Administrator staff report of June, 2004, the findings of approval for Emergency Permit 05EMP-00000-00010 and the discussions in this Board Letter, that the Board of Supervisors uphold the Zoning Administrator's approval of Conditional Use Permit 00-CP-68.

As discussed above, staff also recommends inclusion of an additional project condition requiring that Caltrans carry out bridge documentation consistent with Department of the Interior's Historic American Engineering Record (HAER) Guidelines and provide the documentation to local agencies and historic preservation groups. The condition would also reflect Caltrans' offer to provide the existing bridge railings to the counties or groups, if requested. The proposed condition reads as follows:

Caltrans shall provide copies of the bridges' as-built plans and archival-quality photographs, consistent with the Department of the Interior's Historic American Engineering Record Guidelines, of the existing bridges to the Ventura County Museum of History and Art, the Santa Barbara Historical Society, and the Carpinteria Valley Museum of History. Caltrans shall make the railings of the existing bridges available to the Ventura County Museum of History and Art, the Santa Barbara Historical Society, or the counties of Ventura or Santa Barbara, at their request.

The condition is included as Condition #30 in Attachment G.

Mandates and Service Levels: No change in programs or service levels is anticipated.

Fiscal and Facilities Impacts: The project is located in the Appeals Jurisdiction area of the Coastal Zone. Appeals of projects in the Appeals Jurisdiction are not subject to any filing or processing fee. Costs to process the appeal are budgeted in the Permitting and Compliance Program of the Development Review South Division, as shown on page D-290 of the adopted 04/05 fiscal year budget.

Special Instructions: Clerk of the Board shall complete noticing for the project in the Santa Barbara News-Press and Carpinteria Coastal View and shall complete the mailed notice of the project at least ten days prior to the hearing. Clerk of the Board shall forward a copy of the Minute Order to Planning and Development, Attn: Cintia Mendoza, Hearing Support. Planning and Development will prepare all final action letters and notify all interested parties of the Board of Supervisors' final action.

Concurrence: Public Works, County Counsel

Attachments B, C and D to this Board letter (the June 21, 2004 Zoning Administrator staff report, the Environmental Impact Report, and the mailing labels for public notices) are provided directly to the Board of Supervisors only due to the document lengths. They are available for review at Planning & Development offices, 123 East Anapamu Street (contact Abe Leider, 568-3508), or at Caltrans offices in San Luis Obispo (contact Chuck Cesena, (805) 549-3622).

ATTACHMENTS:

- A. June 30, 2004 Zoning Administrator Action Letter
- B. June 21, 2004 Staff Report to the Zoning Administrator
- C. Environmental Impact Report (October 1995) and Addenda (May 1996 and July 2002)
- D. Recommendations of the Historic Landmarks Advisory Commission, including a report and recommendations to the Commission from Michelle Nellis
- E. Caltrans responses to the Michelle Nellis Report, including the November 10, 2004 Letter to the Board of Supervisors from Caltrans District Director Gregg Albright
- F. Emergency Permit #05EMP-00000-00010
- G. Proposed Revised Conditions of Approval for 00-CP-68