



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

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

Department Name: Planning and
Development
Department No.: 053
For Agenda Of: February 19, 2008
Placement: Set Hearing
Estimated Tme: 1 hour on March 4,
2008
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department John Baker, Director, 568-2085
Director(s) Planning and Development
Contact Info: Dave Ward, Deputy Director, 568-2520
Development Review – South County
**SUBJECT: Set Hearing for Applicant Appeal of the Planning Commission’s Denial of the
Firefox Sandstone Carving Project**

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

Set hearing for the March 4, 2008 Departmental Agenda to consider Case No. 07APL-00000-00041 for the Applicant’s Appeal of the Planning Commission’s denial of the Firefox Sandstone Carving Project (07LUP-00000-00301) (time estimate 1 hour; 10 minute staff presentation):

On March 4, 2008, your Board’s action should include the following:

1. Adopt the required findings for denial of the project specified in Attachment A of the staff report to the Planning Commission’s action letter dated December 10, 2007 (and contained in Attachment 1 of this Board Letter).
2. Deny the appeal and deny the project.

Summary Text:

The proposed Firefox Sandstone Carving project is to construct three new buildings in order to conduct sandstone carving operations in an AG-I-10 zoned, 9.64 acre parcel located at 5381 Ekwill Road, in the South Patterson Agricultural Block of the Goleta Community Plan area.

Firefox, Inc. currently operates a landscaping business at the subject parcel. Firefox, Inc. imports mature trees (e.g., olive trees, palm trees, oak trees, toyons) from the local area that are removed due to construction. Firefox, Inc. maintains the trees onsite by replanting them in mounds of soil onsite. Large rocks are used to stabilize the mounds. The trees are then sold back out to the public; the mounds and rocks are transported with the trees to maintain stability. Firefox, Inc. proposes to expand the landscaping business to produce and sell sandstone carvings, benches, fountains, and other garden accessories in addition to the trees.

Firefox, Inc. proposes to construct new buildings that would house sandstone-carving tools and saws. Sandstone would be imported from the local area, including local ranches, other construction sites, and County Flood Control debris basins. The sandstone would be processed onsite in the new buildings using unique artistic stone carving techniques. The sandstone would then be sold as sandstone carvings, benches, fountains, or other garden accessories. The carved sandstone could also be sold as support structures for mature trees that are sold from the site, similar to the uncut sandstone that is being sold today for this purpose.

One Rock Cutting and Finishing Building (3,000 square feet) would be constructed and would house the saws. One Rock Splitting Building (1,250 square feet) would be constructed and would consist of a fabrication bay and quarry bay; the unique carvings would be further refined by hand in this building. A third 1,250 square foot building would be constructed that would house a large forklift, a loader, a 455 tractor and a crane for lifting and transporting the rock onsite as well as for other agricultural purposes. A gravel staging area of approximately 10,100 square feet would also be established to the east of the new buildings to store rock of varying sizes to be carved and to house the finished products.

Operation of the saws in the Rock Cutting and Finishing Building and the hand tools in the Rock Splitting Building would not require the use of chemicals, but would both require the use of water. Water necessary to run the saws and hand tools would be supplied by the Goleta Water District pumped from a new 392 square foot, 3 foot deep, open water reclamation basin proposed north of the new buildings. A maximum of 500 gallons of water a day would be necessary to run the saws and hand tools. Use of the saws and hand tools would generate a water/sand solution that would be directed back to the water reclamation basin. Rock tailings would also be generated from the operation and would be stored in the proposed new staging area.

Background:

At the Planning Commission hearing of December 5, 2007, Commissioner Brown moved, seconded by Commissioner Cooney and carried by a vote of 3-2 (Blough/Valencia no) to deny the applicant's appeal of staff's decision to deny the Land Use Permit for the Firefox Sandstone Carving Project and to deny the project. Specifically, the Planning Commission concluded that the project is an industrial operation that cannot be considered an allowed use in the AG-I zone district (a more detailed discussion of the rationale for denial is provided below).

Analysis of Appeal

SUMMARY OF APPELLANT'S ISSUES

A summary of the appeal issues is provided below (see Attachment 2 of this letter for the appellant's appeal of the Planning Commission's decision and Attachment B of the staff report to the Planning Commission for a full letter on the appellant's original appeal of staff's decision):

1. The applicant's attorney continues to assert that the proposed stone carving operation should be considered "agricultural processing," which is an allowed use in the AG-I-10 zone.
2. The applicant's attorney continues to assert that the proposed stone carving operation is "customarily incidental" to the landscaping business on the site, which is an allowed use in the AG-I-10 zone.
3. Prior to the Planning Commission hearing, the applicant's attorney asserted that the project should be considered "quarrying" which is allowed with a Major Conditional Use Permit in the AG-I-10 zone.

BASIS FOR PLANNING COMMISSION DENIAL

The Planning Commission's findings for denial are based upon the following rationale:

1. An allowed use in the AG-I-10 zone district includes "agricultural processing" of "on-premise" products. However, the definition of "agricultural processing" in the County's Land Use Development Code (LUDC) (see Attachment A of the staff report to the Planning Commission) involves only processing of "agricultural products," which are defined in the LUDC as food, fiber, the growing of plants, the raising and keeping of animals, or products of aquaculture. Therefore, the proposed project cannot be considered "agricultural processing," because the proposed rock products (i.e., sandstone carvings, benches, fountains, and other garden accessories) are not agricultural products. In addition, the project does not involve processing of "on-premise products."
2. Each use allowed in the LUDC may include "accessory structures and uses that are customarily incidental to the primary use." Operation of a nursery on the subject parcel is a primary use allowed in the AG-I-10 zone district and the LUDC authorizes the sale of "incidental garden and landscape materials," such as garden accessories. While the sale of these incidental garden and landscape materials is customarily incidental to the primary use and allowed, the processing and manufacturing (i.e., cutting and shaping) of these garden accessories is not "customarily incidental" to a nursery operation.

Furthermore, processing and manufacturing of sandstone products does not meet the definition of an "agricultural support use" (see Attachment A for a definition), because it is not a "necessary and integral part of maintaining on-premise production and marketing." The landscaping business has been operating and can continue to operate without the processing and manufacturing of these products onsite.

3. "Mining, extraction, and quarrying of natural resources" is allowed in the AG-I-10 zone district with a Conditional Use Permit. However, mining, extraction, and quarrying all involve removing rock from onsite according to their dictionary definitions below, and the proposed project involves the import of rock from offsite, as well as processing and manufacturing of sandstone products.

***"Quarrying:** To cut, dig, blast, or otherwise obtain (stone) from a quarry or to use land as a quarry, where a quarry is "an open excavation or pit from which stone is obtained by digging, cutting, or blasting."*

***"Mining:** To dig in the earth for the purpose of extracting ores, coal, etc.; to make a mine."*

Moreover, "processing and manufacturing of stone and stone cut products" is specifically listed as an allowable use in the M-1 and M-2 Industrial Zone Districts of the LUDC. Therefore the processing and manufacturing of sandstone was specifically considered by the County and relegated to these zone districts.

Finally, there are alternatives to the proposed project that staff has offered to the appellant as follows below.

POTENTIAL PROJECT ALTERNATIVES

The owner of the subject parcel has an existing Land Use Permit (Case No. 02LUP-00000-00490) to stockpile rock that is imported onsite. Specifically, the Land Use Permit authorizes the following:

*"Maintenance of an approximately 20,000 square foot stockpile area encompassing a maximum of 150 cubic yards of soil and a maximum of 800 tons of stone. The stockpile area is located at the western portion of the property, approximately 400 feet from the northern parcel boundary and 550 feet from the southern parcel boundary. **The stockpiled soil and stone shall only be used for onsite planting and maintenance required for the onsite nursery operation.** The stockpile shall be limited to a maximum height of 5 feet from existing grade. Stones shall be limited in size between 12 and 28 inches in diameter and shall not be separately sold. No stone carving shall occur onsite. In addition, the project includes less than 40 cubic yards of as-built grading for five agriculture roads (total length approximately 1,750 feet) running from the eastern to the western parcel boundaries."*

As long as the owner complies with the approved project description and conditions of approval of this Land Use Permit, the owner can continue operations granted under this permit.

In addition, although the County's zoning ordinance does not allow **processing** of imported rock in an AG-I-10 zone district, the County allows the **sale** of products that are "incidental garden and landscape materials" (i.e., imported cut stone) as long as the sale of these types of products are limited to a single location of not more than 300 square feet pursuant to Section 35.42.050 of the LUDC. The owner has the option to apply for a Land Use Permit for this type of activity.

Further, the owner could eliminate the stone carving element of the project and just apply for a Land Use Permit to construct the 1,250 square foot equipment storage building proposed to house a large forklift, loader, 455 tractor and a crane, which is an allowed accessory structure in the AG-I-10 zone district.

Finally, the owner has the option of applying for a rezone and general plan amendment to convert the parcel to an industrial zone district and industrial land use or to keep his sandstone operation in an industrial zone district in the City of Goleta, where the operation is currently located.

Fiscal and Facilities Impacts:

Budgeted: Yes

County costs for processing an appeal are reimbursed only partially by the appellant in conformance with the current Board-approved fee resolution. The current appeal fee is \$443.00 and the estimated staff cost to process the appeal is \$1,290.00. Permit revenues are budgeted in the Permitting and Compliance Division of the Development Review South Division, on page D-290 of the adopted 2007-2008 fiscal year budget.

Staffing Impacts:

None

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on March 4, 2008. The notice shall appear in the Santa Barbara News Press. The Clerk of the Board shall fulfill the noticing requirements. Mailing labels for the mailed notice are attached. A minute order and a copy of the notice and proof of publication shall be returned to Planning and Development, attention David Villalobos.

Attachments:

- 1 Action Letter from the December 5, 2007 Planning Commission Hearing
- 2 Staff Report to the Planning Commission dated October 5, 2007
- 3 Applicant's Application for the Appeal of the Planning Commission's decision
- 4 Mailing labels for noticing the March 4, 2008 Board hearing

Authored by:

Michelle Gibbs, Planner III, 568-3508

cc:

Anne Almy, Supervising Planner

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