



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: Set hearing on 11/15/16
for 12/6/16
Placement: Departmental
Estimated Tme: 0.5 hour on 12/6/16
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Glenn Russell, Ph.D., Director, Planning & Development
Director(s) (805) 568-2085
Contact Info: Jeffrey Wilson, Deputy Director, Development Review
(805) 568-2518

SUBJECT: Signorelli appeal of the Jimenez Land Use Permit, Third Supervisorial District

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

On November 15, 2016, set a hearing for December 6, 2016 to consider the appeal filed by Mr. Tom Signorelli regarding the Planning Commission's August 31, 2016 denial of Appeal 15APL-00000-000019 and *de novo* approval of the Jimenez Land Use Permit, Case No. 14LUP-00000-00514.

On December 6, 2016, staff recommends that your Board take the following actions:

- a) Deny the appeal, Case No.16APL-00000-00022;
- b) Make the required findings for approval of the project specified in Attachment 1 of this board letter, including CEQA findings;
- c) Determine that the project, 14LUP-00000-00514, is exempt from the provisions of CEQA pursuant to State CEQA Guidelines Sections 15301 and 15304, as specified in Attachment 2; and;
- d) Grant *de novo* approval of the project, Case No. 14LUP-00000-00514, subject to the conditions

included as Attachment 3, thereby affirming the decision of the Planning Commission.

The project site is identified as Assessor Parcel Number 083-280-024, located at 3927 Jalama Road in the Lompoc area, Third Supervisorial District. Refer back to staff if the Board takes an action other than the recommended action.

Summary Text:

A Land Use Permit was approved by Planning and Development in 2015 to legalize road repairs made to an existing agricultural road. The Land Use Permit also allowed the construction of three new agricultural roads, and minor maintenance activities on five other existing agricultural roads. An appeal of the Land Use Permit approval was filed by Mr. Tom Signorelli on October 12, 2015, and on August 31, 2016 the Planning Commission denied the appeal and approved the permit *de novo*. Mr. Signorelli filed a timely appeal of the Planning Commission's decision on September 12, 2016. Subsequent to the appeal, the project applicant revised the project. The revised project now requests approval of the road repairs made to the existing agricultural road segment, thereby abating the existing grading violation. The revised project would also allow for long-term maintenance of this road segment. The road segment included in the revised project is approximately 200 feet in length and is located within 50 feet of a stream. The project no longer includes the request to construct three new agricultural roads or to allow minor maintenance activities on five other agricultural roads.

A. Project Description

The proposed project is a request for approval of a Land Use Permit on property zoned Agriculture (AG-II-100) in compliance with Section 35.82.100 of the County Land Use and Development Code to approve "as-built" road repairs and to allow future road maintenance activities as described below.

The project is a request for approval of "as-built" repairs to an existing agricultural road identified as Road Segment 47 on a Comprehensive Ranch Road Grading and Maintenance Plan dated November 1, 2016 (Attachment 4) and the approval of potential future maintenance activities on Road Segment 47. The proposed Comprehensive Ranch Road Grading and Maintenance Plan was prepared by the project Applicant to depict all existing roads on the project site as well as the proposed Road Segment 47 road maintenance area.

Road Segment 47 is a dirt road approximately 200 feet in length that varies from approximately 12 to 16 feet in width. Proposed road maintenance activities include minor scraping of the road surface to remove vegetation that has grown on the roadway and to remove rocks and dirt that have accumulated on the road. No soil generated by road maintenance activities would be imported or exported, and any rocks encountered during road maintenance activities that are greater than six inches may be stockpiled on the project site for future use on-site. All proposed maintenance activities would occur within the existing footprint of the road segment.

The Comprehensive Ranch Road Grading and Maintenance Plan identifies erosion control measures that would be implemented at the proposed road maintenance site. Proposed erosion control measures include the use of sand bags, straw bales and fiber rolls, and compliance with Grading Ordinance requirements. No grading would take place within the banks of any blue-line creeks.

B. Background

Permit and Appeal History. Land Use Permit 14LUP-00000-00514 was approved by Planning and Development on October 1, 2015 to: legalize road repairs made to Road Segment 47; allow the construction of three new agricultural road segments; and to permit future road maintenance activities on five additional road segments located on the project site. All proposed road construction and maintenance activity areas were depicted on a Comprehensive Ranch Road Grading and Maintenance Plan dated September, 2015.

Land Use Permit 14LUP-00000-00514 would abate existing zoning violation (14ZEV-00000-0012) and building violation (14BDV-00000-00065) that resulted from complaints received in 2014 regarding unpermitted grading on Road Segment 47. The unpermitted grading removed a small amount of landslide debris that had fallen onto the roadway from an adjacent slope.

An appeal (15APL-00000-00019) of Planning and Development's approval of Land Use Permit 14LUP-00000-00514 was filed by Mr. Tom Signorelli on October 12, 2015. On August 31, 2016 the Planning Commission denied the appeal and approved the Land Use Permit by a vote of 3 to 2 (Attachment 5). Mr. Signorelli filed a timely appeal (16APL-00000-00022) of the Planning Commission's decision on September 12, 2016. An invitation to participate in a facilitation meeting with the Appellant, project Applicant and County Counsel was declined.

Project Revisions. On October 3, 2016, the project Applicant revised the 14LUP-00000-00514 project description that was approved by Planning and Development and the Planning Commission. The scope of the previously approved project has been reduced so that the project now only includes a request for the approval of "as-built" road repairs and future maintenance activities on Road Segment 47, as identified by a revised Comprehensive Ranch Road Grading and Maintenance Plan dated November 1, 2016. As revised, the project no longer proposes to construct three new road segments or to conduct maintenance activities on five other on-site road segments.

The project previously approved by Planning and Development and the Planning Commission was found to be in conformance with all applicable County Comprehensive Plan policies and the Santa Barbara County Land Use and Development Code zoning requirements. The original project's consistency with these policies and requirements is discussed in detail in the Planning Commission staff report dated July 20, 2016 (Attachment 6). The revised project is also consistent with applicable County Comprehensive Plan policies and the Santa Barbara County Land Use and Development Code zoning requirements. An updated evaluation of the revised project's consistency with applicable policies of the Comprehensive Plan is provided in Attachment 7.

Oak Tree Harvesting. Several of the appeal issues identified by the Appellant pertain to an oak tree harvesting operation that is conducted on the project site. This operation involves the removal and transportation of native oak trees to off-site locations. A zoning violation complaint was received in 2014 related to the oak tree harvesting operation. On July 10, 2014, Planning & Development determined that the growing, harvesting, boxing, and relocation of oak trees grown on the project site is an agricultural operation as defined by the Santa Barbara Land Use & Development Code (LUDC), and that determination was not appealed. Cultivated agriculture, which includes growing trees in the ground, is an allowed land use in the AG-II-100 zone. As such, the oak tree harvesting/agricultural

operation that is conducted on the project site has no land use permitting requirements. It was also determined in the July 10, 2014 Director Determination that the tree harvesting conducted on the project site does not meet the definition of a nursery under the LUDC. The July 10, 2014 Director Determination is included in Attachment E of the Planning Commission staff report dated July 20, 2016 and is hereby incorporated by reference.

Appendix A of the Grading Ordinance requires property owners that remove coast live oak trees (*Quercus agrifolia*) from a particular property for agricultural purposes to prepare and submit an oak tree management plan before cumulative live oak tree removals within a 30-year period exceed 15 percent of the oak tree canopy. The oak tree removal requirements of Appendix A of the Grading Ordinance are regulated by the Agricultural Commissioner, and required oak tree management plans are submitted to the Agricultural Commissioner's office for approval. An evaluation of aerial photographs from 2006 (the year the project site was obtained by the Applicant) and 2014 show that over that period, approximately 1.6 percent of the oak tree canopy on the project site was removed. Therefore, the Applicant is not required to implement an oak tree management plan at this time. Most of the removed oak tree canopy area has occurred in areas where access roads exist on the property (Althouse and Meade, Inc., 2015).

C. Appellant Appeal Issues and Staff Responses

The Appellant, Mr. Tom Signorelli, filed a timely appeal of the Planning Commission's denial of appeal 15APL-00000-00019 and approval of 14LUP-00000-00514. The appeal application (Attachment 8) contains a letter describing the appeal issues. The appeal issues are summarized below and staff's responses to the appeal issues are also provided.

Several of the appeal issues identified by the Appellant pertain to grading-related concerns associated with the oak tree harvesting operation conducted on the project site. Land Use Permit 14LUP-00000-00514, however, does not directly pertain to the oak tree harvesting operation, which is an allowed land use in the AG-II-100 zone. While responses to all of the appeal issues raised by the Appellant are provided below, the issue areas subject to this appeal are only applicable to past and proposed road maintenance operations on Road Segment 47.

Appeal Issue No. 1: The removal of oak trees from the project site is a nursery operation and results in extensive grading.

The Appellant states that harvesting oak trees from the project site is a nursery operation rather than an agricultural operation, and the removal of trees from the project site results in extensive grading that is not consistent with Grading Ordinance requirements. Specifically, the Appellant asserts the oak tree harvesting operation is inconsistent with Grading Ordinance requirements related to creating cuts or fills greater than three feet, and grading that exceeds a volume of 50 cubic yards.

Staff Response: As described in the Background section, Planning and Development concluded in 2014 that harvesting native oak trees from the project site is an agricultural operation that does not require the approval of any type of land use permit. The 678-acre project site is zoned Agriculture, AG-II-100, and growing oak trees (plants) and preparing them for sale off-site (boxing and transporting) is consistent with the LUDC definition of "agriculture." As an agricultural operation, harvesting oak trees from the project site is consistent with the intent of, and uses allowed in, the AG-II zone district. The

maintenance of an on-site road as proposed by Land Use Permit 14LUP-00000-00514 would be an accessory use that is also consistent with the intent of, and uses allowed in, the AG-II zone.

Agricultural grading is generally exempt from requirements to obtain a grading permit. However, Grading Ordinance Section 14-8 (Grading for Agricultural Purposes) establishes various agricultural grading standards, and if a grading operation would exceed those standards a grading permit must be obtained. Section 14.8(a) states that grading performed for “agricultural leveling” that results in cuts or fills of more than three feet measured from natural grade requires a grading permit. Section 14.8(b) states that earthwork in excess of 50 cubic yards that is conducted on a slope of over 30 percent also requires a grading permit.

Harvesting oak trees does not result in “agricultural leveling.” After a tree is removed the excavated area is filled and the site is returned to a condition similar to what existed before the tree was removed. Therefore, the standards related to cuts or fills of greater than three feet or earthwork in excess of 50 cubic yards are not applicable to the tree harvesting operation.

Grading Ordinance Section 14-8(c)(3) requires that a grading permit be obtained for agricultural grading in excess of 50 cubic yards within 200 feet of any exterior property line, and Section 14-8(c)(6) requires a grading permit for any grading within 50 feet of the top of the bank of a stream. Past and potential future maintenance activities on Road Segment 47 would be located within 50 feet of an ephemeral stream along the western perimeter of the project property. Road maintenance activities on the Road Segment 47 could also result in grading in excess of 50 cubic yards within 200 feet of the project site’s western property line. In compliance with Grading Ordinance requirements, the applicant has applied for a grading permit (14GRD-00000-00187) to allow future maintenance activities on Road Segment 47. Approval of the grading permit is pending based on the outcome of the Land Use Permit appeal.

Appeal Issue No. 2: Grading on the project site has resulted in environmental impacts.

The Appellant asserts that too much grading has occurred on the project property to construct roads, and that grading has resulting in environmental impacts to an on-site creek and flooding-related impacts. These issues are not directly related to the approval of 14LUP-00000-00514 as the proposed maintenance of Road Segment 47 is exempt from CEQA pursuant to Section 15301 and 15304 of the CEQA Guidelines, however, a response to this issue is provided below.

Staff Response: The original project description included in Land Use Permit 14LUP-00000-00514 was a request to allow the construction of three new dirt road segments; legalize road repairs made to Road Segment 47; and to permit future road maintenance activities on five additional road segments on the project site. The originally proposed project was found to be categorically exempt from environmental review based upon Sections 15301 and 15304 of the CEQA Guidelines. Those sections pertain to the maintenance of existing facilities and minor alterations to land, respectively. The originally proposed project has been revised and now only includes a request to approve past and potential future maintenance activities on Road Segment 47. Additional information regarding the categorical exemption for maintenance activities on Road Segment 47 is provided in Attachment 2. No other existing or previously proposed roads are part of the Land Use Permit or this appeal.

An extensive network of dirt roads has been developed on the project site (see Attachment 4) and many of the existing roads are visible on aerial photos from 2004 and 2010. Numerous areas that have been cleared of native vegetation are also visible on aerial photos from 2004 and 2010, and cleared areas on the eastern portion of the project site have been planted with olive, oak, redwood, palm and other types of trees that will eventually be harvested and sold for off-site landscaping use. All of the roads on the project site are subject to provision of an approved Agricultural Erosion Control Permit, which is required to identify the types and locations of runoff and erosion control measures implemented at the project site. An application to renew the project site's existing Erosion Control Permit (16GRD-00000-00064) has been submitted to the Building & Safety Division.

Previous and proposed future maintenance activities on Road Segment 47 would generally result in the removal of vegetation (mostly non-native grasses) from the road surface, and minor road scraping to remove accumulated dirt and rocks. Road Segment 47 is approximately 200 feet long, relatively level, and connects to other existing road segments that provide access to the southeastern portion of the project site. The maintenance activities would not substantially alter the gradient of the road or result in an increase in impervious surfaces that could increase the rate of flow or volume of storm water runoff. Therefore, past and potential future road maintenance activities on Road Segment 47 would not result in or contribute to erosion or other significant impacts to the creek located along the western perimeter of the project site.

In 2009 the Building and Safety Division investigated complaints that grading conducted on the project site was causing bank erosion and drainage impacts that were adversely affecting the road that provides access to the property south of and adjacent to the project site. The drainage-related impacts were resolved by constructing a new engineered drainage system, installing rip rap at the mouth of an existing culvert, and constructing a sedimentation basin on the Applicant's property. According to Building and Safety Division staff (personal communication with David Vyenielo, 2016) the drainage system improvements have operated adequately. Proposed road maintenance activities on Road Segment 47 would not increase storm water runoff rates of flow or volume, and would not adversely affect the operation of the drainage improvements that were previously installed. Therefore, past and potential future road maintenance activities on Road Segment 47 would not result in or contribute to drainage-related impacts on the project, or result in or contribute to conditions that would adversely affect vehicle access to properties adjacent to the project site.

Appeal Issue No. 3: The project site has too many roads and no additional roads are necessary.

The Appellant asserts that there are too many roads on project site, the development of new roads will facilitate the removal of oak trees, and no additional roads are required.

Staff Response: As depicted on the Comprehensive Ranch Road Grading and Maintenance Plan (Attachment 4) an extensive network of agricultural roads has been developed on the project site. The condition of the existing roads varies considerably as some roads appear to be used frequently while others appear to be used infrequently. The previously proposed project would have allowed the development of three new road segments on the project site. Revisions to the project made by the Applicant have eliminated the request to construct new roads on the project site. Therefore, as currently proposed, 14LUP-00000-00514 would allow for maintenance of an existing road but would not expand

the project site's existing road system. No other existing or previously proposed roads are part of the Land Use Permit or this appeal.

Appeal Issue No. 4: There is a history of zoning violations on the project site.

The Appellant asserts that the requested Land Use Permit should not be approved because zoning violations have occurred on the project site.

Staff Response: Complaints were received by Planning and Development in 2014 regarding unpermitted grading on the project site, and those complaints resulted in a zoning violation (14ZEV-00000-0012) and a building violation (14BDV-00000-00065). The unpermitted grading was conducted to remove a small amount of landslide debris from Road Segment No. 47. Land Use Permit 14LUP-00000-00514 would abate the existing zoning and grading violations. The history of previous zoning violations on the project site is not directly related to the approval of the requested Land Use Permit and not grounds for denial.

Fiscal and Facilities Impacts:

Budgeted: Yes

The costs for processing appeals are provided through a fixed appeal fee and funds in P&D's adopted budget. Total costs for processing the appeal are approximately \$6,200.32 (32 hours). The costs are partially offset by the appeal fee of \$659.92. This work is funded in the Planning and Development Permitting Budget Program, as shown on page D-289 of the adopted 2016-2018 FY budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on December 6, 2016. The notice shall appear in the Santa Ynez Valley News Press. The Clerk of the Board shall fulfill noticing requirements. Mailing labels for the mailed notices are attached. A minute order of the hearing and copy of the notice and proof of publication shall be forwarded to the Planning and Development Department, Hearing Support, Attention: David Villalobos.

Attachments:

1. Board of Supervisors Findings
2. CEQA Notice of Exemption
3. Land Use Permit 14LUP-00000-00514
4. Comprehensive Ranch Road Grading & Maintenance Plan
5. Planning Commission Action Letter, dated September 2, 2016
6. Planning Commission Staff Report, dated July 20, 2016
7. Comprehensive Plan Policy Consistency
8. Appeal Application to the Board of Supervisors

Authored by:

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