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February 8, 2013

RE: Comments on Mosby Recreation Fields ND

CPA NCLUC (North County Land Use Committee) has studied the Mosby Recreational Fields ND and would like to submit the following comments:

**Ag. Resources:** Soil classifications might be incorrect and should be re-evaluated based on research and information provided elsewhere in public comment.

**Historic Uses:** This is agriculturally zoned property. The recreational activities are unpermitted. We recommend the recreational uses be listed as 'unpermitted' or 'illegal'. Historic use is agriculture.

**Site Info:** Staff needs to examine how the proposed recreational fields will be compatible with adjacent businesses, to include existing and proposed additional city RV parks, as well as other Mosby operations to include an existing aquaculture business. Cumulative impacts need more attention.

**Aesthetics:** Viewshed across the Valley from 246 will be impacted. Current unpermitted uses and proposed uses are highly visible from 246. Any screening should not impede the prior view north across the Valley toward the Mission. NBAR should be involved. Corrugated walls around the paintball area have a negative visual impact on once pastoral landscape. Views from River Park to the south now negatively impacted by make- shift nature of the recreational structures. Existing unpermitted activities have negatively impacted the visual character of the parcels.

**Circulation/Traffic:** We disagree with staff descriptions. River Park Rd. is a narrow paved road that can barely handle cars/RVs two-way traffic now. Safe egress onto 246 with traffic traveling 55 mph or higher is problematic. Project includes 150 cars/ 700 people. Staff should study traffic impacts when games end and people leave at the same time. Further environmental review should study alternative access.

CPA NCLUC supports the condition that there will be no overflow parking on River Park Rd but we would like to see monitors required for enforcement of safe passage and parking. Staff could research what was required of the Vintners Festival (1500 people) and take half those requirements.

**Flooding:** Public records show the applicant received federal funds for flooding previously. Public records also show the applicant requested of the City different status from FEMA in regards to flood plain mapping. This discussion should be added to the ND.

**Adequate Services:** CPA NCLUC does support recreational activities for the area residents but feels there are adequate sites that do not require the loss of prime agricultural land in the unincorporated area east of the City. Lompoc City claims it will look at services after project approval and see if services are adequate especially added septic. ND should consider adequate services now, not in the future. There are four restroom stalls used by the RV park. How many restrooms will be required for projected capacity?

**Noise impacts: Please add a condition:** No amplified music: In 2007, grand opening had radio station with amplified music.

**Loss of Ag. Land with no public benefit:** A paintball facility requires waivers because of safety concerns. Owners of previous business have recently opened a paint ball course in SM. The proposed uses could be located in other areas within the City boundaries or be incorporated in other existing and proposed parks within the City limits.

**Signage Plan:** Signage plan needed. Property has a history of illegal billboard sized signs. Advertising signs were placed on utility poles throughout the Valley when events were held.

Please note that the P & D sign for this project has not been visible since early November. It has been lying in the mud.

NCLUC of CPA concludes that the subject ND incorrectly describes the project and minimizes the impacts of the project. We are especially concerned with the loss of viable agricultural land in the Lompoc Valley. This project is a request for intense urban recreational use within an agricultural zone.

CPA NCLUC recommends corrections and further study of environmental impacts.

Respectfully submitted,

Mary Ellen Brooks

Member

CPA North County Land Use Committee

Marrell Brooks Comments 2-9-13

From: Mary Ellen Brooks [mebrooks@sbceo.org]  
Sent: Saturday, February 09, 2013 6:15 PM  
To: Carmichael, Dana  
Subject: additional comments

Hi Dana, This is the advertisement for the paintball facility on Mosby's property. I believe it has been on Craigslist for at least a year. I am not sure how this could be incorporated into my comments on the ND. It probably would be a comment under the 'project description' section. It does show that they might want to cater to adult parties which might involve some kind of alcohol consumption. Perhaps my comment would be that 'staff research the current advertising and uses of the existing unpermitted facility. Your advice is appreciated. This is public info on Craigslist. (Santa Barbara).  
Regards, Marell

Hi, This is what is advertised on Craigslist under travel/tourism. I would assume bachelor parties and company parties would require some 'alcohol' service. meb

Come join the fun at River Park Paintball (Lompoc)

NOW OPEN! Come and Join the Fun!

Contact: River Park Paintball featuring Elements Arena  
Phone: 805-736-8564  
Web site: [www.riverparkpaintball.com](http://www.riverparkpaintball.com)  
<https://www.facebook.com/Riverparkpaintball> "LIKE" us on Facebook for events, deals and promotions!!!

Welcome to River Park Paintball a.k.a RPP featuring Elements Arena! This is a new paintball field in Lompoc and to Southern and Central California!

~Our public fields will accommodate walk ons, groups, birthday parties, bachelor parties, and company parties. Rentals are available for customers that need equipment. Reservations are available and recommended to assure proper rental equipment is available for your party. We also welcome team reservations to practice on the PSP Xball field a.k.a The Elements Arena.

The Elements Arena our speedball field renovation is almost completed! We are expanding its layout to meet current PSP field regulations. Field configurations will be updated every week to keep the game new for repeat players. And for field updates and specials check out our Facebook page.

Currently we have a 4500 PSI compressor and we provide CO2 fills as well.

We look forward to seeing at the field and thank you for your support and passion for keeping paintball alive! Remember nothing in life is done without passion, so come on out and enjoy the passion of paintball!

Contact us at 805-736-8564 for more information or to make reservations.  
• Location: Lompoc

Subject: DMG 12NGD-00000-00024 (Draft ND Mosby Recreational Fields)

Date: 2/11/13

I have numerous areas of concern within this Draft Mitigated Negative Declaration, but will focus most of my comments to the Agricultural Resources section.

1. Agricultural Suitability and Productivity Analysis - I believe that the analysis on the 2 parcels in question is flawed, as it uses the current status of the land (illegal uses and zoning violations) as the baseline for points instead of the potential agricultural uses determined by past use of the subject parcels along with current use of surrounding parcels. I have done my own analysis using Table 1, and came up a total of 63 points for APN 099-141-017 and 65 points for APN 099-141-016. The basis for my additional points is as follows:
  - a. Water availability – both parcels should be 15. Many farming operations share wells between parcels, particularly parcels of these size. There are two current wells between the two parcels in question, plus an additional well on APN 099-141-015 which supports irrigated crops. Most, if not all, of the surrounding parcels have very productive wells. The fact that the owner has made the decision to not drill a well on APN 099-141-016 should not be a basis for a lower score.
  - b. Ag Suitability – both parcels should be 10. The surrounding parcels all produce high value crops on basically a year-round schedule. Again, poor owner and/or management decisions should not be the basis for a lower score.
  - c. Adjacent use – both should be 9-10. I have used 9 for my analysis. The adjacent land uses are all open space or agriculture. River Park should be considered open space, the Valla property directly West of APN 099-141-016 has supported highly productive agricultural product for 20+ years, etc.
  - d. Combined Farming Operations – both parcels should be 5. As stated on page 19, within the Impact Discussion of 4.8 Geologic Processes, (b) “The applicant is an aqua culturist. APN 099-141-016 supports the greenhouse use for aquaculture research; APN 099-141-017 has a permitted dry aquaculture pond; and APN 099-141-015 has existing ponds that are supporting an ongoing aquaculture operation.” This would seem to fit the definition of a “Combined Farming Operation.” In addition, there are shared wells between the parcels, which would add to this conclusion.
2. Impacts – parcels are considered not agriculturally viable. This seems to be a pre-determined outcome that was then proven by the arbitrary assignment of low scores in certain categories.

This project has potentially significant impacts to not only the parcels in question, but surrounding parcels as well. These impacts need to be addressed fully in an EIR that outlines the agricultural resources affected, potential conflicts between agricultural and non-agricultural uses, and the major precedent that would be set.

Sincerely,

Kari Campbell-Bohard

5726 Campbell Road, Lompoc, CA 93436



February 11, 2013

Ms. Dana Carmichael, Planner  
Santa Barbara County Development Review North Division  
624 West Foster Street  
Santa Maria, CA 93455

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Re: Draft Mitigated Negative Declaration for Mosby Recreational Fields

Dear Ms. Carmichael,

For more than a decade, the Santa Barbara County Action Network (SB CAN) has worked to promote social and economic justice, to preserve our environmental and agricultural resources, and to create sustainable communities. We have reviewed the Mosby Recreational Fields Mitigated Negative Declaration (MND) and have concluded that the level of environmental review of this project should be elevated to an Environmental Impact Report (EIR).

The most fundamental flaw of the analysis is that the wrong baseline is used. While it is true that recreational activities currently take place on the site, these uses are unpermitted. The baseline for the environmental analysis should be the past agricultural use for which the property is zoned. Using currently unpermitted uses as the baseline would set a precedent that would encourage others to initiate unpermitted uses of their properties.

Use of the wrong baseline land use also results in the improper analysis of the project's aesthetic, agricultural, biological, and geologic impacts. In addition, allowing continuation of unpermitted active recreational activities or the expansion of such activities on agriculturally zoned land would create conflicts with the Agricultural Element of the County's General Plan. On this basis alone, the County should deny the project. The precedent-setting nature of approving the conversion of agricultural lands to active recreational use would constitute a cumulative impact that would need to be evaluated in an EIR.

Thank you for your consideration of our comments. We look forward to a recommendation for denial of this project or at least to seeing an EIR that accurately evaluates the project's impacts using the correct baseline.

Sincerely,

Ken Hough  
Executive Director

Mosby Enterprises  
755 East Hwy 246  
Lompoc, CA 93436  
Phone (805) 801-2362  
[Mosbyenterprises@aol.com](mailto:Mosbyenterprises@aol.com)

February 11, 2013

RE: Negative Declaration for Mosby Recreational Fields

Dear Ms. Carmichael:

Thank you for the opportunity to review and comment on the project.

I believe that facts should be used when determining the validity of the cequa document and that is what the previous planner did. During the past public comment period (environmental and AAC meeting) there were many emotional comments made regarding this project. Let the facts prevail:

1. When this project is approved, it will not be the end of farming on the lands East of Lompoc.
2. The two parcels in question are not prime ag lands nor will they ever be. Parcel #099-141-017 was fallow for over 20 years and was for lease for the same amount of time and there were no takers. If this parcel was of such great quality and importance somebody would have leased it but nobody did. This parcel was for sale by three different owners during this interim and nobody came forward to farm it. The last time that this parcel came available, there were two parties vying for the title, myself and the City of Lompoc. The City had already been authorized for acquisition with the plans and the developer ready to transform the land into an RV park. This land already is within the urban limit line and in the eyes of the City is zoned open space with a park overlay. If the current project were to fail the only other alternative would be to sell the parcel to the city.
3. Parcel #099-141-016 and 017 were at one time zoned lite industrial and were part of the expansion plans of the City of Lompoc. In 1978, the development rights were taken and the land was down zoned to agriculture. The same EIR document that validated this inverse condemnation stated that a **parcel under 18 acres is too small for commercial agriculture**. This EIR was considered the gospel when the lands in the Valley were rezoned and it should carry the same weight now as it did then! For this reason alone, the parcels in question should not be considered viable as agriculture.
4. Parcel#099-141-016 has been owned by my family for the past 40 years. We have primarily used the lands for recreational purposes for ourselves and the public. Over the past 40 years we have had no fewer that 7 different farmers try to farm the lands but all failed due to parcel size, poor soil quality, and poor water quality.
5. This land was purchased for the reason of establishing a buffer between the ag lands to the north and the city. The current operations have done that. If the City were to purchase these parcels this buffering capacity and the ability to mitigate the expansion would be lost.

Sincerely

James I Mosby



February 11, 2013

Ms. Dana Carmichael, Planner  
Santa Barbara County Development Review North Division  
624 West Foster Street  
Santa Maria, CA 93455

**Re: Draft Mitigated Negative Declaration for Mosby Recreational Fields,  
12RZN-00000-00003/11CUP-00000-00032**

Dear Ms. Carmichael,

The following comments are submitted by the Environmental Defense Center (EDC) in response to the Mitigated Negative Declaration (MND) prepared for the proposed Mosby Recreational Fields project. This letter has been prepared as part of EDC's Open-Space Preservation Educational Network (OPEN) program, which provides a proactive approach to assessing projects and plans with the potential to affect agriculture and open space throughout Santa Barbara County. The purpose of the OPEN program is to engage all interested sectors of our communities in a dialog about policies and programs to protect agricultural, open space lands, and the urban-rural interface.

This letter provides comments on various items assessed in the MND for the Mosby Recreational Fields project, with a particular focus on conducting analysis using the correct baseline. There are significant impacts resulting from the project, as described below. Thus, we request that the level of environmental review be elevated from a MND to an Environmental Impact Report (EIR), using the proper baseline of past on-site agricultural use, in order to properly disclose and mitigate all potential environmental impacts that would result from the proposed project.

The project must be analyzed in an EIR because:

- The incorrect baseline was used for analysis, thus the evaluation of the project's environmental impacts is grossly underestimated.

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[www.EnvironmentalDefenseCenter.org](http://www.EnvironmentalDefenseCenter.org)

AR 0457



- The project's aesthetic impacts have not been evaluated, as the incorrect baseline has been used for analysis and public viewsheds have been greatly affected.
- The application of the County's Environmental Thresholds for agricultural impacts has not been properly evaluated, and the threshold would be triggered when the parcels are correctly analyzed using the point system.
- The project's biological and geological impacts have not been disclosed due to an incorrect baseline analysis.
- There are significant land use incompatibilities resulting from an active recreational use next to agriculture and a passive-use public park.
- The project will require additional police protection beyond that stated in the MND (e.g., 700 person users per day with no employees to monitor use).
- The public services needed to serve the project's water and restroom use are unconfirmed and would be in a different jurisdiction (City of Lompoc).
- The project lies within the 100 year flood zone and would influence drainage, percolation rates, and surface water quality near the Santa Ynez River.
- The project would be a precedent-setting conversion of agricultural land into active recreational use and would cause a significant cumulative impact.

#### **Project Information**

The proposed project is a request of Jim Mosby, owner, to consider Case Nos. 12RZN-00000-00003, and 11CUP-00000-00032 for the approval of: 1) a Consistency Rezone to rezone the property from its current zoning of General Agriculture, 40-acre minimum lot area (40-AG) under Zoning Ordinance No. 661 to Agriculture II, 40-acre minimum lot area (AG-II-40) under the Santa Barbara County Land Use & Development Code (LUDC); and 2) a Conditional Use Permit to attempt to rectify an existing illegal unpermitted zoning violation for outdoor recreational development and activities consisting of a paintball field, athletic fields, and a remote controlled car track.

**Consistency Rezone (12RZN-00000-00003):** The subject 9.99 and 9.50 gross/acre parcels are legal non-conforming as to size and are currently zoned General Agriculture, 40-acres minimum lot area (40-AG), pursuant to Ordinance 661. Ordinance 661 does not allow outdoor recreational activities to be permitted on parcels with a 40-AG zone designation. In order to permit the subject recreational development and activities, the zoning map is proposed to be amended to Agriculture II, 40-acres minimum gross lot area (AG-II-40), consistent with the current Land Use and Development Code. The subject parcels would remain non-conforming as to size.

**Conditional Use Permit (11CUP-00000-00032):** Applicant requests approval of a Conditional Use Permit to permit existing illegal unpermitted outdoor development and recreational activities consisting of a paintball field, athletic fields, and a remote controlled car track on the subject parcels (APN(s) 099-141- 016, -017). These activities

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received a zoning violation since their use is not permitted under the existing Ordinance 661 zoning. The County has the option of either terminating the illegal uses and requiring restoration, or considering approval of a CUP and rezone to allow some form of recreational use. If the County decides to consider approval of a CUP and rezone, all potentially significant impacts must be fully analyzed and avoided or substantially lessened through adoption of feasible mitigation measures and/or alternatives.

Existing illegal development consists of a paintball field of approximately 0.40-acres, two (2) athletic fields of approximately 5.2-acres, and remote control car track of approximately 2-acres. (Please see Exhibit 1, which contains photos of the paintball operation from the "Riverpark Paintball" web site.) Hours of operation would be 7 a.m. to dusk daily. An estimated maximum of approximately 700 participants would be expected daily. No outdoor lighting, amplified sound, or signage is proposed. 150 parking spaces composed of compacted base and screened with a landscaped berm planted with pine trees would be provided on APN 099-141-017, which apparently contains some prime soils. Accessible public restrooms and drinking water facilities owned by the City of Lompoc may be provided on the adjacent River Park property; however there is no confirmation from a decision-making body at the City that these services would continually serve the project. The applicant proposes to sell food on site through legally licensed vendors, however, no description of these services has been provided in the MND. Also, according to the application, no full or part time employees would be employed on the site; however, monitors would be present during recreational activities to ensure compliance with onsite rules and regulations. On occasion, the MND states that maintenance of the Remote Control Car Track would include earthwork of less than 50 cubic yards, however, extensive illegal grading has already occurred on the property without proper permits. No vegetation or tree removal is proposed, although it appears from aerial photos that vegetation has been removed from the property.

#### **The MND Contains an Improper Baseline and Incomplete Site Plan**

The baseline used in an ND or EIR is critical because it provides the environmental setting against which potential project impacts can be evaluated. According to the CEQA Guidelines, the "environmental setting will normally constitute the baseline physical conditions" that exist "at the time environmental analysis is commenced." (CEQA Guidelines § 15125(a).) However, circumstances may exist that warrant use of different conditions. One such factor exists when prior illegal or unpermitted activities (i.e., that have not been subject to environmental review) result in the alteration of the environmental setting. To not consider the pre-existing setting robs

the public and decision-makers of an accurate analysis of the project's impacts on the environment.<sup>1</sup>

We support the statement in the MND's Biological Resources section which provides:

Though it is questionable if the current use of the site could be analyzed as baseline for CEQA purposes, *staff has determined that the past on-site agricultural practices can be considered a reasonable CEQA baseline.*<sup>2</sup>

This baseline (pre-project, using past agricultural practices) must be uniformly applied throughout the entire MND's analysis.

Additionally, the site plan that was accepted by the County for the project analysis is entirely inadequate for purposes of CEQA or public review. The plan does not show

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<sup>1</sup> Although two published CEQA decisions hold that it was acceptable to use current conditions rather than conditions that existing prior to unpermitted development, they are readily distinguishable from the case at hand. In *Riverwatch v. County of San Diego* (2000) 76 Cal.App.4th 1428, the court found that another agency (not the County) was in charge of enforcement, and the County should not interfere with such process. In fact, in *Riverwatch*, the court determined that the other agency was already handling an enforcement action and the County's consideration of a land use approval would not jeopardize or interfere with such enforcement. (76 Cal.App.4th at 1453.) The court also found that since enforcement was under another agency's jurisdiction, it would be difficult for the County to sort out what the violation was and how to ascertain a pre-violation condition. (*Id.*) In the Mosby case, the exact opposite is true. The County is the agency in charge of permitting and environmental review AND the enforcing agency. The County has the tools to ascertain the violation and what the pre-violation condition was. Proceeding with the permitting process without considering the proper baseline would completely undermine the County's ability to assess or remedy the impacts of the violations.

In *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270, 1278, the project under review pertained to operations at an airport that had been ongoing based upon a prior permit and an approved Airport Comprehensive Land Use Plan and subject to environmental review. Although the Airport pursued actual development without authorization, the development did not generate significant new impacts compared to what had been considered in prior environmental review; thus the court upheld the County's ND that relied on a baseline based on existing physical conditions. In the Mosby case, there have been no prior approvals or environmental review.

<sup>2</sup> MND, p. 15, emphasis added.

the basic ingress/egress points or proposed circulation/roads, the topographic lines are not shown, the surrounding land uses are not shown, existing structures and fences resulting from the violation versus what existed prior to the current uses are not displayed, the parking areas are not delineated properly or to scale, and the orientation/access of the site in relation to the Riverpark site (where the public services and access to restrooms may be provided) are not depicted. The project application should never have been deemed complete with the current site plan, and a *complete, revised site plan* must be included as a basis for analysis for discretionary review.

**Substantial Evidence supports a “Fair Argument” that Significant Impacts may Occur, and thus an EIR must be Prepared**

Throughout much of the MND, the failure to use an accurate description of the environmental setting subverts the analysis of project impacts. In other areas, the MND simply excludes important information or inadequately analyzes project impacts. As shown herein, because the project “may have a significant effect on the environment, the [County] shall prepare a draft EIR.” (CEQA Guidelines § 15064(a)(1).) This letter, and other evidence presented to the County, demonstrates that there is substantial evidence to support a fair argument that the project may have a significant environmental impact. Accordingly, the County must prepare an EIR. (*No Oil Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68; *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988.)

1. The MND does not consider the aesthetic impacts of the project due to the incorrect baseline.

The project site is located on the north side Highway 246 approximately 0.5 miles northeast of the City of Lompoc and the intersection of Highway 1 and Highway 246, in a designated rural area bounded by a park and rural residential uses. The subject parcel is visible to travelers on Highway 246. The overall visual characteristics of the neighborhood include scattered residential and agricultural buildings amongst an area that supports a public passive-use park (Riverpark), the County’s road yard, vineyards, orchards, grazing land and residential ranchettes, and the Santa Ynez River.

The County’s Visual Aesthetics Impact Guidelines classify coastal and mountainous areas, the urban fringe, and *travel corridors* as “especially important” visual resources. A project may have the potential to create a significantly adverse aesthetic impact if (among other potential effects) it would impact important visual resources, *obstruct public views*, remove significant amounts of vegetation, *substantially alter the natural character of the landscape*, or *involve extensive grading visible from public areas*. (emphasis added).

When the correct, pre-project baseline is used for analysis, the illegal project has had significant visual impacts when the County's thresholds are applied. The zoning violation was originally reported due to the public's clear observation of major, non-agricultural extensive grading along Hwy 246. The erection of fencing and numerous other structures for the paintball operation and other aspects of the active recreational use are also extensive and change the views of the site from the public, passive park adjacent to the site, at Riverpark (See Exhibit 1). Additionally, the natural character of the site has been substantially altered. The addition of at least 150+ parked cars on a daily basis that would be visible from Hwy 246 is a significant impact.

Given the lack of analysis in the MND of pre-zoning violation conditions, the entire section must be re-done acknowledging the significant impacts to public views that have been affected in the immediate area. The proposed mitigation (a landscaped berm with no performance bond attached to it) is simply inadequate to begin to address the scale of aesthetic impacts that have occurred at the site.

2. The MND improperly assesses and underestimates Agricultural Impacts due to an incorrect application of the County Thresholds and Guidelines manual point system.

The County's thresholds require an analysis of the site using the point analysis for agriculture. These points have been incorrectly assigned as noted below. Additionally, the project converts prime and non-prime agricultural land into a non-agricultural active recreation use that has dramatically altered the onsite soils from compaction due to parking, new structures, and paintball detritus. The analysis must show a map of the various soil types and describe the exact amount of prime/non-prime soils that would be affected. The historic cultivation of the site must be carefully evaluated. The MND mischaracterizes the current site condition as "open space", when clearly this is no longer the case (see Exhibit 1).

The soils classification has not been correctly assigned, as both parcels contain some prime soil (one with 40% prime), and should be increased respectively to 10 points for APN 099-141-017 and 12 points for APN 099-141-016. This increase must reflect the actual percentages of soils classifications as they relate to prime/non-prime acreage.

Water availability points should be increased to 15 for APN 099-141-017. The MND's assertion that onsite the well on APN 099-141-017 does not provide enough water to support irrigated crops is illogical and unsupported, given the site's proximity to the Santa Ynez River. The low producing current well may be old, poorly sited, inadequately drilled, or provided with inadequate pumps.

Agricultural suitability points should also be increased given the success of surrounding growers and the quality of the on-site soils.

Adjacent land uses points should be increased to 10 for each parcel, as there are numerous agricultural support facilities in the region and the site is in close proximity to other surrounding agriculture. Parcel 099-141-016 is completely surrounded by agriculture and open space. It is a rectangle and has four neighbors:

- Parcel 099-141-017, which is zoned Ag 40 and currently has some fallow land and some non-permitted recreational use.
- Parcel 099-141-007, which is zoned Ag 40 and currently is being farmed.
- Parcel 099-141-015, which is zoned Ag 40 and currently is being farmed.
- Parcel 099-150-003, which is zoned Ag 40, is in the Williamson Act, and is currently being farmed.

The agricultural preserve potential of the site should be increased, as the site could qualify for at least a non-prime agricultural preserve with adjacent parcels, to which 3 points should be assigned.

While it is recognized that that assignment of points for each of the categories can be somewhat subjective, those challenged herein deal with physical conditions that cannot be disputed. The increase in points triggers the threshold for a significant impact to agricultural resources that cannot be mitigated, and an EIR must be prepared for the project. Additionally, the precedent-setting nature of conversion of viable agricultural land into a non-agricultural, active recreation use that has the potential to permanently impact the quality of on-site soils due to compaction, the use of paintball materials and associated solid waste, and the placement of structures, parking of cars, etc. would have a direct impact on the future potential for the land to be utilized for agriculture. The conversion of land out of agriculture is one that the County has always carefully considered, and allowing this illegal use to continue and potentially receive permits is a very bad precedent for our agricultural lands in the entire county. This project, if approved, would encourage other agricultural landowners to convert land into other uses, and ask for approval after the impacts have already been realized. This is simply unheard of in the history of Santa Barbara County.

3. The Biological Baseline used in the MND is incorrect, thus significant environmental impacts would result.

The MND states that the baseline used for biological impact analysis is pre-project, i.e., "past onsite agricultural practices." However, while the MND purports to use the pre-project biological baseline, it fails to do so. Instead, the MND describes the baseline as the project site in its existing condition as already altered by the project. For

example, the MND finds that existing (i.e., post-project construction) site conditions are dominated by non-native plants as follows:

During Ms. Mooney's site visit she observed that no natural plant communities or habitats exist on the site; and due to ruderal vegetation on site, no sensitive wildlife species would inhabit the premises or use the site for breeding or foraging. Additionally, no native or specimen trees are located in the area of project.<sup>3</sup>

Moreover, the MND Biological Resources "Setting" section describes the post-project baseline:

Setting:

The majority of the subject parcels have been cleared of native vegetation *due to ongoing recreational and agricultural uses*. Melissa Mooney, the County's staff biologist, conducted a site visit on October 3, 2012. The types of vegetation found on the site visit included non-native, weedy vegetation. The subject lots are located approximately 250 feet south of the Santa Ynez River with the River Park property inlaid between them.<sup>4</sup> [*Emphasis added.*]

The MND describes the existing conditions after the Project (1) was constructed, and (2) may have already eliminated native plants and wildlife habitat. While the MND says the Biological Resources section uses a pre-project baseline, by describing the project site at the time of the biologist's site visit (i.e., after project construction) the MND actually uses a post-project baseline. Use of a post-project baseline – because it has already been altered by the project - makes it impossible for the MND to identify and disclose adverse impacts of project construction and operation. Therefore, to the extent it uses a post-project baseline, the MND's Biological Resources section fails to identify the project's impacts to habitats and species that may have been present before project construction.

The MND also fails to adequately describe the Environmental Baseline Setting which existed prior to project construction, and the MND assumes prior conditions absent substantial evidence. CEQA requires a description of the physical conditions utilized as the baseline; these conditions establish the baseline against which project impacts are measured. The subject MND only assumes prior conditions, *but does not investigate prior conditions*, and therefore includes a baseline which is not supported by substantial evidence. Specifically, the MND analysis concludes that there were no sensitive habitats,

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<sup>3</sup> MND, at p. 15.

<sup>4</sup> MND, at p.14.

important biological resources or species previously present, and bases its findings of no significant biological impacts on this assumed baseline condition.<sup>5</sup>

The County Environmental Thresholds and Guidelines Manual directs County planners how to prepare a CEQA document and evaluate biological impacts. The Guidelines specify that biological surveys are necessary to adequately establish a project site's biological baseline resources, in cases where sensitive resources may be (or may have been) present. (See Guidelines Manual, Chapter 6, Biological Resources, Appendix A, pages A-8 – A-12.) Such surveys were not undertaken for this project despite its location adjacent to the biologically-sensitive Santa Ynez River.

Given the above information, the MND's baseline and therefore the MND's impact analysis is not based on substantial evidence but on mere speculation as to what species may or may not have existed prior to the project construction.

The MND states:

Since, the past farming practices have *negated the ability of any native vegetation to grow on site*, and the adjacent River Park has high human occupation already in existence (which has disturbed any potential riparian habitats along the Santa Ynez River), it is foreseeable that the proposed additional recreational uses on the subject lots would have a less than significant impact (f, h-k) on the possibility of hampering, reducing, deteriorating and introducing barriers to flora and fauna habitats.<sup>6</sup>

Farming practices did not eliminate the ability of any native species to occur onsite. An evaluation of the attached, pre-project aerial photos of the Mosby project site (see Exhibit 2), as well as other photographs, by EDC's biologist demonstrates that - prior to project construction - the habitat onsite was probably suitable for foraging by special-status species including white-tailed kites and other raptors. There was extensive grassland with shrubs, which has now been eliminated and replaced with bare, compacted dirt and constructed active recreational facilities. Review of the photos also demonstrates that there was denser scrub vegetation with apparent trees immediately north of Highway 246 on the project site. More recent aerial photographs depict these areas as cleared and essentially bare earth. Project construction eliminated portions of and altered these potentially valuable habitats. However, because the MND assumed past farming practices had eliminated all habitats and did not properly research or support its baseline with substantial evidence, the MND failed to identify and document these impacts.

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<sup>5</sup> MND, at p.15.

<sup>6</sup> MND, at p.15, emphasis added.



In addition, the site is close to the River, but no analysis of wetlands was undertaken. Wetlands can be identified by vegetation, soils or hydrology. Aerial photos should be analyzed for areas of dark green vegetation which might indicate wetlands on the site prior to the unpermitted project grading. These factors were not analyzed to determine whether the site supported wetlands before grading and construction.

Furthermore, the MND assumes that the riparian habitats along the Santa Ynez River are disturbed. Based on this assumption and with no analysis or supporting documentation, the MND concludes that the project's impacts to the River's riparian habitat cannot have been significant. However, the Santa Ynez River's riparian and aquatic habitats are very sensitive and subject to heightened protections under the County's Conservation Element. The River is designated Critical Habitat for a number of endangered and threatened species including Southern Steelhead. (See NOAA website at <http://www.nmfs.noaa.gov/pr/pdfs/criticalhabitat/steelheadtrout.pdf>.) The River is also designated as a Core 1 Habitat for recovering Southern Steelhead.<sup>7</sup> Substantial evidence in the record demonstrates that the River and its riparian habitat are sensitive, important resources which must be protected to avoid significant damage to biological resources. This evidence is counter to the MND's unsupported assumptions that the River is substantially degraded and implicitly bereft of any significant biological resources.

The MND failed to consider existing information including reports, analyses and aerial photographs which would have helped the MND document the proper, pre-project biological resources baseline and evaluate project impacts. The MND does not analyze impacts; it assumes with no evidence that prior baseline conditions lacked any biological values, and then - based on this assumption - incorrectly concludes that no impacts occurred.

In order to properly identify and disclose the project's construction and operational impacts on biological resources, the MND's analysis must be redone using a prior baseline which is supported by evidence (e.g., biologists' assessment of prior existing reports, aerial photographs, etc.) - not speculation. Only then can the document reveal the adverse effects of the built project's extensive grading, vegetation removal, construction and operation on biological resources.

The MND only considers future impacts of the project (i.e., impacts of operation), and does not consider the impacts of construction. The use of the words "foreseeable" and "additional" in the last sentence in the biological resources analysis suggests the MND is only considering future impacts:

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<sup>7</sup> 2012 Steelhead Recovery Plan. NOAA. Page 7-5. Exhibit 3.

Past on-site agricultural practices can be considered a reasonable CEQA baseline. Since the past farming practices have negated the ability of any native vegetation to grow on site, and the adjacent River Park has high human occupation already in existence (which has disturbed any potential riparian habitats along the Santa Ynez River), it is *foreseeable that the proposed additional* recreational uses on the subject lots would have a **less than significant impact (f, k, h)** on the possibility of hampering, reducing, deteriorating and introducing barriers to flora and fauna habitats.<sup>8</sup>

Under CEQA, an MND must disclose “direct” construction impacts as well as post-construction, “indirect” operational impacts. (CEQA Guidelines Section 15126.2(a)) However, the MND appears to consider only indirect, post-project operational impacts to biological resources, and fails to consider the past impacts of construction. This inadequate impact analysis results from the MND’s failure to adequately describe the pre-construction baseline; the MND cannot identify construction impacts if it assumes the pre-project baseline lacked biological resources. This is a flaw in the MND’s Biological Resources section which stems from its use of an assumed baseline.

4. Geology: the MND does not recognize the pre-project conditions or provide an analysis based on it.

The MND incorrectly states that only minor land alterations (less than 50 cubic yards) have occurred for the project site. In fact, *major grading* clearly visible from Hwy 246 was the original reason that the property was reported and investigated for a zoning violation. *Site preparations for nearly eight acres of active recreational uses (including a remote controlled car track, paintball obstacle course, and athletic fields) have required hundreds of cubic yards of earth moving.* The MND does not investigate aerial photos from past agricultural uses and uses the incorrect topographic baseline for assessment of impacts. The existing and prior (pre-project) topographic lines *must be added to the site plan* in order to assess the current project when compared to earlier aerial photographs. Once the pre-project conditions have been identified, a review of any changes to site drainage patterns must also be evaluated.

The MND states that temporary stockpiling is occurring, but there is no confirmation as to why the stockpiling of graded material is needed.

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<sup>8</sup> MND, at page 15, emphasis added.

Additionally, the MND states that:

Septic systems would not be required for the proposed use; because the City of Lompoc would allow the applicant to use the existing River Park's restroom facilities and drinking fountains.<sup>9</sup>

This is not factually correct, as *the letter appended to the MND does not confirm the City's commitment to serve the proposed project*. This was affirmed via personal communication with the signatory on the letter (Laurel Barcelona, City Administrator on 1/25/13). The City would need to confirm via a public meeting at the City Council level that there is a financial commitment and willingness to serve the proposed project *in perpetuity as an off-site provider*. Further, it is unclear whether it is acceptable for another jurisdiction to provide such services, since there would be no enforcement authority for Santa Barbara County if the City of Lompoc does not provide these services into the foreseeable future.

The MND astoundingly states that there is no new proposed development, when the environmental review must in fact address the numerous major physical changes to the site with the unpermitted use(s) [Exhibit I].

5. Land Use: The introduction of an active recreational area adjacent to ag lands would be an incompatible use.

The Land Use conflicts that would occur as a result of continuing or approving this illegal use on agriculturally-zoned land are significant. First and foremost, allowing an active recreational use on agricultural land with clear capability for viable agricultural production and directly adjacent to active agriculture is a land use conflict. Allowing for a zone change to promote a non-agricultural use that conflicts with on-going agriculture is a very bad precedent with the potential to lead to cumulative impacts from other conversions to similar uses throughout the County on agriculturally-zoned lands. Further, the message that would be sent in allowing this conflicting and illegal use to be permitted would encourage others to conduct illegal activities and seek approvals after the environmental effects have taken place. It is critical that the County analyze this project as if the project site was currently in agricultural use, and evaluate the appropriateness of considering such a use on valuable agriculturally-zoned land.

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<sup>9</sup> MND, at p. 18.

The project conflicts with adopted plans, namely, the Agricultural Element which states:

- *Goal I. Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara Country.*
- *Goal I, Policy IA states "The integrity of agricultural operations shall not be violated by recreational or other non-compatible uses." (emphasis added)*

These adopted goals, among others in various elements of the General Plan, must be listed and evaluated as part of the environmental analysis for Land Use. This section must be redone in its entirety to address the clear conflicts this project has with existing policy. This project should not be approved in light of Policy IA as stated above, and the County should recommend denial based on clear and unreconcilable policy conflicts.

6. Public Facilities: The project would require water, restroom and police protection services.

The letter that was provided by the City of Lompoc regarding the use of the River Park restrooms for the proposed project does not commit the City to providing restroom facilities for the project, as noted in item 5 above. The County must be able to make the finding that adequate public services are available to serve the project before any discretionary approval can be granted. Thus, there are currently no guaranteed water and restroom resources available to serve the project.

Additionally, the addition of up to 700 persons on a daily basis would likely require increased police protection, and there has been no confirmation from the department that they have the capability to serve the project. Further, it is unclear how this volume of people could be managed without permanent employees.

7. Passive Recreational uses at Riverpark are affected by the Active Recreation on the project site.

While recreational uses are often a benefit to the community, it is imperative they are appropriately sited. The project's active uses, which required structural changes to the site, have changed the passive enjoyment of users at Riverpark. The erection of fencing and other structures for the paintball operation (see Exhibit 1) change the views of open space from the Riverpark. Further, the noise that is generated from active uses affects surrounding passive recreational uses (such as hiking, bird watching, picnicking) and the ability of those users to enjoy the peace and quiet of camping. This must be analyzed in the EIR, as it is a significant impact.

8. Transportation and Circulation: The addition 700 persons daily presents significant traffic impacts.

A project's traffic impacts would be considered significant if a "Project adds traffic to a roadway that has design features (e.g., narrow width, road side ditches, sharp curves, poor sight distance, inadequate pavement structure) or receives use which would be incompatible with substantial increases in traffic (e.g. rural roads with use by farm equipment, livestock, horseback riding, or residential roads with heavy pedestrian or recreational use, etc.) that will become potential safety problems with the addition of project or cumulative traffic."<sup>10</sup>

The project's projected added 150 car trips is based on the unrealistic assumption that 2.5 persons would ride in a car. It is very likely that given typical driver behavior, more car trips than those assumed would be generated.

Further, the ingress/egress and sight distance going onto Highway 246 is very unsafe and must be analyzed. The interior circulation of the site (especially with regard to access to the Riverpark restrooms) is also unclear. This section must be entirely redone with detailed analysis of these issues.

9. Water Resources and Flooding: The project has changed the drainage and nature of the site.

The project site is located entirely within the 100 year flood plain, as indicated by the photograph below. The impacts of the project have not been disclosed, as the entire section has been written with the assumption that the site is outside of the floodplain. A search of the Santa Barbara County Flood Zone – Online Map shows both properties within the 100-year flood zone. (In the map below parcel APN(s) 099-141-017 is shown in yellow and APN(s) 099-141-016 is visible above. Blue indicates 100-year flood zone.)

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<sup>10</sup> MND, at page 24 ( from the County Environmental Thresholds and Guidelines Manual).



Additionally, the soils on the site will be changed by the continued use of the site as active recreation, not only from compaction, but also from oils and dirt from parked cars, and runoff/debris from paintball detritus (see Exhibit 3 for additional information). One soil type present, Mocho loam, has moderate permeability and slow surface runoff;<sup>11</sup> while Metz loamy sand has rapid permeability, and very slow surface runoff. It is quite likely that soil compaction for a parking lot for 150 cars and recreational activities can result in a change in percolation rates, drainage patterns, and/or rate and amount of surface runoff. This is a potentially significant impact that must be analyzed. Further, the site's close proximity to the Santa Ynez River has not been assessed with regard to the aforementioned issues.

Again, as with other sections of the MND, the incorrect baseline was utilized for analysis. The lack of analysis of changes to the site resulting from the premise that "No new development or impervious surfaces are proposed" must be rectified in a completely redone analysis.

**Conclusion:**

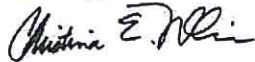
The MND is based on an inaccurate description of the environmental setting and inadequately analyzes many project impacts. An EIR must be prepared because of the project's potentially significant impacts related to agriculture, biology, aesthetics, land use, geology, flooding, public services, traffic, and passive recreation. In addition, the project would have a cumulative impact due to the precedent-setting conversion of agricultural lands to active recreational use.

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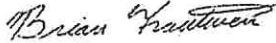
<sup>11</sup> MND, at page 15.

We sincerely appreciate your consideration of the above recommendations regarding the appropriate level of analysis for this project. EDC and OPEN appreciate the opportunity to provide comments on the MND, and especially appreciate the extension of the comment period deadline. We look forward to seeing an EIR analysis of the project that comprehensively assesses the potential impacts we have raised in this letter.

Sincerely,



Christina McGinnis, OPEN Program Director



Brian Trautwein, Environmental Analyst / Watershed Program Coordinator



Linda Krop, Chief Counsel

#### EXHIBITS

Exhibit 1: Photos of the paintball operation from the "Riverpark Paintball" web site; see also <http://www.riverparkpaintball.com/>.

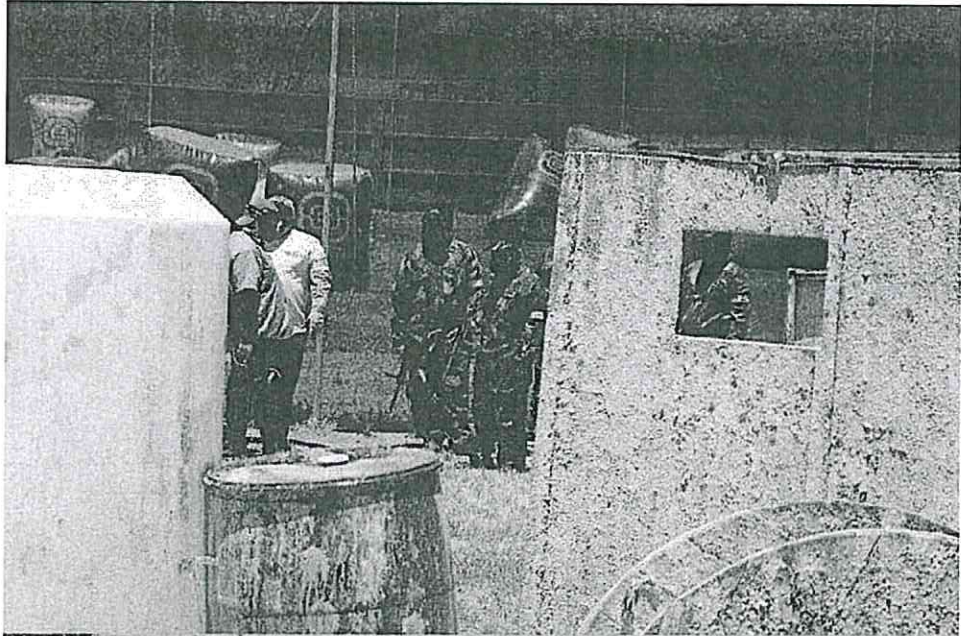
Exhibit 2: Photos of the site

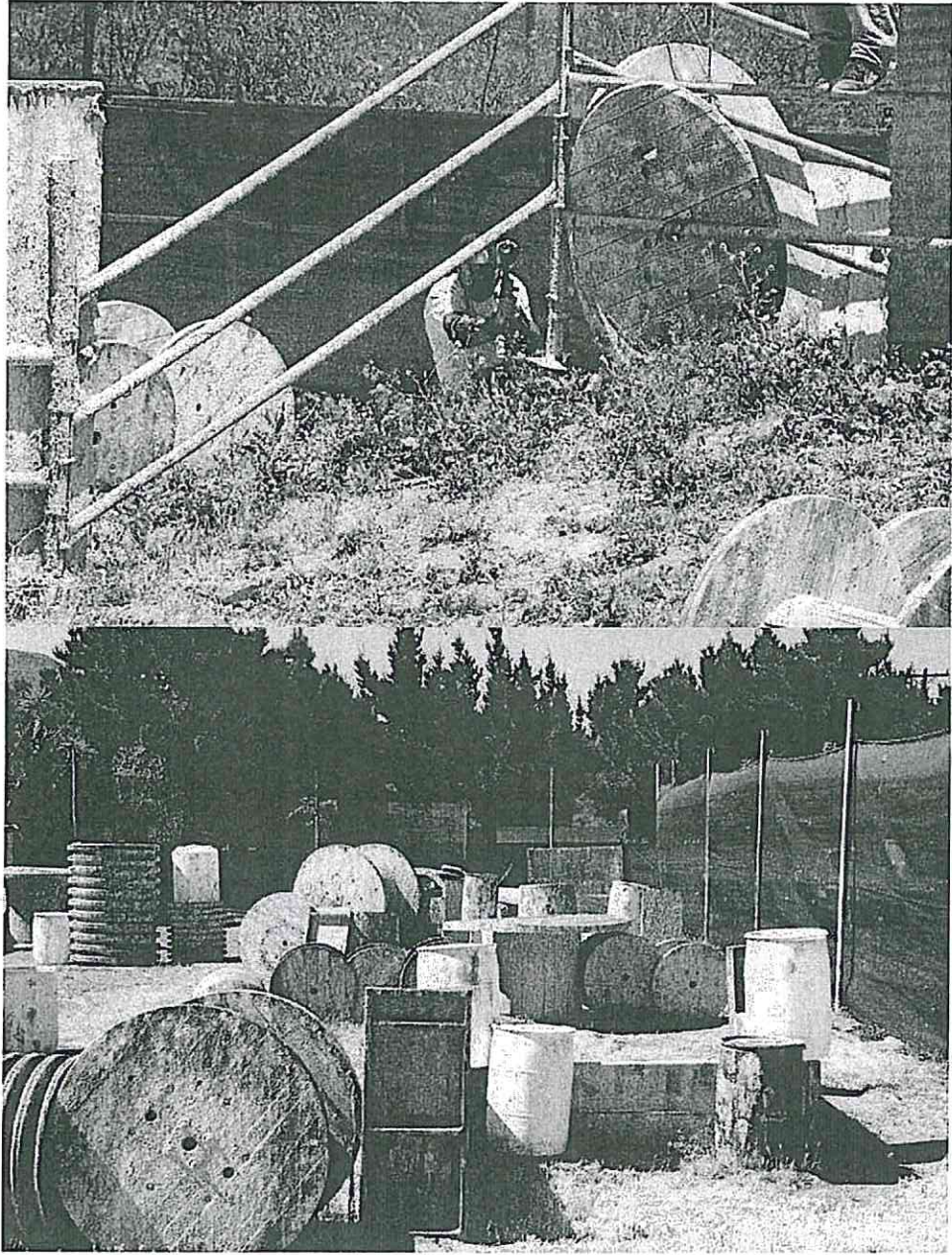
Exhibit 3: 2012 Steelhead Recovery Plan. NOAA. Page 7-5

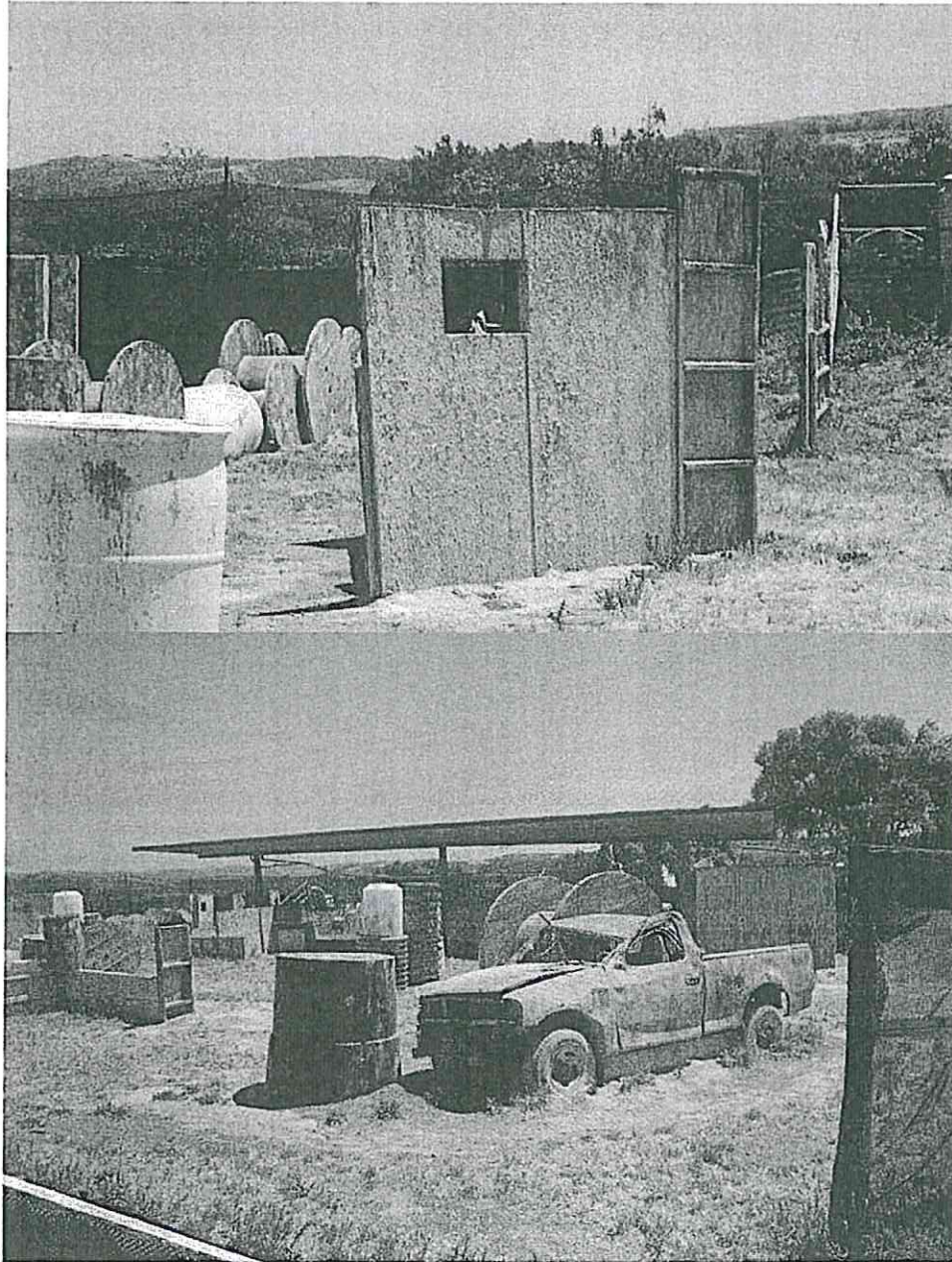
**Exhibit 1: Paintball Operation photographs**

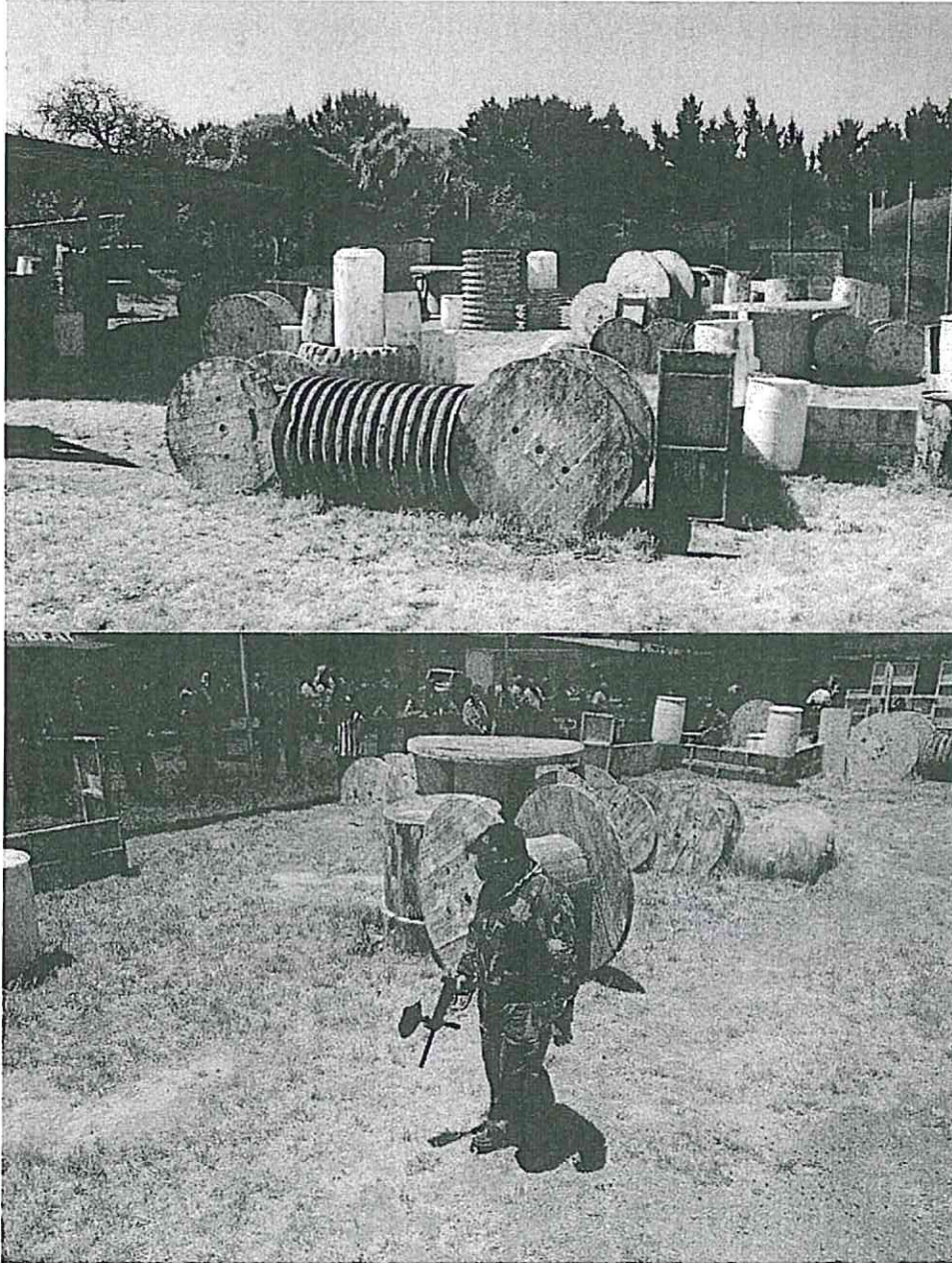


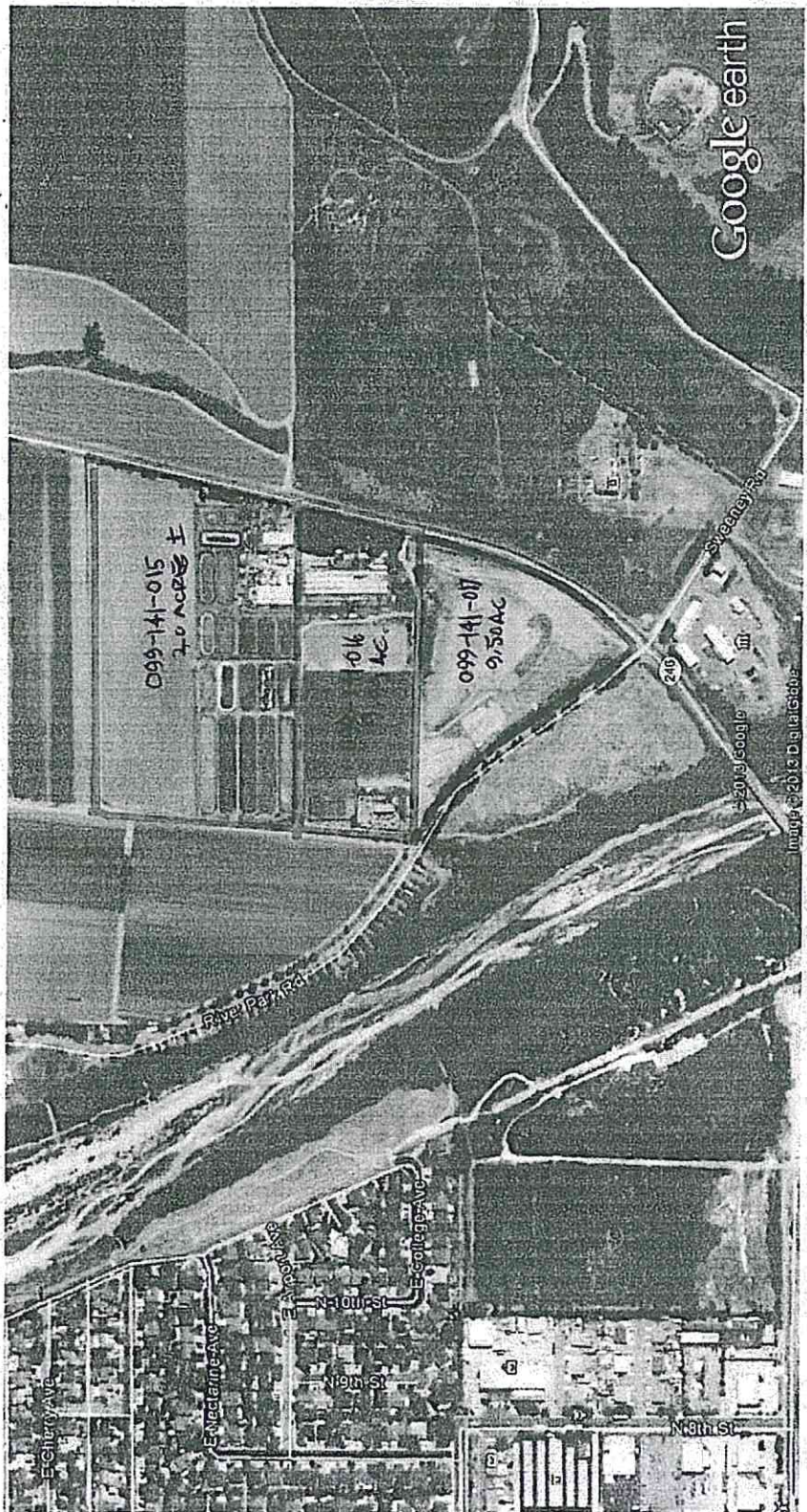








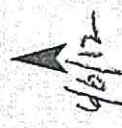




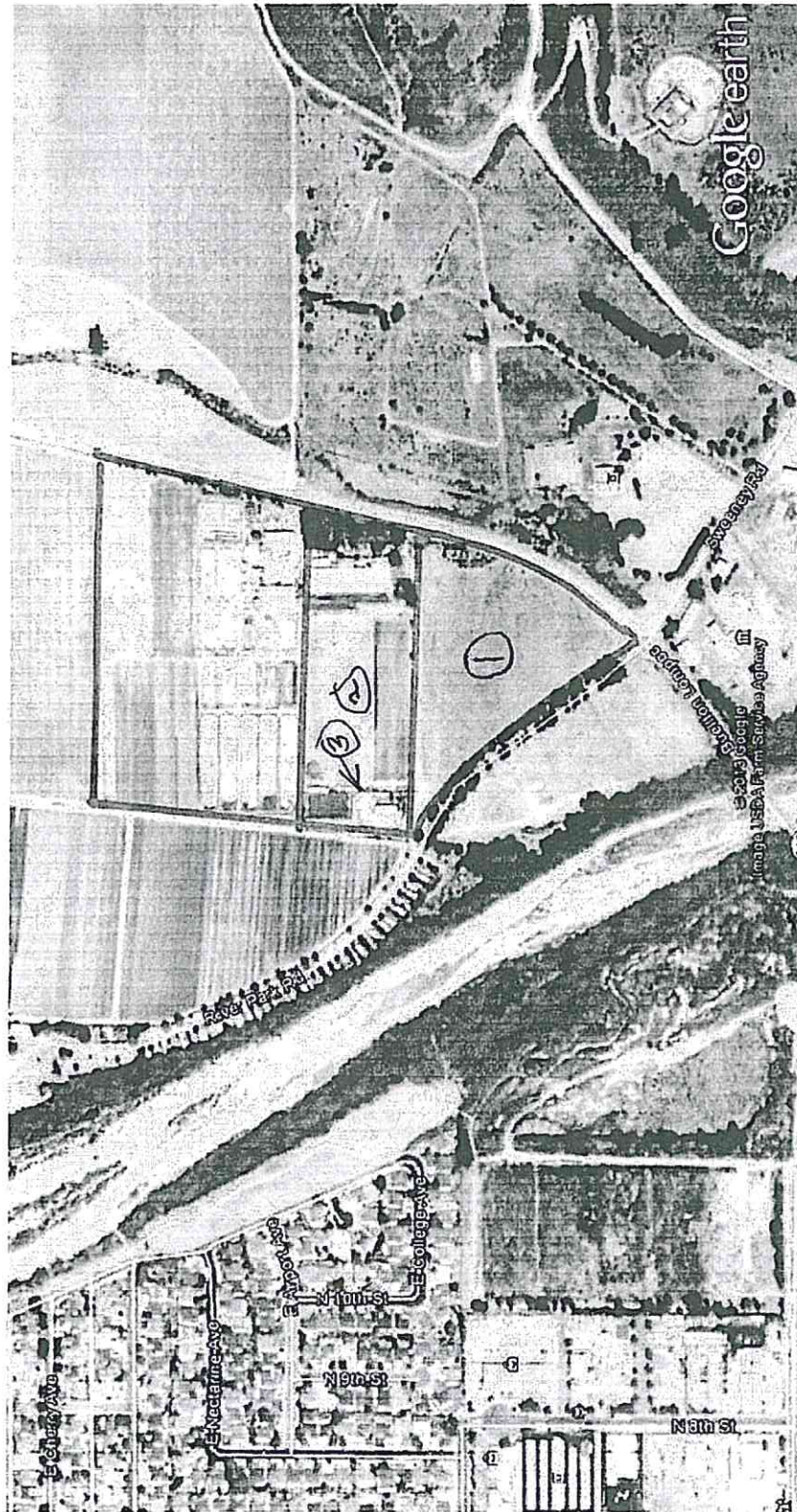
Google earth



Google earth



6/6/2012 MOSEY APN LINES SHOWS UNPERMITTED SHADING ON 017



5/24/0



- ① — MOSBY ARN'S PRE GRADING
- ② — AND PRE SOCCER
- ③ — PAINT BALL EXISTING

Google earth

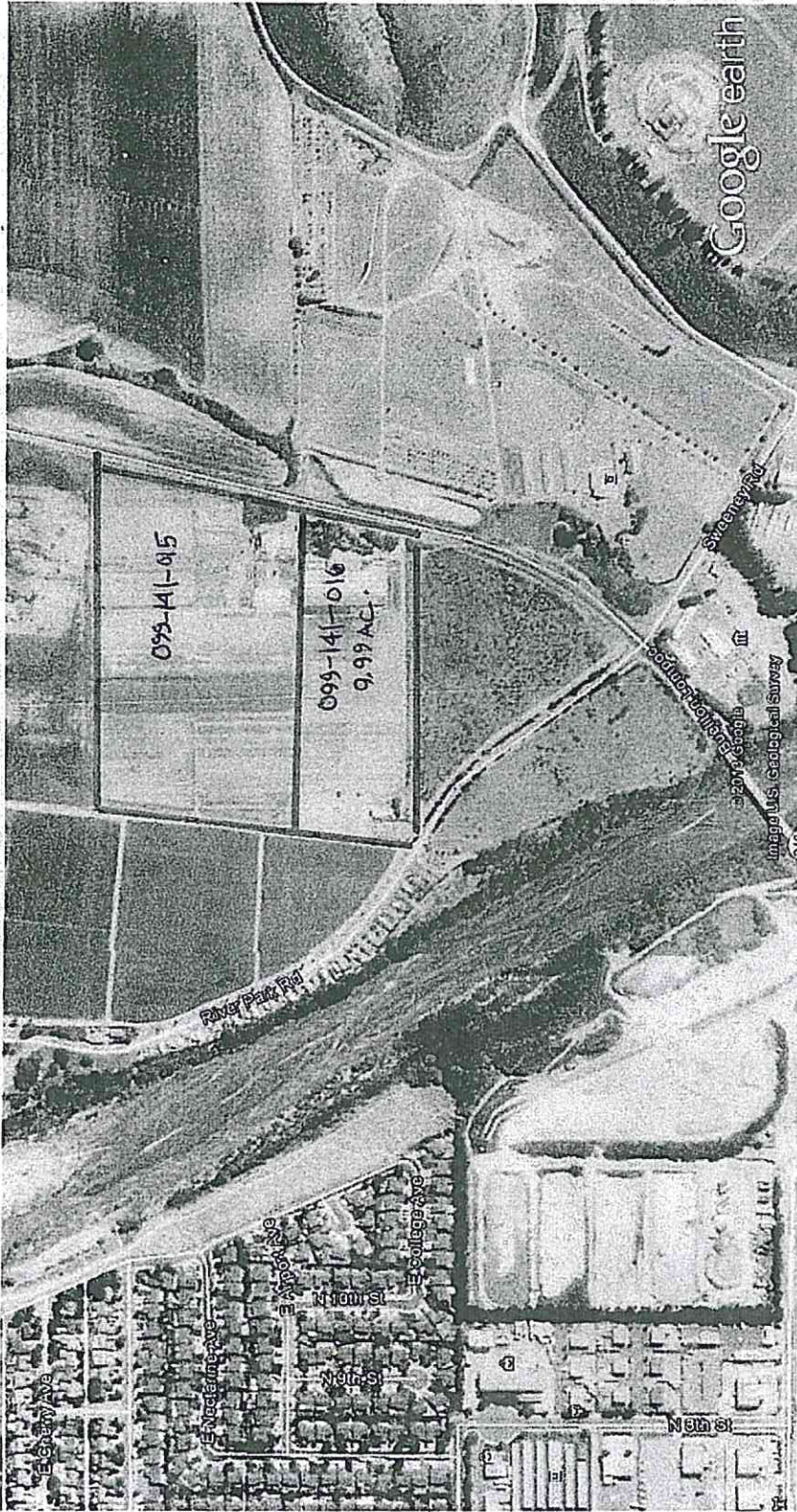


6/6/12  
 NOTE  
 NORTH



===== NO SBY PROPERTY LINES and/or illegal - UNPERMITTED USES

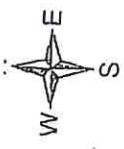




Google earth feet 3000  
km 1

9/2/1994

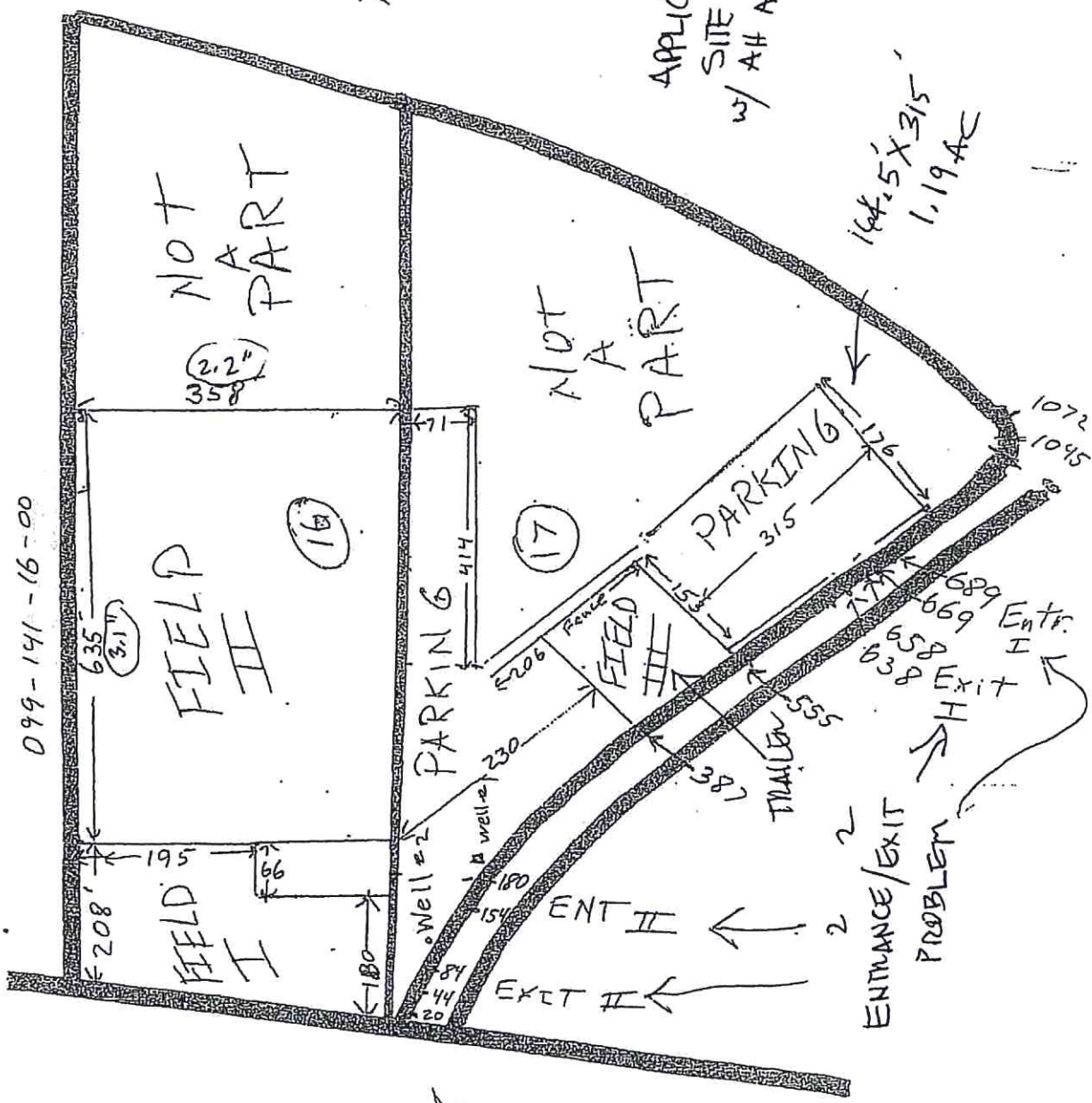
1994 MOSEY APN LINES



7" = 1200'

APPLICANTS  
SITE PLAN  
w/ AH ADDITIONS

164.5' X 315'  
1.19 AC



099-141-16-00

Public Restroom

# SOUTHERN CALIFORNIA STEELHEAD RECOVERY PLAN



Southwest Regional Office  
National Marine Fisheries Service  
Long Beach, CA

January 2012

**Table 7-1.** Core 1, 2, and 3 *O. mykiss* populations within the Southern California Steelhead Recovery Planning Area. Higher priority populations are highlighted in bold face.

BPG	POPULATION	FOCUS FOR RECOVERY
Monte Arido Highlands	Santa Maria River	Core 1
	Santa Ynez River	Core 1
	Ventura River	Core 1
	Santa Clara River	Core 1
Conception Coast*	Jalomo Creek	Core 3
	Canada de Santa Anita	Core 3
	Canada de la Gaviota	Core 2
	Agua Caliente	Core 3
	Canada San Onofre	Core 3
	Arroyo Hondo	Core 3
	Arroyo Quemado	Core 3
	Tojiguos Creek	Core 3
	Canada del Refugio	Core 3
	Canada del Venadito	Core 3
	Canada del Corral	Core 3
	Canada del Capitan	Core 3
	Galo Canyon	Core 3
	Dos Pueblos Canyon	Core 3
	Eagle Canyon	Core 3
	Tecolote Canyon	Core 3
	Bell Canyon	Core 3
	Goleta Slough Complex	Core 2
	Arroyo Burro	Core 3
	Mission Creek	Core 1
	Montecito Creek	Core 3
	Oak Creek	Core 3
	San Ysidro Creek	Core 3
	Romero Creek	Core 3
	Arroyo Paredon	Core 3
	Carpinteria Salt Marsh Complex	Core 3
	Carpinteria Creek	Core 1
Rincon Creek	Core 1	
Santa Monica Mountains**	Big Sycamore Canyon	Core 3
	Arroyo Sequi	Core 2
	Mallbu Creek	Core 1
	Topanga Canyon	Core 1
	Solstice Creek	Core 3



February 8, 2013

Re: Draft Negative Declaration for the Proposed Mosby Recreational Fields and Consistency Rezone Permits

Dear Ms. Carmichael:

Thank you for the opportunity to review and comment on the Mosby Recreational Fields Negative Declaration. The Grower-Shipper Association represents farmers in Lompoc and works to promote the wellbeing of the produce industry in Santa Barbara and San Luis Obispo Counties. The Association is concerned that a Negative Declaration finding is inappropriate given the potential impacts on Agricultural Resources and Land Use. The Association does not concur with the "Less Than Significant" Determination for the Mandatory Findings of Significance and requests that a full EIR with a professional consideration of all resources be prepared.

**Agricultural Resources**

The Association believes that the proposal will result in a Potentially Significant impact on Agricultural Resources. The Association is concerned that the proposal will result in potentially significant impacts resulting from the conversion of neighboring agricultural lands to non-agricultural use. More specifically, the Association is concerned about the potential future conversion of farmlands to the north and east of the project if the CUP and rezone are approved.

**Land Use**

The Association does not concur with the "No Impact" finding for c) "The induction of substantial growth or concentration of population." The formal change in land use proposed by this project could lead to a Potentially Significant series of non-agricultural developments on agricultural lands to the east of Lompoc. The same consequences necessitate a Potentially Significant finding for i) "An economic or social effect that would result in a physical change."

**Mandatory Findings of Significance**

The Association does not concur with the "Less Than Significant" determination for 3. "Cumulatively Considerable," given the potential for serial non-agricultural development of farmland in the future if this project is approved. As such, we would argue on item 5 that there *is* in fact disagreement that would warrant investigation in an EIR.

The Association has substantial concerns about this project's individual and cumulative impacts on farmland in Lompoc and the precedent it sets throughout the county. We urge you to consider these concerns and address them in an EIR that adequately identifies the Potentially Significant impacts of this project. Thank you for your attention to this matter.

Sincerely,

Claire Wineman  
President

GROWER-SHIPPER ASSOCIATION OF SANTA BARBARA AND SAN LUIS OBISPO COUNTIES  
245 Obispo Street • P.O. Box 10 • Guadalupe, CA 93434 • (805) 343-2215

To: John Karamitsos  
Dana Carmichael

From: Sharyne Merritt

Date: February 7, 2013

Re: Negative Declaration for Mosby Recreational Fields 11CUP-00000-00032  
(APN(s) 099-141-016, 017).

Dear Ms. Carmichael and Mr. Karamitsos,

Thank you for the opportunity to comment on the Negative Declaration for Mosby Recreational Fields 11CUP-00000-00032 (APN(s) 099-141-016, 017). As a farmer in Santa Barbara County who by virtue of my membership on the Santa Barbara County Agriculture Committee may be more aware of and sensitive to issues of planning and development on Ag zoned lands (though I am writing as a private citizen and my comments are not those of the AAC), I have serious concerns with the proposed project as presented.

I understand that the Negative Declaration is a preliminary document, but if inaccurate, it may mistakenly lead to approval of a project for which further study would have led to denial.

Allow me to say at the outset that I appreciate the desire for recreation in the Lompoc Valley but think an accurate assessment would reveal this is a poor location because of its impact on agriculture.

A summary of my comments is presented below, followed by more detailed explanation.

- The wrong baseline was used resulting in inaccurate evaluation of the project and setting a precedent that will undermine State and County policies
- The calculation of Agricultural Suitability and Productivity points is inaccurate resulting in a gross underestimation of the agricultural viability of both parcels and consequent underestimation of impacts
- The project conflicts with land use policy, specifically, the Agricultural Element of the County's Comprehensive Plan and the LUDC standards for Rural Recreation projects to be located in the AG II zone.
- The ND incorrectly characterizes the subject lots' position within the 100 year flood zone
- The project may
  - require additional police protection beyond what is required on agricultural land
  - interfere with passive recreation at River Park
  - impact percolation rates, drainage patterns or the rate and amount of

- o surface runoff
- o expose people to flooding hazards

### **3.0 ENVIRONMENTAL SETTING**

#### **3.2 ENVIRONMENTAL BASELINE**

ND: "The environmental baseline from which the project's impacts are measured consists of the on the ground conditions described above."

I am deeply concerned that the Neg Dec uses the wrong baseline and consequently has not only failed to accurately analyze the full scope of the project's impacts, but sets a precedent that one can violate the law and then benefit from the violation.

While I am not a lawyer, my reading of legislation and current case law indicates that the circumstances of this project require the baseline to predate the unpermitted activities. Indeed, staff acknowledges "it is questionable if the current use of the site could be analyzed as baseline for CEQA purposes."<sup>1</sup>

The use of a baseline that includes an applicant's prior unpermitted activities is problematic and has broad planning implications. By incorporating a proposed project into the baseline, the agency in effect grants a unilateral exemption from CEQA for that activity.<sup>2</sup> Applying such an exemption to unpermitted uses defeats the policies of both CEQA and the County to avoid adverse effects. If a project has been operating without permits, it may already be causing impacts, but if current conditions are used as the baseline, those impacts will not be identified. This sets a precedent that could encourage others to initiate projects without first obtaining permits, undermining the State and County policies and the Land Use Code. Future applicants will know that they can engage in unpermitted activities that convert agricultural land to non-agricultural uses causing de facto environmental impacts (see Thresholds<sup>3</sup>) and afterward apply for a permit saying, "my project won't cause conversion of agricultural land to non-agricultural uses, the property is already non-agricultural."<sup>4</sup> This is just bad planning.

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<sup>1</sup> Mosby Initial Study p. 15

<sup>2</sup> *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 195-97 as quoted in State of California STATE WATER RESOURCES CONTROL BOARD, Hearing Regarding Water Rights Application 30166 of El Sur Ranch, Trout Unlimited Closing Brief

<sup>3</sup> "A California appeals court in *Cleary vs. County of Stanislaus* (1981) 118 Section App. 3d 348, has indicated that the conversion of agricultural land to nonagricultural uses may in itself be considered a significant environmental impact." County of Santa Barbara Planning and Development. Environmental Thresholds and Guidelines Manual. 2008. P 7.

<sup>4</sup> Somewhat like the story of the man who kills his parents and then asks the court for mercy because he is an orphan.

Use of a baseline for a permit that includes prior unpermitted activities also contradicts what the California Superior Court identified as one of CEQA's "first principles": in *Citizens of Goleta Valley v. Board of Supervisors of the County of Santa Barbara* the Court held that the purpose of the EIR (and by extension the Negative Declaration) "is to inform the public and its responsible officials of the environmental consequences of their decisions **before** (emphasis added) they are made."<sup>5</sup>

Article 9, section 15125 of the Guidelines for Implementation of The California Environmental Quality Act states: "(a) An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will **normally** (emphasis added) constitute the baseline physical conditions by which a lead agency determines whether an impact is significant."<sup>6</sup> Inclusion of the term "normally" indicates there are exceptions, such as when the project has been operating illegally prior to the CEQA review and the use of the current environmental setting as the baseline would effectively grant an exemption from CEQA.

Courts have determined that when there have been illegal activities prior to application for a permit, the following circumstances determine whether or not the environmental setting as it exists at the time of permit application (which includes that activity) should constitute the baseline:

- If the prior illegal activity has resulted in permanent physical change in the environment, it can be included in the baseline because the change would be present whether the permit is granted or not. In *Riverwatch v. County of San Diego* (1999) the California Court of Appeal (Fourth District, Division 1) held permanent physical conditions from prior sand mining could be incorporated into the baseline.<sup>7</sup>
- If the prior illegal activity had already undergone environmental, it can be included because CEQA does not require repetition of analysis. In *Fat v. County of Sacramento*, the California Court of Appeal (Third District) held prior environmental review had been conducted.<sup>8</sup>
- If prior illegal activity is/was subject to enforcement by another agency, it can be included in the baseline because the permitting agency should not interfere with enforcement by another agency. But, if the permitting agency is responsible for enforcement and has not done so, the baseline should precede the illegal/unpermitted activity. In *Klamath Riverkeeper et.al. v. DFG*, the San Francisco Superior Court held: "when a lead agency

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<sup>5</sup> [http://ceres.ca.gov/ceqa/cases/1990/goleta\\_valley\\_123190.html](http://ceres.ca.gov/ceqa/cases/1990/goleta_valley_123190.html)

<sup>6</sup> <http://ceres.ca.gov/ceqa/guidelines/art9.html>

<sup>7</sup> [http://ceres.ca.gov/ceqa/cases/1999/00-07-10\\_ceqa\\_riverwatch.html](http://ceres.ca.gov/ceqa/cases/1999/00-07-10_ceqa_riverwatch.html)

<sup>8</sup> [http://ceres.ca.gov/ceqa/cases/2002/Fat\\_v\\_Sacramento.html](http://ceres.ca.gov/ceqa/cases/2002/Fat_v_Sacramento.html)



issues and EIR, it cannot include activities allowed by the agency's complete non-enforcement into the baseline."<sup>9</sup> In *League to Save Lake Tahoe v. Tahoe Regional Planning Agency*, the United States District Court invalidated an EIR baseline that included existing unpermitted buoys on Lake Tahoe, stating: "an agency may not escape its duty by ignoring that duty and then presenting the results as a *fait accompli* incorporated into an environmental baseline."<sup>10</sup>

The current application does not meet any of the criteria for using the current site description as the baseline in the presence of illegal/unpermitted activities.

- The recreational activities are not permanent
- The recreational activities have not undergone prior environmental review.
- The enforcement agency is County Planning, the same agency in charge of preparing the Neg Dec and determining whether to issue a permit

For the purposes of environmental review of this application, the baseline should be set at pre-project conditions. The failure of Planning to analyze the effects of the entire project, including all current activities for which the applicant does not have a legal entitlement, undermines the policies of both CEQA and the County, and serves to abrogate the County's responsibilities to avoid adverse affects on agricultural land. It also sets a terrible precedent.

#### **4.2 AGRICULTURAL RESOURCES**

Detailed below are corrections that indicate the proposed project will result in potentially significant effects in the category of

- a. Convert prime agricultural land to non-agricultural use, impair agricultural land productivity (whether prime or non-prime) or conflict with agricultural preserve program
- b. An effect upon any unique or other farmland of State or Local Importance

#### **4.2 AGRICULTURAL RESOURCES: Soil Classification**

ND: "APN 099-141-017 contains approximately 95% Class III –non prime soils and approximately 5% Class I prime soils. The parcel was therefore assigned points within the Class III range. The low end of the range, 8 points, was assigned to reflect the lack of agriculture on the parcel."

The point assignment is incorrect. The high end of the range should be assigned to reflect Agricultural Suitability.

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<sup>9</sup>[http://waterboards.ca.gov/ssi/serp.shtml?q=Klamath+Riverkeeper+et.al.+v.+DFG&cx=001779225245372747843%3Attksqsdjfn4&cof=FORID%3A10&ie=UTF-8&siteurl=http%3A%2F%2Fwaterboards.ca.gov%2Flaws\\_regulations%2F](http://waterboards.ca.gov/ssi/serp.shtml?q=Klamath+Riverkeeper+et.al.+v.+DFG&cx=001779225245372747843%3Attksqsdjfn4&cof=FORID%3A10&ie=UTF-8&siteurl=http%3A%2F%2Fwaterboards.ca.gov%2Flaws_regulations%2F)

<sup>10</sup>[http://scholar.google.com/scholar\\_case?case=288229747664686660&hl=en&as\\_sdt=2,5&as\\_vis=1&scfhb=1](http://scholar.google.com/scholar_case?case=288229747664686660&hl=en&as_sdt=2,5&as_vis=1&scfhb=1)

- According to the USDA Soil Map parcel 017 is about 95% Metz loamy sand, 0 to 2% slope. While USDA defines this soil in its Land Capability Classification as Class III, it defines it in its Farmland Classification as "**Prime farmland** (emphasis added) if irrigated and either protected from flooding or not frequently flooded during the growing season"<sup>11</sup>
  - **Definition.** Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses. It has the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods.<sup>12</sup>
- Land Capability Class III indicates soil that while restricted in plant choice may be appropriate for valuable crops. According to the County Environmental Thresholds "sites with soils classified as non-prime, but which can support specialized high cash crops (e.g., strawberries, avocados and specialty crops) **should be assigned higher points within the ranges** (emphasis added)."<sup>13</sup> APN 099-141-017 has Metz loamy sand soil (MnA). According to the US Department of Agriculture Soil Survey, Metz loamy sand soil "is used primarily for vegetables, strawberries, walnuts, avocados, citrus crops, and field crops."<sup>14</sup> These fit the Environmental Thresholds category of high cash crops – unequivocally given the citation of strawberries in both documents. Another high value crop that grows well in sandy loamy soils is broccoli<sup>15</sup>, making Metz loamy sand, while a Class III soil, appropriate for the two top dollar crops grown in Santa Barbara County. Also, flowers and flower seed, quite high value crops, are being produced on similar soils in the immediate area.
- The lack of agriculture on the parcel is not a reason to assign lower points. This is a management decision, not an assessment of the soil as resource. If the parcel were "managed according to acceptable farming methods" it would be productive. It is worth noting that the parcel to the West of 016 is 100% Metz loamy sand, is in full production.

<sup>11</sup> <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>

<sup>12</sup> National Soil Survey Handbook Part 622.

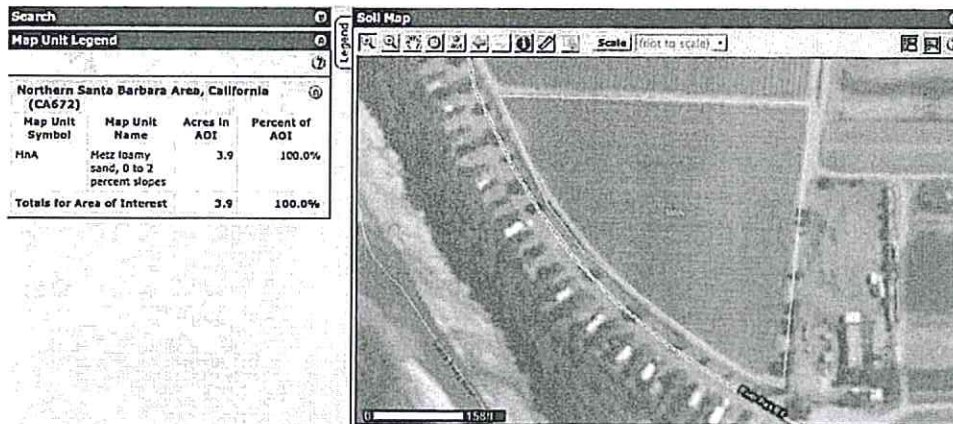
<http://soils.usda.gov/technical/handbook/contents/part622.html>

<sup>13</sup> County of Santa Barbara Planning and Development. Environmental Thresholds and Guidelines Manual. 2008. p 13

<sup>14</sup> United States Bureau of Soils. Soil Survey: Ventura Area, California. 1970. p 38

<http://books.google.com/books?id=QdLwAAAAMAAJ>

<sup>15</sup> AgriLife Extension, Texas A&M System. "Cole Crops." (E-279).



- Further supporting assignment at the top of the range, Environmental Thresholds states: "the assessment of suitability should account for the approximate frequency and intensity of frosts and other climactic factors in applying points within the ranges. Parcels which are relatively frost free and may accommodate multiple croppings may be considered more suitable than those which can support only a single crop or limited crop types due to climactic factors."<sup>16</sup> Both APN 099-141-017 and 016 are classified by the USDA as a 10a Hardiness Zone (the same as Goleta and Carpinteria and warmer than Santa Maria which is 9b.)<sup>17</sup> Zone 10a has an average annual minimum temperatures: 30-35 and is the warmest zone in Santa Barbara County. On average it is frost free from March 1 to November 30 permitting multiple croppings.

Given these facts, points should be calculated for APN 099-141-017 using the high range to reflect the potential for agriculture:  $(10 \times 95\%) + (15 \times 05\%) = 10.25$

**Soil Classification (continued)**

ND: "A portion of APN 099-141-016 is developed with a greenhouse. The greenhouse is underlain with Class I (prime soils) and the remaining portion of the parcel (approximately 60%) is used as the soccer field and contains Class III soils. Points for APN 099-141-016 were assigned within the Class III range, the dominant soil class type."

The point assignment is incorrect.

- Environmental Thresholds states: "Where a variety of soil types are present on a site, weight should depend upon extent of useable prime/non-prime

<sup>16</sup> County of Santa Barbara Planning and Development. Environmental Thresholds and Guidelines Manual. 2008. P 13.

<sup>17</sup> (<http://www.plantmaps.com/interactive-california-usda-plant-zone-hardiness-map.php?ZS=93436>)

acreage. As appropriate, points may be assigned **according to approximate percentages** (emphasis added) of site area containing various soil classifications."<sup>18</sup>

As such points for parcel 099-141-016 should be weighted to reflect soil types (60% class III and 40% class I) not assigned within the dominant class. As above, higher points within the ranges should be assigned because of potential valuable crops and potential for multiple croppings. Calculations should be:

60% class III; 40% class I  
 $(10*60\%)+(15*40\%) = 12$

#### **4.2 AGRICULTURAL RESOURCES: Water Availability**

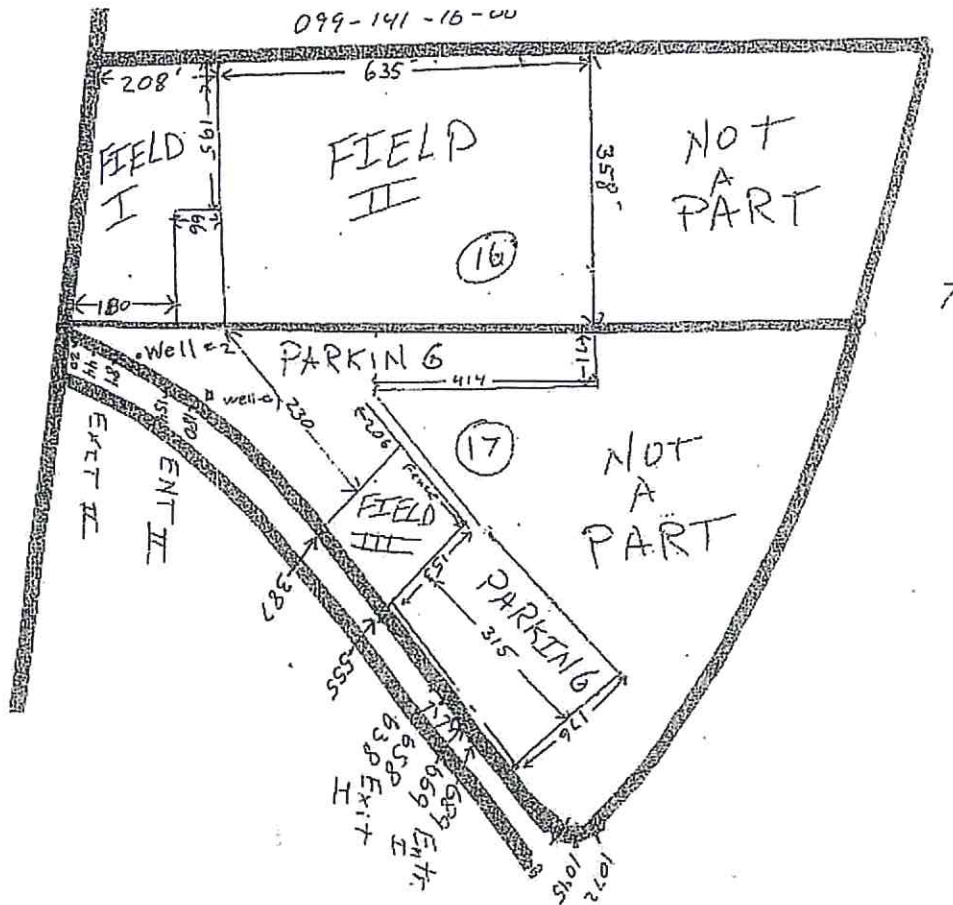
ND: "The well on APN 099-141-017 does not provide enough water to support irrigated crops, hence past dry farming practices were utilized on this parcel, thus a score of 8 points was given for this parcel. The well(s) on APN 099-141-016 provides adequate water for the greenhouses and the soccer fields thus the highest score of 15 points was given to this parcel."

Given APN 099-141-017's proximity to the Santa Ynez River, and the fact that it is adjacent to a property that has a water availability score of 15, APN 099-141-017 should have high water availability. The current well that "does not provide enough water" may be old, poorly maintained, inadequately drilled, or provided with inadequate pumps. As such, it is a management decision to not supply an optimal amount of water, not a condition of the parcel. Also, it is possible that water from the adjacent parcel or a nearby parcel can be piped in. It is not unusual for fields to receive water from a well a mile from away.

Further, the plot map shows two wells on parcel 099-141-017 and none on 016 suggesting the adequate well is on 017 and 016 gets water from it.

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<sup>18</sup> County of Santa Barbara Planning and Development. Environmental Thresholds and Guidelines Manual. 2008. P 12



APN 099-141-017 should be assigned 15.

**4.2 AGRICULTURAL RESOURCES: Agricultural Suitability**

ND: "The land is designated as "other" in the 2010 Important Farmland maps. This is consistent with the current use of the parcel being non-agricultural. The NRCS soils data indicate the majority of soils on APN 099-141-017 indicate the majority of soils on APN 099-141-017 are considered Class III, non-prime and the 2010 Important Farmland Maps indicate designate (sic) the parcel as "Other." Historically, this parcel was utilized for dry farming, therefore the parcel is considered suitable for dry farm crops. The high end of the range, 8 points, was assigned to APN 099-141-017."

This is incorrect:  
The Important Farmland Maps designates 099-141-017 Farmland of Local

Importance (the map is admittedly difficult to read), not "Other."<sup>19</sup> See map below.

The statement that the Important Farmland map land designation "is consistent with the current use of the parcel being non-agricultural" suggests the land is non-agricultural because it is "Other." This is either a tautology or causally reversed. Important Farmland maps are based on aerial photographs showing current or recent production or lack thereof. The (inaccurate) land designation of "Other" is not "consistent" with it being non-agricultural, rather it is caused by it's being non-agricultural. According to Troy Dick, one of the individuals responsible for creating the Important Farmland maps, Important Farmland Maps "are current use, not agricultural suitability." If land with Class III soil were irrigated and farmed it would be reclassified as "Farmland of Statewide Importance."<sup>20</sup>

Further, there is overlap in the top two categories of Agricultural Suitability: the top category includes vineyard crops; the second category is dry farming which (sic) can apply to vineyard crops. "The production of some of the finest wines and olive oils in the world is accomplished with dry-farmed fruit. The famous California wines that won the 1976 Paris Wine Tasting were all dry farmed. Today, California has dry-farmed vineyards all up and down the coast, from Mendocino in the north, Sonoma, Napa (estimated 1,000 acres), to San Benito, San Luis Obispo, and Santa Barbara on the central and south coast."<sup>21</sup>

Finally, note that the Important Farmland map is incorrect in labeling Mr. Mosby's greenhouse on 016 as urban and his aquaculture ponds on 099-141-015 "urban".

Clearly using these maps alone to define suitability is inaccurate.

APN 099-141-017 should be assigned 10.


















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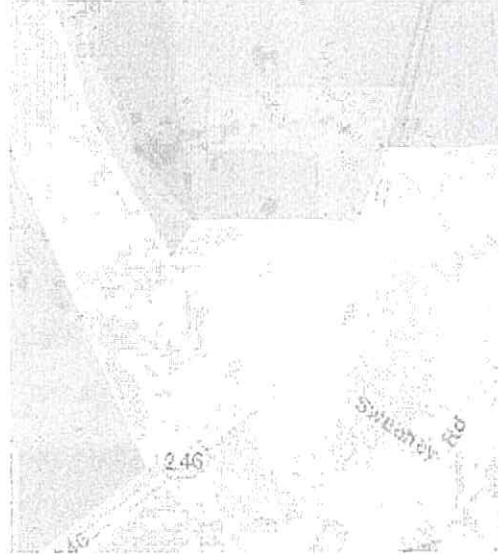
<sup>19</sup> State of California Department of Conservation California Important Farmland Finder. <http://maps.conservation.ca.gov/ciff/ciff.html>

<sup>20</sup> Personal telephone conversation with Troy Dick, Research Analyst, Division of Land Resource Protection, State of California Department of Conservation

<sup>21</sup> California Agricultural Water Stewardship Initiative. "Dry Farming." [http://agwaterstewards.org/index.php/practices/dry\\_farming/](http://agwaterstewards.org/index.php/practices/dry_farming/)

### CIFF Farmland Type Legend

-  Prime Farmland
-  Farmland of Statewide Importance
-  Unique Farmland
-  Grazing Land
-  Farmland of Local Importance
-  Farmland of Local Potential
-  Other Land
-  Confined Animal Agriculture
-  Nonagricultural or Natural Vegetation
-  Vacant or Disturbed Land
-  Rural Residential Land
-  Semi-agricultural and Rural Commercial Land
-  Urban and Built-Up Land
-  Water Area
-  Irrigated Farmland
-  Nonirrigated Farmland
-  Out of Survey Area

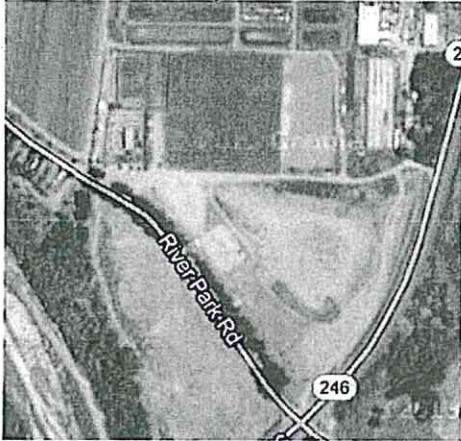


#### **4.2 AGRICULTURAL RESOURCES: Adjacent Land Uses**

ND: "The existing parcels lie within a rural region. River Park is located adjacent and to the southwest of the proposed recreational fields and the County's road yard is located to the east. The remaining neighboring parcels to the north are zoned Agriculture. These parcels are active in cultivation. With this in mind, each parcel was assigned points in the range for "Partially surrounded by agricultural or open space with some urban uses adjacent, in a region with adequate agricultural support use," and both were assigned 8 points each. This is because the park would be considered a land use that is more compatible for urban uses."

This is incorrect.

- River Park is passive recreation, not urban. Furthermore, the portion of River Park that is adjacent to 099-141-017 is an open field. See map below:



- Parcel 099-141-017 is a triangle. The County's road yard (099-141-010) is opposite the bottom point of the triangle and is not "adjacent" on any side of the triangle. Should P&D decide this qualifies as "adjacent," please note that many of the activities of the County road yard support agriculture and as such, its presence should be interpreted as supportive of agricultural use.
- Parcel 099-141-016 is completely surrounded by active agriculture with the exception of adjacent Parcel 099-141-017, which is zoned Ag 40 and currently has some fallow land and some non-permitted recreational use

Both Parcel 099-141-017 and parcel 099-141-016 should be assigned 10 points.

#### **Combined Farming Operation**

Look again at the plot map. The two parcels share a well. This is a combined farming operation.



## SUMMARY of POINTS

### Correct Agricultural Suitability and Productivity Analysis

Category	APN 099-141-017	APN 099-141-016
Parcel Size	6 points	6 points
Soil Characteristics	10 points	12 points
Water Availability	15 points	15 points
Agricultural Suitability	10 points	10 points
Existing and Historic Land Use	4 points	5 points
Comprehensive Plan Designation	5 points	5 points
Adjacent Land Uses	10 points	10 points
Agricultural Preserve Potential	0 points	0 points
Combined Farming Operations	3 points	3 points
<i>Total</i>	<i>63 points</i>	<i>66 points</i>

#### **4.2 AGRICULTURAL RESOURCES: Impacts**

##### *Potentially Significant Impact*

According to the Environmental Thresholds Point system, parcels with a designated point value of 60 and above are considered agriculturally viable parcels. As noted above, both parcels are agriculturally viable and the proposed (existing) project is/will impact agricultural productivity of farmland of State or Local Importance

The Neg Dec is only partially correct in stating, "if the current property owner wanted to use the lots for agriculture in the future, the proposed non-agricultural use for the land is not permanent and with amendments to the soils, the subject lots could be converted back to a cultivational (sic) use."

I urge P&D not to underestimate how much compacting (from trampling and parking) can degrade soil, making it less suitable for long-term agricultural sustainability. Soil properties considered most representative of the overall soil health or quality include: organic matter content, soil structure, bulk density, infiltration rate, and activity of the biological community. The impacts on these soil properties increase with intensity and duration of compaction as do the financial and time costs of restoration/remediation. Financial costs will include soil amendments, labor, equipment, fuel and reduced yields; time costs will be incurred for natural processes that improve soil such as biological activity and

soil aggregation to take place.<sup>22</sup>

As such, contrary to the ND, the longer the subject lots have non-agricultural activities that compact their soil, the more costly and therefore less likely it will be for any owner to convert them back to cultivation.

The proposed non-agricultural use is clearly detrimental to agricultural resources.

**4.11 LAND USE: b Conflict with any applicable land use plan, policy . . . adopted for the purpose of avoiding or mitigating an environmental effect:**

ND: "As described in the Agricultural Resources Section of this document, herein incorporated by reference, the proposed recreational use would not affect each parcel[']s capability of being agriculturally suitable."

This is incorrect.

Reference to the Agricultural Element Policy 1 A. 1 a-b is inaccurate. This policy does not allow for recreation, it restricts the County from imposing trails.

Policy 1A. The integrity of agricultural operations shall not be violated by recreational or other non-compatible uses.

Imposition of any condition requiring an offer of dedication of a recreational trail or other recreational easement shall be discretionary (determined on a case-by-case basis), and in exercising its discretion, the County shall consider the impact of such an easement upon agricultural production of all lands affected by and adjacent to said trail or other easement.

1. On lands which are in agricultural production and have a zoning or Comprehensive Plan designation for agriculture, provisions for recreational trails or other recreational easements defined in the Comprehensive Plan may be imposed by the County as a condition for a discretionary permit or land division only in the following circumstances: a. The area in which the trail is proposed to be located is land which is not under cultivation or being grazed or is not part of a rotation program, or is not an integral part of the agricultural operations on the parcel; or,

b. The land use permit requested is not for a use which is compatible with agricultural production on the property, as defined in the County Agricultural Preserve Uniform Rules. In this instance, the recreational trail or other recreational use shall be required to be located only on the portion of the property taken out of agricultural production for the permit

Reference to Section 35.43.240 – does not exist in LUDC

35.42.240 is "Rural Recreation." It specifically states

**Inland area.** Low-intensity recreational development (e.g., recreational camps, hostels, campgrounds, retreats, and guest ranches, trout farm, rifle

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<sup>22</sup> Gimenez, D., Kluchinski, D, Murphy, S., Muldowny, L.S. "Assessment of Soil Disturbance on Farmland." Presented to New Jersey State Agriculture Development Committee. (2010)

range, and duck shooting farm) may be allowed subject to a Conditional Use Permit in compliance with Section 35.82.060 (Conditional Use Permits and Minor Conditional Use Permits) provided the development complies with the applicable standards included in Subsection C. (Standards) below.

**C. Standards**

**1. AG-II and AG-II CZ zones.** The following development standards shall apply to projects located in the AG-II and AG-II CZ zones.

- a. Is in character with the rural setting.
- b. Does not interfere with agricultural production on or adjacent to the lot on which it is located.
- c. Does not include commercial facilities open to the general public who are not using the recreational facility.
- d. Does not require an expansion of urban services that shall increase pressure for conversion of the affected agricultural lands.
- e. Does not include commercial facilities open to the general public who are not using the recreational facility.

The proposed project is high intensity.

The proposed project will affect the parcels' capability of being agriculturally suitable. The project takes 63% of the two parcels out of agricultural production. That clearly affects their being used for agriculture. Further, trampling and parking degrade the ground. It will take considerable money and time to bring the ground back to production.

The proposed project conflicts with County land use policy, specifically, the Agricultural Element of the County Comprehensive Plan:

- The Preamble states: the County recognizes the need to "provide for the conservation of its agriculture."
- Goal I, Policy IA states "The integrity of agricultural operations shall not be violated by recreational or other non-compatible uses."
- Goal I, Policy IB states that the "rights of operation, freedom of choice as to . . . functions within the traditional scope of agricultural management decisions . . . shall be conducted in a manner which is consistent with . . . sound agricultural practices that promote the long-term viability of agriculture"
- Goal I, Policy I.E. states "The use of the Williamson Act (Agricultural Preserve Program) shall be strongly encouraged and supported."
- Goal I, Policy I.F. states "The quality of availability of . . . soil resources shall be protected through provisions including . . . the stability of Urban/Rural Boundary Lines."
- Goal I, Policy I.G, states "Sustainable agricultural practices on agriculturally designated land should be encouraged in order to preserve the long-term health and viability of the soil."
- Policy II.D. Conversion of highly productive agricultural lands whether urban or rural, shall be discouraged. The County shall support programs which encourage the retention of highly productive agricultural lands.
- The purpose of an agricultural designation is to preserve agricultural land

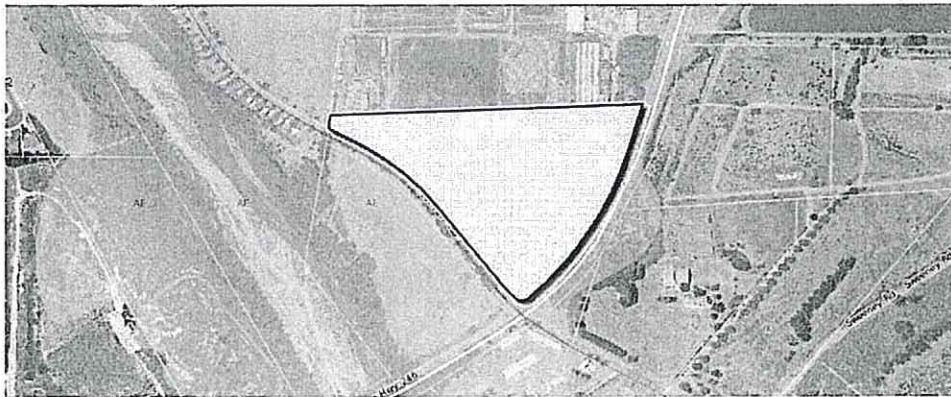
for the cultivation of crops and the raising of animals. For the purposes of this Element, agriculture shall be defined as the production of food and fiber, the growing of plants, the raising and keeping of animals, aquaculture, and the preparation for marketing of products in their natural form when grown on the premises, and the sale of products which are accessory and customarily incidental to the marketing of products in their natural form grown on the premises. Lands eligible for this designation include, but are not limited to, lands with prime soils, prime agricultural land, grazing land, land in existing agricultural use, **land with agricultural potential** (emphasis added), and lands under Williamson Act contracts.

### **3.1 PHYSICAL SETTING**

Surface Water Bodies (including wetlands, riparian areas, ponds, springs, creeks, rivers, lakes, and estuaries):

ND: "Current mapping indicates that the subject lots do not lie within the river's 100-year floodway."

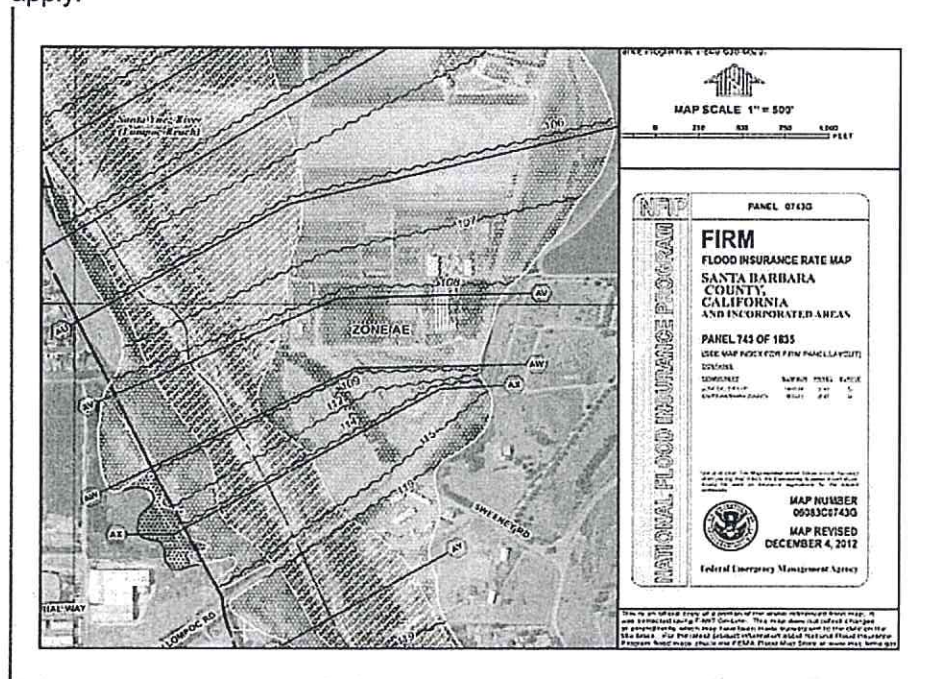
While the properties may not within the rivers "floodway" (defined as "The channel of a river or stream and the parts of the floodplain adjoining the channel that are reasonably required to efficiently carry and discharge the flood water or flood flow of a river or stream"<sup>23</sup>), they are within the "100-year floodplain" (defined as "The area adjoining a river or stream that has been or may be covered by the 100-year flood"<sup>24</sup>). A search of the Santa Barbara County Flood Zone Look Up – Online Map shows both properties within the "100-year flood zone." (In the map below parcel APN 099-141-017 is shown in yellow and APN 099-141-016 is visible above. Blue indicates 100-year flood zone.)



<sup>23</sup> Development Services Division, County of Yolo, "Floodways Vs. Floodplains: A quick guide to floodplains and floodways.

<sup>24</sup> Ibid.

FEMA Flood Rate Insurance Map (see below) shows it to be in Zone AE: "Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply."<sup>25</sup>



#### **4.13 PUBLIC FACILITIES: a. A need for new or altered police protection**

The project will have a potentially significant impact. It is difficult to imagine how 700 people a day at a recreation facility without part-time or full-time staff (only volunteer monitors?) would not require police protection beyond what would be required by agricultural usage.

#### **4.14 RECREATION: c. Substantial impact on the quality or quantity of existing recreation opportunities.**

Given its intensive nature, the project will have a potentially significant impact on the passive recreation (hiking, bird watching, picnicking) recreational opportunities at River Park.

<sup>25</sup> <http://www.fema.gov/national-flood-insurance-program-2/zone-ae-and-a1-30#0>

**4.16 WATER RESOURCES/FLOODING a. Changes in percolation rates, drainage patterns nor the rate and amount of surface runoff**

ND: "No new development or impervious surfaces are proposed"

Mocho loam has moderate permeability and slow surface runoff;<sup>26</sup> Metz loamy sand has rapid permeability, very slow surface runoff.<sup>27</sup> It is quite likely that soil compaction caused by use of a parking lot for 150 cars and continued recreational activities will result in further soil compaction that can change percolation rates, drainage patterns, and/or rate and amount of surface runoff. This is a potentially significant impact.

**4.16 WATER RESOURCES/FLOODING f. Exposure of people or property to water related hazards such as flooding (placement of project in 100 year flood plain).**

ND: "Both parcels are outside of the 100 year flood plain"

The County Flood Zone Lookup Map and FEMA map indicate both parcels are inside the 100-year flood zone.<sup>28</sup>

**Conclusion:**

The proposed project MAY have a significant effect on the environment and an EIR must be prepared.

Thank you,  
Sharyne Merritt, Ph.D.

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<sup>26</sup> United States Bureau of Soils. Soil Survey: Ventura Area, California. 1970. p 41  
<http://books.google.com/books?id=QdLwAAAAMAAJ>

<sup>27</sup> *ibid.*, p 38

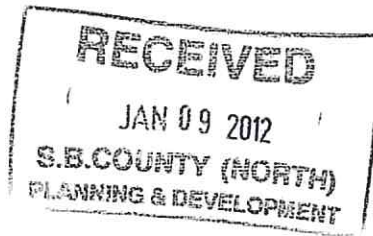
<sup>28</sup>[https://www.cartograph.com/v2.5/viewer/?do=start&project=938&application=CG3Viewer&embedded=1&query\\_url=0&context=2&search\\_layer=3599&criteria=address\\_number\\_street;contains;](https://www.cartograph.com/v2.5/viewer/?do=start&project=938&application=CG3Viewer&embedded=1&query_url=0&context=2&search_layer=3599&criteria=address_number_street;contains;)



**Santa Barbara County  
Air Pollution Control District**

January 6, 2012

John Zorovich  
Santa Barbara County  
Planning and Development  
624 W. Foster Road  
Santa Maria, CA 93455



**Re: APCD Comments on Mosby Recreational Fields, 11CUP-00000-00032**

Dear John:

The Air Pollution Control District (APCD) has reviewed the referenced case, which consists of the use of agricultural property for athletic fields. Uses of the fields include a Paintball field, a remote control car track, and a soccer field. The fields will be opened primarily on weekends between the hours of 8 am and 5 pm; minimal use will occur during the week. No permanent structures will be built at this time. The proposed project is designed to have minimal, and no permanent, effects to the existing use of the property (agricultural-entertainment and fallow farming). The subject property, a 19.5-acre parcel zoned 40-AG and identified in the Assessor Parcel Map Book as APN 099-141-016,-017, is located at 625 E. Hwy 246/2 Riverpark Road in the community of Lompoc.

The APCD has no comment on this project at this time.

If you or the project applicant have any questions, please feel free to contact me at (805) 961-8890 or via email at [cww@sbcapcd.org](mailto:cww@sbcapcd.org).

Sincerely,

Carly Wilburton,  
Air Quality Specialist  
Technology and Environmental Assessment Division

cc: James Mosby  
TEA Chron File

## NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-6251  
Fax (916) 657-5390  
Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
ds\_nahc@pacbell.net



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JAN 14 2013

STATE CLEARING HOUSE

December 26, 2012

Ms. Tammy Weber, Planner

**County of Santa Barbara Planning and Development**

624 W. Foster Road, Suite C  
Santa Maria, CA 93436

Re: SCH#2012121065; CEQA Notice of Completion; proposed Negative Declaration for the "Mosby Recreational Fields and Rezone Consistency;" located one-half mile north of the City of Lompoc; Santa Barbara County, California

Dear Ms. Weber:

The California Native American Heritage Commission (NAHC) is the State of California 'trustee agency' for the preservation and protection of Native American cultural resources pursuant to California Public Resources Code §21070 and affirmed by the Third Appellate Court in the case of EPIC v. Johnson (1985: 170 Cal App. 3<sup>rd</sup> 604).

This letter includes state and federal statutes relating to Native American historic properties or resources of religious and cultural significance to American Indian tribes law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendment s effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. The NAHC advises the Lead Agency to request a Sacred Lands File search of the NAHC if one has not been done for the 'area of potential effect' or APE previously.

The NAHC "Sacred Sites," as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254 (r).

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We strongly urge that you



make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project. Pursuant to CA Public Resources Code § 5097.95, the NAHC requests cooperation from other public agencies in order that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties, including archaeological studies. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and California Public Resources Code Section 21083.2 (Archaeological Resources) that requires documentation, data recovery of cultural resources, construction to avoid sites and the possible use of covenant easements to protect sites.

Furthermore, the NAHC if the proposed project is under the jurisdiction of the statutes and regulations of the National Environmental Policy Act (e.g. NEPA; 42 U.S.C. 4321-43351). Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq*), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'

Confidentiality of "historic properties of religious and cultural significance" should also be considered as protected by California Government Code §6254( r) and may also be protected under Section 304 of he NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APEs and possibility threatened by proposed project activity.

Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for inadvertent discovery of human remains mandate the processes to be followed in the event of a discovery of human remains in a project location other than a 'dedicated cemetery'.

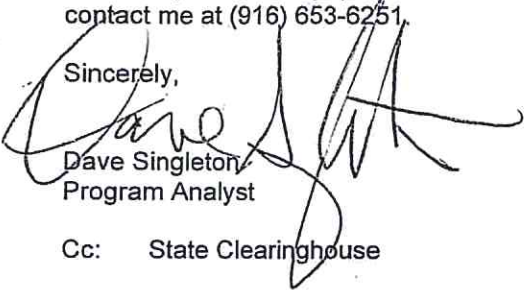
To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

Finally, when Native American cultural sites and/or Native American burial sites are prevalent within the project site, the NAHC recommends 'avoidance' of the site as referenced by CEQA Guidelines Section 15370(a).

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If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

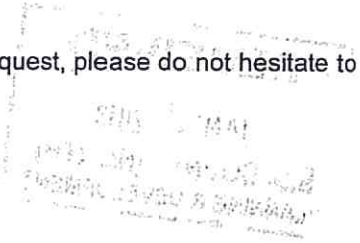
Sincerely,



Dave Singleton  
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List



RESOLUTION OF THE SANTA BARBARA COUNTY PLANNING COMMISSION  
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING ) RESOLUTION NO.: 13 - \_\_\_\_\_  
TO THE BOARD OF SUPERVISORS THAT )  
AN ORDINANCE BE APPROVED AMENDING) CASE NO.: 12RZN-00000-00003  
SECTION 35-1, THE SANTA BARBARA )  
COUNTY LAND USE AND DEVELOPMENT )  
CODE, OF CHAPTER 35 OF THE SANTA )  
BARBARA COUNTY CODE, BY AMENDING )  
THE COUNTY ZONING MAP BY CHANGING )  
THE ZONING OF ASSESSOR'S PARCEL )  
NUMBERS 099-141-016, -017 FROM 40-AG TO)  
AG-II-40 )

WITH REFERENCE TO THE FOLLOWING:

- A. Whereas all zoning maps and zoning designations previously adopted under the provisions of Sections 35.14.020 and 35-516, "Adoption of New Zoning Maps", of Chapter 35, Zoning, of the Code of the County of Santa Barbara, California, are hereby repealed as they relate to Assessor's Parcel Numbers 099-141-016, -017 as shown in Exhibit A of Exhibit 1.
- B. Whereas the County Planning Commission has held a duly noticed public hearing, as required by Section 65484 of the Government Code on the proposed amendment to a zoning ordinance, at which hearing the proposed amendments were explained and comments invited from persons in attendance.
- C. Whereas Section 65855 of the Government Code requires inclusion of the reason for the recommendation and the relationship of the zoning map amendment to the applicable general and specific plans, which is hereby identified as necessary to provide needed residential development within the existing urban core rather than extending the Urban Boundary line into the designated Rural area of the County consistent with the General Comprehensive Plan.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The Commission recommends that the Board of Supervisors approve an Ordinance, Exhibit 1, Amending Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35 of the Santa Barbara County Code, by Amending the County Zoning Map by changing the zoning of Assessor's Parcel Numbers 099-141-016, -017 from 40-AG to AG-II-40 based on the findings included as Attachment A of the Planning Commission staff report dated August 22, 2013.

2. A certified copy of this resolution shall be transmitted to the Board of Supervisors.

PASSED, APPROVED AND ADOPTED this 11th day of September, 2013 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
JOAN HARTMANN, Chair  
Santa Barbara County Planning Commission

ATTEST:

\_\_\_\_\_  
Dianne Black  
Secretary to the Commission

APPROVED AS TO FORM:

DENNIS A. MARSHALL  
COUNTY COUNSEL

By \_\_\_\_\_  
Deputy County Counsel

EXHIBITS:

1. Ordinance

**EXHIBIT 1**

LAND USE DEVELOPMENT CODE (ZONING MAP AMENDMENT)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND ASSESSOR PARCEL NUMBERS 099-141-016, -017

Case No. 12RZN-00000-00003

The Board of Supervisors of the County of Santa Barbara ordains as follows:

**SECTION 1**

All zoning maps and zoning designations previously adopted under the provisions of Sections 35.14.020 and 35-516, "Adoption of New Zoning Maps," of Chapter 35, Zoning, of the Code of the County of Santa Barbara, California, are hereby repealed as they related to Assessor's Parcel Numbers 099-141-016, -017 shown on the map attached hereto as Exhibit A and incorporated by reference.

**SECTION 2**

Pursuant to the provisions of Section 35.14.020, "Adopting New Zoning Ordinances and Maps," of Land Use Development Code, of Chapter 35 of the Code of the County of Santa Barbara, California, the Board of Supervisors hereby adopts by reference the Zoning Map identified as Board of Supervisors Exhibit A, dated (date of approval by Board of Supervisors), which re-designates Assessor's Parcel Numbers 099-141-16, -017 from 40-AG to AG-II-40 and which is made a part of said section by reference, with the same force and effect as if the boundaries, locations, and lines of the districts and territory therein delineated and all notations, references, and other information shown on said Zoning Map were specifically and fully set out and described therein, as exhibited in Exhibit A, and which is made part of said section by reference, with the same force and effect as if the boundaries, locations, and lines of the districts and territory therein delineated and all notations, references, and other information shown on said Zoning Map were specifically and fully set out and described therein.

**SECTION 3**

The Chair of the Board of Supervisors is hereby authorized and directed to endorse said Exhibit A to show that said map has been adopted by this Board.

**SECTION 4**

Except as amended by this Ordinance, Section 35.14.020 of the Land Use Development Code of Santa Barbara County, California, shall remain unchanged and shall continue in full force and effect.

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## SECTION 5

This ordinance shall take effect and be in force thirty (30) days from the date of its passage; and before the expiration of fifteen (15) days after its passage it, or a summary of it, shall be published once, with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_ day of \_\_\_\_, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CHANDRA L. WALLAR  
Clerk of the Board of Supervisors

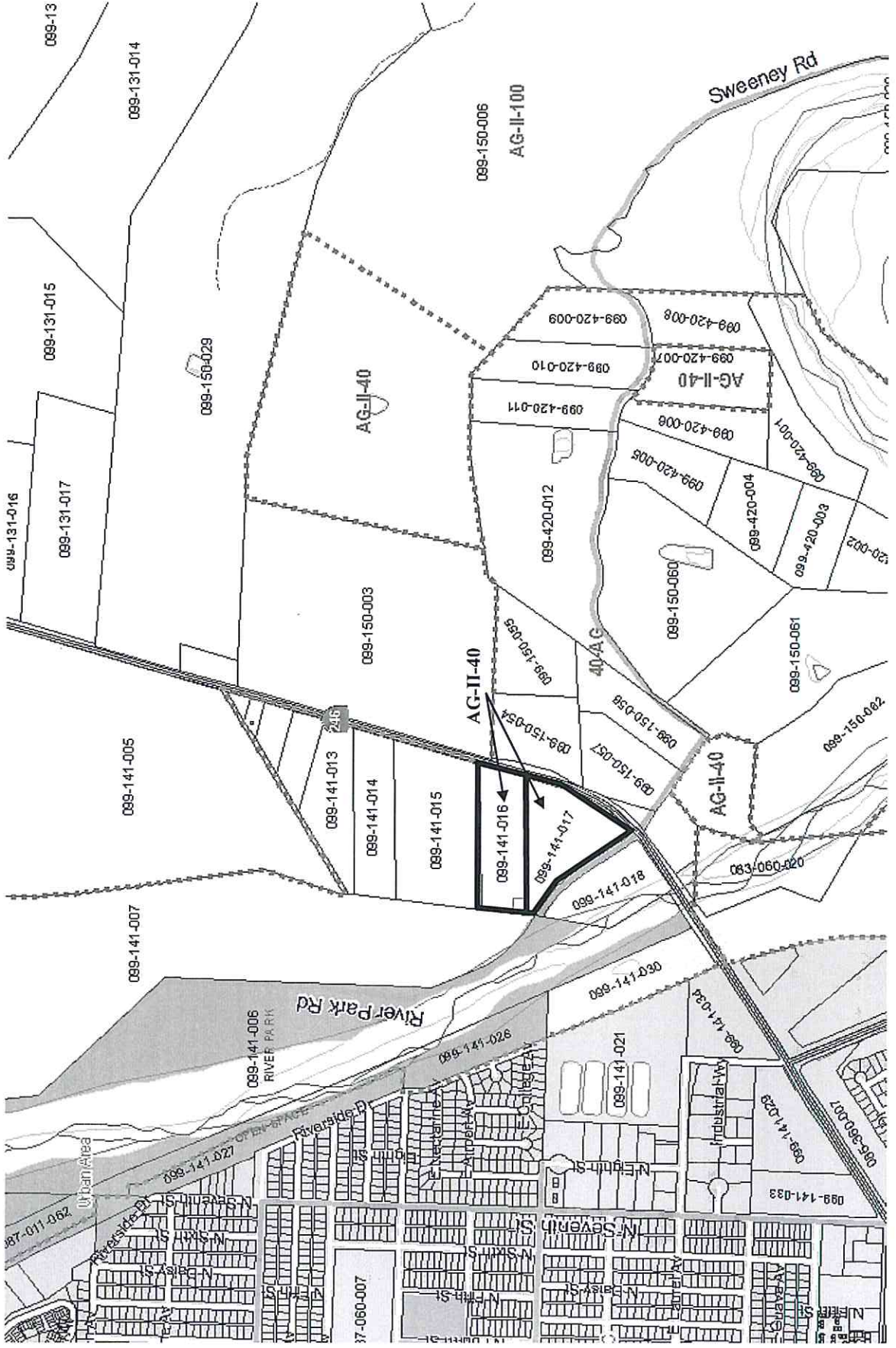
By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
SALUD CARBAJAL, Chair, Board of Supervisors  
County of Santa Barbara  
State of California

DENNIS A. MARSHALL  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

# EXHIBIT A



ATTACHMENT E



CITY OF  
**LOMPOC**

May 30, 2012

05/30/2012  
14:06 2012  
S.B. COUNTY  
PLANNING & DEVELOPMENT

County of Santa Barbara  
Public Health Department, Environmental Health Services (EHS)  
123 East Anapamu Street  
Santa Barbara, CA 93101

Subject: Availability of Drinking Water and Restrooms at River Park

To Whom It May Concern:

This letter is to confirm that there are public restrooms and drinking water facilities at River Park, located adjacent to Mr. Mosby's proposed project parcel at 625 East Highway 246 and No. 2 River Park Road. These facilities are separate, and do not include, the facilities that are only accessible to paid campers, and they are easily accessed and available for use by the general public.

The City of Lompoc owns and operates these facilities, and provides all necessary maintenance. Once Mr. Mosby's completed project is operating, evaluation can be made to ascertain if the public facility restrooms and drinking water use warrants additional maintenance, at which time the City of Lompoc will enter into an agreement with Mr. Mosby for those additional required services.

This project will be a real asset to the City of Lompoc, providing our community extended opportunities for recreation. Mr. Mosby is to be commended for his initiative to facilitate this community benefit. The City of Lompoc welcomes this opportunity and appreciates your assistance in this matter.

Respectfully Submitted,

Laurel M. Barcelona  
City Administrator

C: Lompoc City Council  
Joseph W. Pannone, City Attorney  
Larry A. Bean, Public Works Director  
Douglas K. Anthony, Deputy Director



ATTACHMENT F



CITY OF  
**LOMPOC**

August 8, 2013

Honorable Planning Commission Chair and Members  
County of Santa Barbara  
123 E. Anapamu Street  
Santa Barbara, CA 93101

Subject: Mosby Rezone and Recreational Fields Application  
River Park Road

Honorable Chair and Commission Members:

This letter is in regards to Case Nos. 12RZN-00000-00003, and 11CUP-00000-00032 pending before the County Planning Commission at the request of Jim Mosby (Project). The City of Lompoc owns the property locally know as "River Park Road" adjacent to the Project. River Park Road is also referred to in documents prepared by the County in support of the application. The Project Description relies on River Park Road to provide access. (See site plan attached.)

Be advised that River Park Road is property owned in fee by the City of Lompoc and not a public road as described in the Project. The City of Lompoc is willing to grant temporary right of entry to support the Project and is in negotiations with the owner to that end.

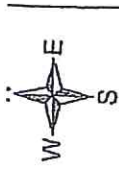
The City of Lompoc continues to support the Project and believes it will be an asset to the community as it enhances recreational opportunities. Mr. Mosby is to be commended for his initiative to facilitate this community benefit.

Respectfully Submitted,

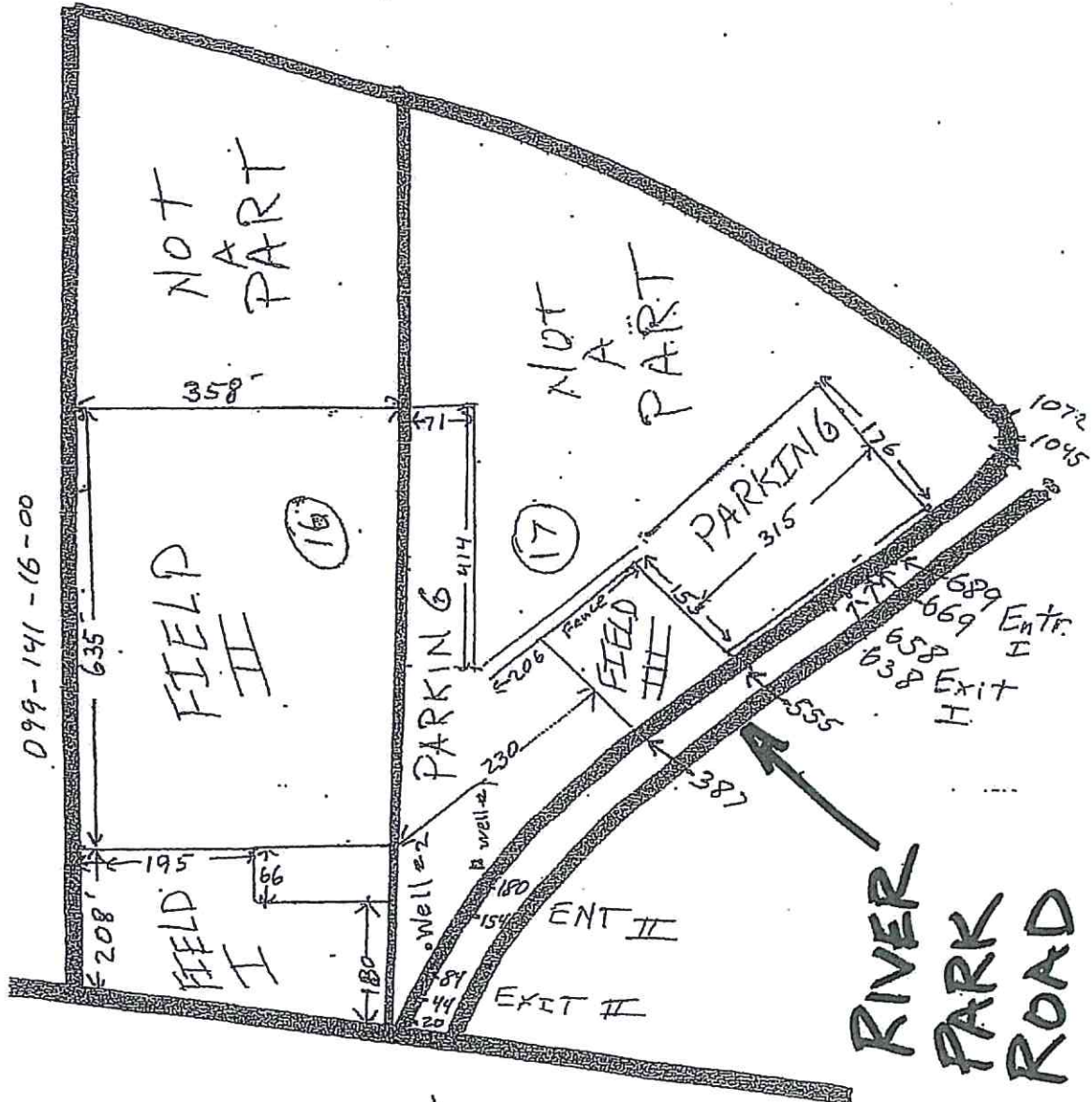
Laurel M. Barcelona  
City Administrator

Attach: Site Plan

C: Lompoc City Council  
Joseph W. Pannone, City Attorney  
Dana Carmichael, Project Planner  
Douglas K. Anthony, Planning Deputy Director  
Jim Mosby



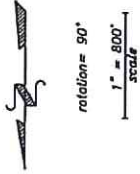
7" = 1200'



★  
Public Restroom

ATTACHMENT G

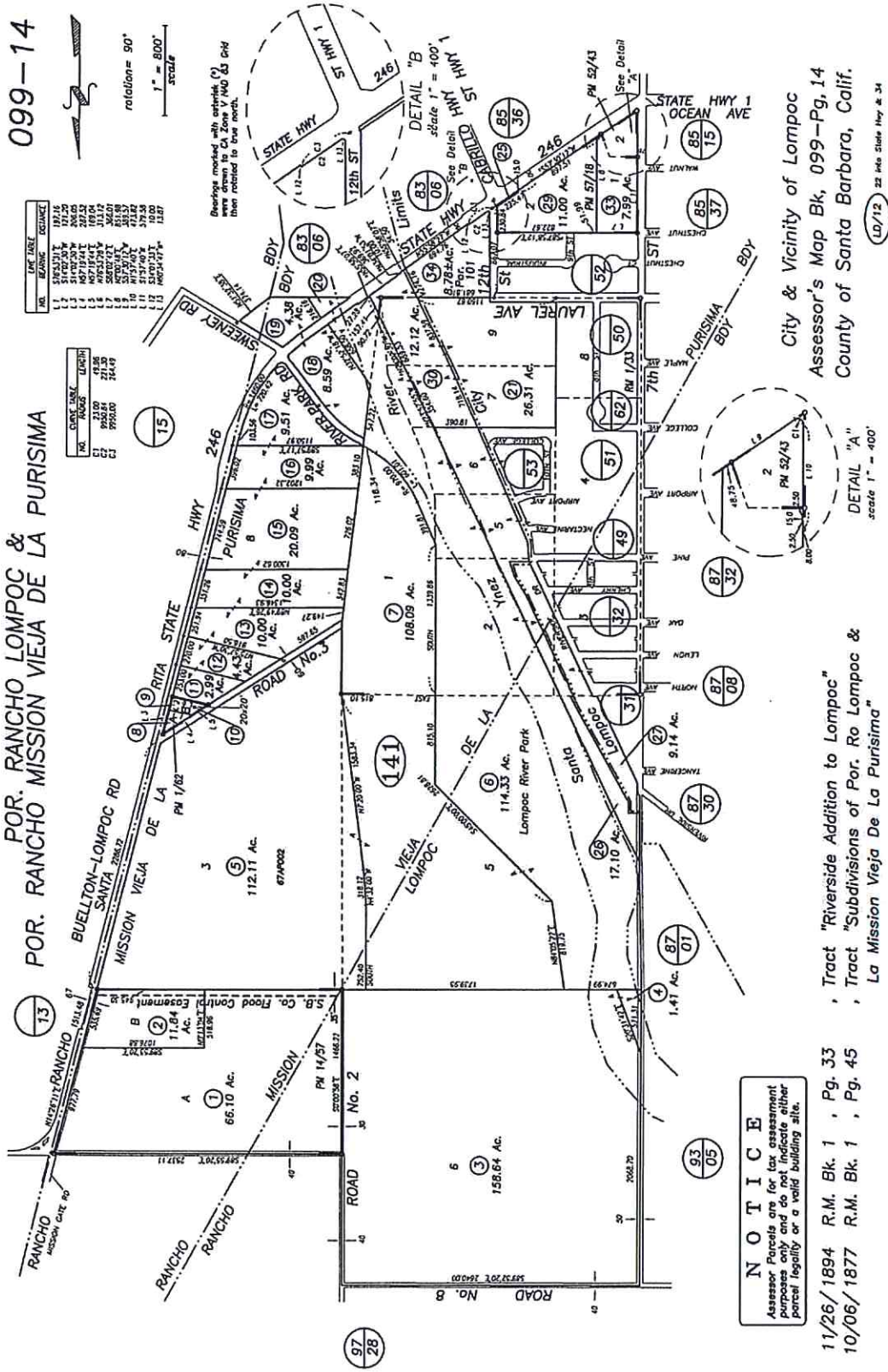
099-14



LINE	MARK	DISTANCE
1	51432.31	197.5
2	51432.31	206.0
3	51432.31	206.0
4	51432.31	197.5
5	49711.44	169.2
6	49711.44	169.2
7	49711.44	169.2
8	49711.44	169.2
9	49711.44	169.2
10	49711.44	169.2
11	49711.44	169.2
12	49711.44	169.2
13	49711.44	169.2

LINE	MARK	DISTANCE
1	49711.44	169.2
2	49711.44	169.2
3	49711.44	169.2
4	49711.44	169.2
5	49711.44	169.2
6	49711.44	169.2
7	49711.44	169.2
8	49711.44	169.2
9	49711.44	169.2
10	49711.44	169.2
11	49711.44	169.2
12	49711.44	169.2
13	49711.44	169.2

Boundaries marked with asterisks (\*) were drawn to CA Zone V NAD 83 GHD then rotated to true north.



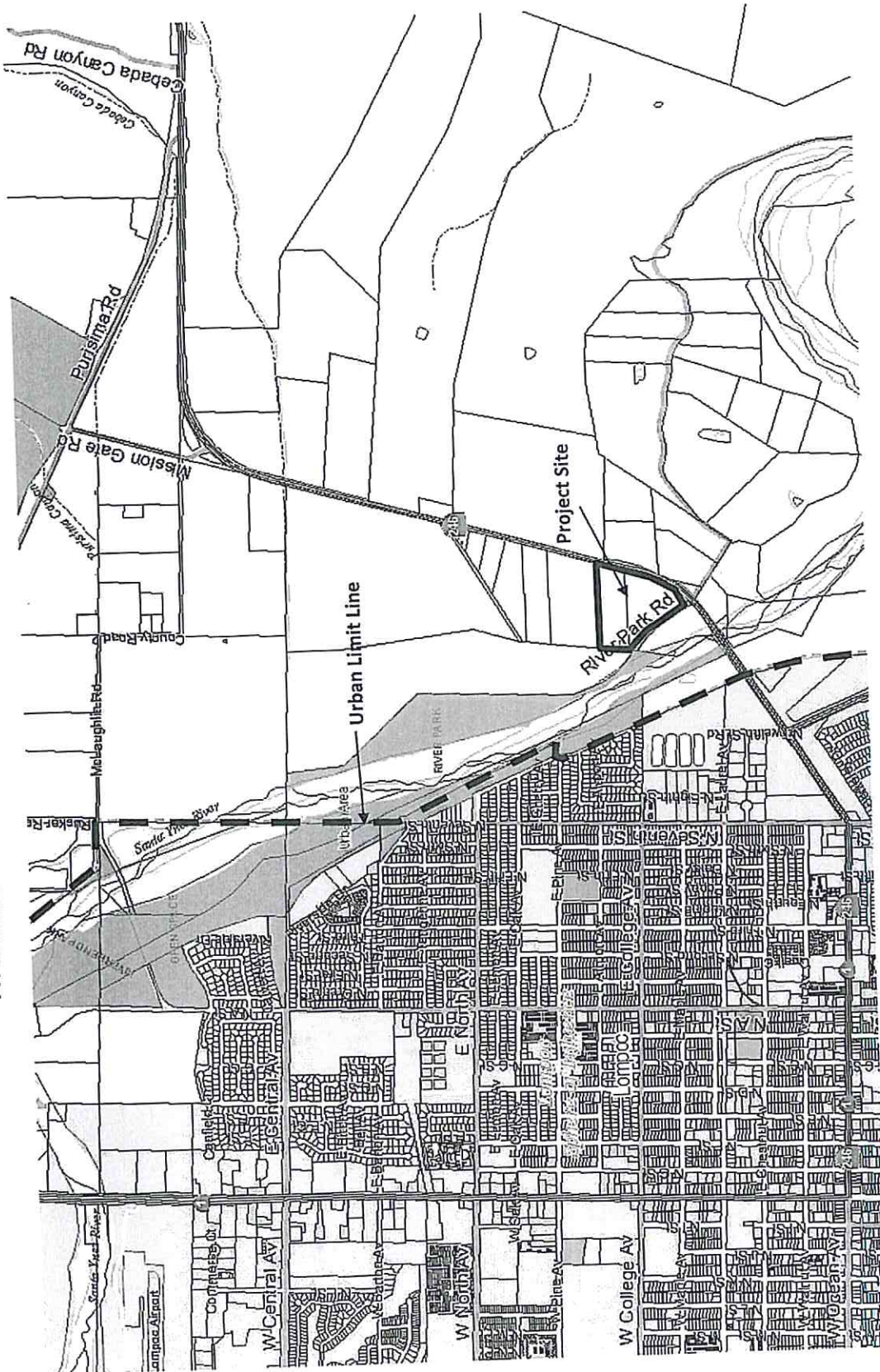
**NOTICE**  
Assessor's Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

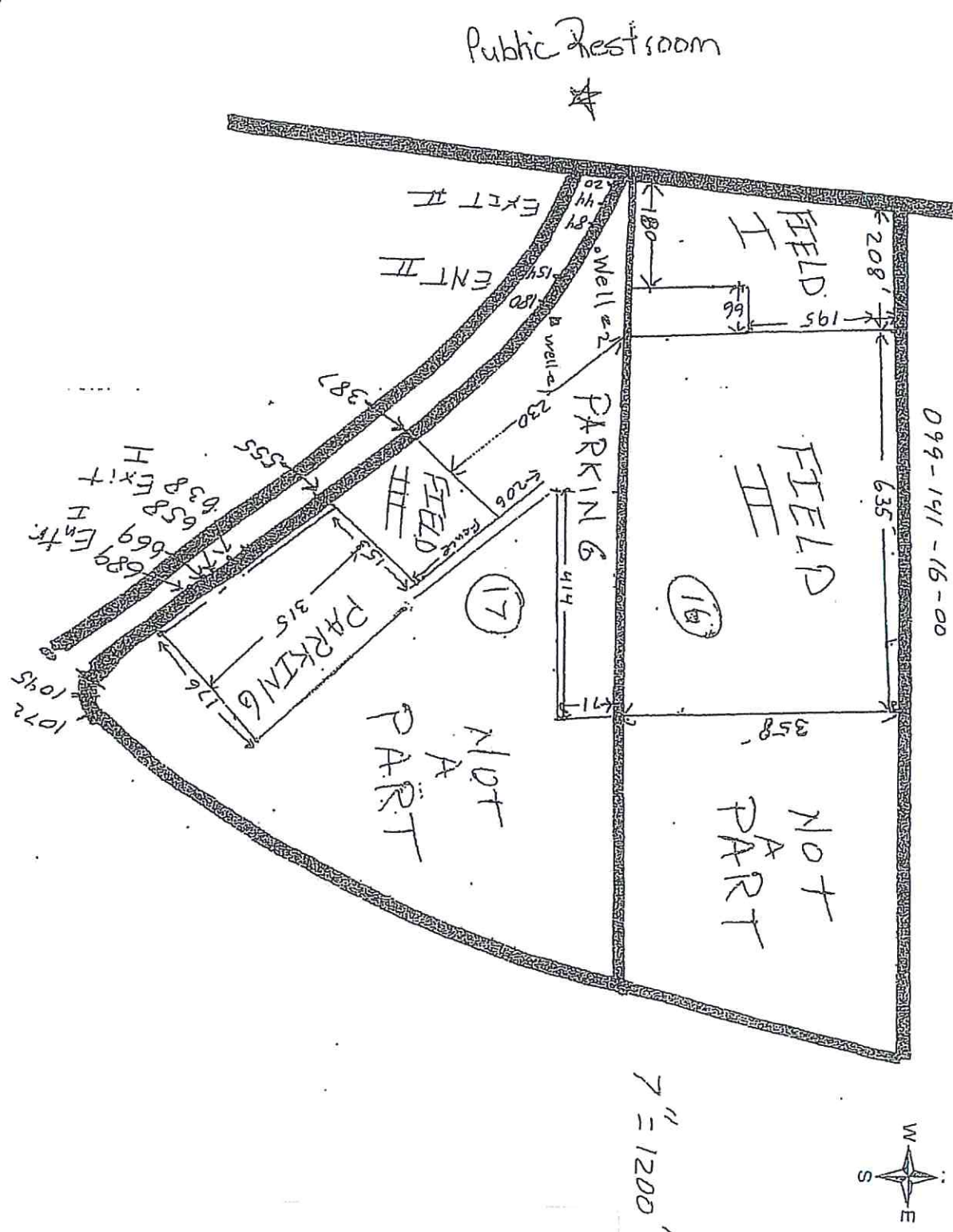
11/26/1894 R.M. Bk. 1 , Pg. 33  
10/06/1877 R.M. Bk. 1 , Pg. 45  
Tract "Riverside Addition to Lompoc"  
Tract "Subdivisions of Por. Ro Lompoc & La Mission Vieja De La Purisima"

City & Vicinity of Lompoc  
Assessor's Map Bk, 099-Pg. 14  
County of Santa Barbara, Calif.

Scale 1" = 400'

ATTACHMENT H: URBAN SPHERE OF INFLUENCE





ATTACHMENT I



**COUNTY OF SANTA BARBARA  
PLANNING AND DEVELOPMENT**

**MEMORANDUM**

**TO:** County Planning Commission

**FROM:** Alice McCurdy, Deputy Director  
Staff contact: John Karamitsos, Supervising Planner

**DATE:** December 4, 2013

**HEARING DATE:** December 4, 2013

**RE:** Mosby Outdoor Sports & Recreation Facility and Consistency Rezone  
Case Nos. 12RZN-00000-00003, 11CUP-00000-00032

---

At the December 4, 2013 hearing, the item was trailed to provide staff with time to augment the recommended Comprehensive Plan inconsistency discussion and Findings for Denial of the project. The revised Findings for denial are included as Attachment A to this Memorandum, and the revised Comprehensive Plan Consistency analysis is included as Attachment B.

Proposed revisions are indicated through Underline and ~~Strikethrough~~.

**Recommended Actions:**

Staff recommends denial of Case Nos. 12RZN-00000-00003 and 11CUP-00000-00032 marked "Officially Accepted, County of Santa Barbara December 4, 2013 County Planning Commission Exhibit 1", based upon the project's inconsistency with the Comprehensive Plan, and based on the inability to make the required findings.

Your Commission's motion should include the following:

1. Recommend that the Board of Supervisors make the required findings to deny the project specified in Attachment A of the staff memorandum dated December 4, 2013;
2. Recommend that the Board of Supervisors determine the project denial to be exempt from CEQA pursuant to Guideline Section 15270 (Attachment B of the staff memorandum dated November 19, 2013); and
3. Recommend that the Board of Supervisors deny the project (12RZN-3, 11CUP-32).

Mosby Recreational Fields and Consistency Rezone  
Case Nos. 12RZN-00000-00003, 11CUP-00000-00032  
Hearing Date: December 4, 2013  
Page 2

Refer back to staff if the County Planning Commission takes other than the recommended action for appropriate findings and conditions.

**Attachments:**

- A. Findings
- B. Comprehensive Plan Consistency

G:\GROUP\PERMITTING\Case Files\CUP\11 cases\11CUP-00000-00032 Mosby Recreational Fields\Planning Commission\Staff Reports and Memos\Revised Findings for Denial and Comp Plan Inconsistency 12-04-13.docx

## ATTACHMENT A: FINDINGS

### 1.0 CEQA FINDINGS

#### 1.1 CEQA Exemption

The Board of Supervisors finds that the denial of the proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15270. Please see Attachment B, Notice of Exemption.

### 2.0 ADMINISTRATIVE FINDINGS

#### 2.1 REZONE FINDINGS

In compliance with Section 35.104.060 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for an Amendment to the Development Code, Local Coastal Program, or Zoning Map the review authority shall first make all of the findings. However, as a result of the recommendation for project denial, only those findings which cannot be made are discussed below.

##### 2.1.1 The request is in the interests of the general community welfare.

The unpermitted active public recreational uses consisting of soccer fields, a paintball field, and a remote-controlled car track are located directly adjacent to agriculturally zoned property under cultivation. There are no permanent buffers established between the existing active public recreation, and adjacent agricultural operations.

The proposed rezone would facilitate the approval of a project which would:

1) be located on agriculturally zoned property without the establishment of permanent buffers between proposed recreational uses and agriculturally designated property, including properties that are in active production. The close proximity of these active public recreational uses to active agriculture without the establishment of permanent buffers creates land use conflicts which would adversely impact agricultural operations by threatening the long-term agricultural productivity on surrounding parcels;

2) establish an urban type of land use across the Santa Ynez River, a natural green-belt buffer/boundary between the City of Lompoc and the project site, which would introduce people and pets into an area of active agricultural activity. The presence of people and pets creates food safety concerns for surrounding agriculture, and represents an incremental increase in urban/rural conflicts.

Therefore, approval of the rezone is not in the interests of the general community welfare.



**2.1.2 The request is consistent with good zoning and planning practices.**

The unpermitted active public recreational uses consisting of soccer fields, a paintball field, and a remote-controlled car track are located directly adjacent to active agricultural operations which are under cultivation (flowers). The close proximity of these active public recreational uses to active agriculture without the establishment of permanent buffers creates land use conflicts which would adversely impact agricultural operations by threatening the long-term agricultural productivity on surrounding parcels.

The proposed rezone would facilitate the approval of a project which would establish an urban type of land use across the Santa Ynez River, a natural green-belt buffer/boundary between the City of Lompoc and the project site, which would introduce people and pets into an area of active agricultural activity. The presence of people and pets creates food safety concerns for surrounding agriculture, and represents an incremental increase in urban/rural conflicts.

Therefore, approval of the proposed rezone is not consistent with good zoning and planning practices.

**2.2 CONDITIONAL USE PERMIT FINDINGS**

**Findings required for all Conditional Use Permits.** In compliance with Subsection 35.82.060.E.1 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Conditional Use Permit or Minor Conditional Use Permit the review authority shall first make all of the findings, as applicable. However, as a result of the recommendation for project denial, only those findings which cannot be made are discussed below.

**2.2.1 The site for the proposed project is adequate in terms of location, physical characteristics, shape, and size to accommodate the type of use and level of development proposed.**

The subject 9.99 (APN 099-141-016) and 9.50 (APN 099-141-017) gross acre parcels are located on the northwest side of Highway 246 approximately 0.5 miles northeast of the City of Lompoc and the intersection of Highway 1 and Highway 246. The project site is located adjacent to active agricultural cultivation with cultivated fields (flowers) located within 100 feet of the subject property.

The proposed project site is located approximately 1,000 feet east of the Lompoc City Limit line, with the Santa Ynez River, a natural green-belt buffer/boundary between the City of Lompoc and the project site in between.

The close proximity of these active public recreational uses to cultivated agriculture creates land use conflicts which would adversely impact agricultural

operations by threatening the long-term agricultural productivity on surrounding parcels. The small size of the parcels precludes the ability to provide adequate buffers onsite to separate the recreational uses from the surrounding agricultural uses. Therefore, the project site is not adequate in terms of location and physical characteristics to accommodate the type of use and level of proposed development, and the project is not consistent with this finding.

**2.2.2 The proposed project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will be compatible with the surrounding area.**

The close proximity of existing agricultural operations to the existing and proposed active public recreational activities would introduce land use conflicts which would be detrimental to the general welfare, comfort, health, and safety of sensitive receptors (i.e. children and adults utilizing the recreation facility). Therefore, the project is not consistent with this finding.

**2.2.6 The proposed project will comply with all applicable requirements of this Development Code and the Comprehensive Plan, including any applicable community or area plan.**

The unpermitted active public recreational uses consisting of soccer fields, a paintball field, and a remote-controlled car track are located directly adjacent to agriculturally zoned property under cultivation. There are no permanent buffers established between the existing active public recreation, and adjacent agricultural operations. The close proximity of these active public recreational uses to active agriculture without the establishment of permanent buffers creates land use conflicts which would adversely impact agricultural operations by threatening the long-term agricultural productivity on surrounding parcels. As a result, the project would not comply with the Lompoc Area Goals and Comprehensive Plan Land Use Element Policies discussed in Attachment C.

**2.2.7 Within Rural areas as designated on the Comprehensive Plan maps, the proposed use will be compatible with and subordinate to the rural and scenic character of the area.**

The close proximity of active public recreational uses to cultivated agriculture would introduce land use conflicts which are incompatible with, and insubordinate to, surrounding agricultural activities in a designated Rural area of the County. The small size of the parcels precludes the ability to provide adequate buffers onsite to separate the recreational uses from the surrounding agricultural uses. Therefore, the proposed use is not compatible with or subordinate to the rural character of the area, and the project is not consistent with this finding.

**ATTACHMENT B**

**COMPREHENSIVE PLAN CONSISTENCY**

REQUIREMENT	DISCUSSION
<i><b>LAND USE ELEMENT</b></i>	
<p><i><b>Land Use Development Policy 3</b></i></p> <p>No urban development shall be permitted beyond boundaries of land designated for urban uses except in neighborhoods in rural areas.</p>	<p><b>Inconsistent:</b> <u>The proposed project site is located on agriculturally zoned land located approximately 1,000 feet east of the Lompoc City Limit line. The Santa Ynez River represents a natural green-belt buffer/boundary between the City of Lompoc and the project site.</u></p> <p>The proposed project would convert agricultural lands which are not located in a designated rural neighborhood to urban type recreational uses. Suitable areas for the proposed uses currently exist within the City of Lompoc. Therefore, the proposed project is not consistent with this Policy.</p>
<p><i><b>Lompoc Area Community Goals</b></i></p> <p><i><b>Land Use</b></i></p> <p><i>The unique character of the area should be protected and enhanced with particular emphasis on protection of agricultural lands, grazing lands, and natural amenities.</i></p> <p><i>Prime agricultural lands should be preserved for agricultural use only. Preservation of lesser grades of presently producing or potential agricultural land should be actively encouraged.</i></p>	<p><b>Inconsistent:</b> The recreational facility would continue to be visible to travelers from Highway 246. The project site is located along one of the main entrance corridors coming into the City of Lompoc and is located <u>approximately 1,000 feet east of the City Limit line on the urban fringe of the City.</u></p> <p>Section 35.43.240 of the Land Use and Development Code allows for outdoor sports and recreational facilities on agriculturally zoned parcels with the approval of a Conditional Use Permit. However, the unpermitted recreational uses, consisting of soccer fields, a paintball field, and a remote-controlled car track, are located directly adjacent to active agricultural operations.</p> <p><u>The establishment of an urban type land use across the Santa Ynez River, a natural green-belt buffer/boundary between the City of Lompoc and the project site represents an incremental increase in urban/rural conflicts based on the introduction of food safety concerns associated with people and pets onsite.</u></p>

REQUIREMENT	DISCUSSION
	<p>The close proximity of these active public recreational uses to active agriculture without the establishment of permanent buffers creates land use conflicts which would adversely impact agricultural operations by threatening the long-term agricultural productivity on surrounding parcels. The project also has the potential to adversely affect sensitive receptors (i.e. adults and children) using the recreational facilities <u>on the proposed project site</u>. Therefore, the proposed project is not consistent with these Lompoc area community goals.</p>
<b><i>AGRICULTURAL ELEMENT</i></b>	
<p><b><i>GOAL I:</i></b> Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara County. Agriculture shall be encouraged. Where conditions allow, (taking into account environmental impacts) expansion and intensification shall be supported.</p> <p><b><i>Policy I.A.</i></b> The integrity of agricultural operations shall not be violated by recreational or other non-compatible uses.</p> <p><b><i>Policy I.E.</i></b> The County shall recognize that the generation of noise, smoke, odor, and dust is a natural consequence of the normal agricultural practices provided that agriculturalists exercise reasonable measures to minimize such effects.</p> <p><b><i>Policy I.F.</i></b> The quality and availability of water, air, and soil resources shall be protected through provisions including but not limited to, the stability of Urban/Rural Boundary Lines, maintenance of buffer areas around agricultural areas, and the promotion of conservation practices.</p> <p><b><i>GOAL II.</i></b> Agricultural lands shall be protected from adverse urban influence.</p>	<p><b>Inconsistent:</b> The unpermitted recreational uses consisting of soccer fields, a paintball field, and a remote-controlled car track are located directly adjacent to active agricultural operations. There are no permanent buffers established between the existing active public recreation, and adjacent agricultural operations.</p> <p>The close proximity of these active public recreational uses to active agriculture without the establishment of permanent buffers creates land use conflicts which would adversely impact agricultural operations by threatening the long-term agricultural productivity on surrounding parcels.</p> <p><u>The establishment of an urban type land use across the Santa Ynez River, a natural green-belt buffer/boundary between the City of Lompoc and the project site represents an incremental increase in urban/rural conflicts based on the introduction of food safety concerns associated with people and pets onsite.</u></p> <p>The small size of the parcels precludes the ability to provide adequate buffers onsite to separate the recreational uses from the surrounding agricultural uses.</p> <p>The proposed project would convert</p>

REQUIREMENT	DISCUSSION
<p><i><b>Policy II.D.</b> Conversion of highly productive agricultural lands whether urban or rural, shall be discouraged. The County shall support programs which encourage the retention of highly productive agricultural lands.</i></p> <p><i><b>GOAL III.</b> Where it is necessary for agricultural lands to be converted to other uses, this use shall not interfere with remaining agricultural operations.</i></p> <p><i><b>Policy III.A.</b> Expansion of urban development into active agricultural areas outside of urban limits is to be discouraged, as long as infill development is available.</i></p>	<p>agricultural lands, which could be used for high agricultural productivity, to an urban level of use and influence. Suitable areas for the proposed uses currently exist within the City of Lompoc.</p> <p>Therefore, the proposed project would impair the agricultural productivity of the land, and would not be consistent with these Agricultural Element goals and policies.</p>



COUNTY OF SANTA BARBARA  
PLANNING AND DEVELOPMENT

MEMORANDUM

**TO:** County Planning Commission

**FROM:** Alice McCurdy, Deputy Director  
Staff contact: Dana Eady, Planner *Alice McCurdy*

**DATE:** November 26, 2013

**HEARING DATE:** December 4, 2013

**RE:** Mosby Outdoor Sports & Recreation Facility and Consistency Rezone  
Case Nos. 12RZN-00000-00003, 11CUP-00000-00032

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At the November 13, 2013 hearing, the Planning Commission continued the proposed project to the December 4, 2013 hearing date, and directed staff to return with recommended Findings for denial of the project. The requested Findings for denial are included as Attachment A to this Memorandum and are based on the proposed project's incompatibility with surrounding agricultural activities. In addition, a CEQA Exemption for the denial of the proposed project is included as Attachment B, and a Comprehensive Plan Consistency analysis is included as Attachment C.

**Background:**

The Mosby Recreational Fields Consistency Rezone and Conditional Use Permit is a request by the property owner, Mr. Jim Mosby, to rezone two approximately 10-acre parcels from 40-AG to AG-II-40, and to permit existing unpermitted public recreational development and activities consisting of a paintball field (1.5-acres), a remote control car track (0.50-acres), and athletic fields used for soccer (4.5-acres).

These recreational uses were developed on the subject parcels and opened for public use between 2006 and 2011. Upon Planning & Development's receipt of a Zoning Violation complaint, the applicant applied for the subject permits in order to permit the existing uses under the Santa Barbara County Land Use and Development Code (LUDC).

**Recommended Actions:**

Staff recommends denial of Case Nos. 12RZN-00000-00003 and 11CUP-00000-00032 marked "Officially Accepted, County of Santa Barbara December 4, 2013 County Planning Commission Exhibit 1", based upon the project's inconsistency with the Comprehensive Plan, and based on the inability to make the required findings.

Your Commission's motion should include the following:

1. Recommend that the Board of Supervisors make the required findings to deny the project specified in Attachment A of the staff memorandum dated November 19, 2013;
2. Recommend that the Board of Supervisors determine the project denial to be exempt from CEQA pursuant to Guideline Section 15270 (Attachment B of the staff memorandum dated November 19, 2013); and
3. Recommend that the Board of Supervisors deny the project (12RZN-00000-00003, 11CUP-00000-00032).

Refer back to staff if the County Planning Commission takes other than the recommended action for appropriate findings and conditions.

**Attachments:**

- A. Findings
- B. CEQA Section 15270 Exemption
- C. Comprehensive Plan Consistency

## ATTACHMENT A: FINDINGS

### 1.0 CEQA FINDINGS

#### 1.1 CEQA Exemption

The Board of Supervisors finds that the denial of the proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15270. Please see Attachment B, Notice of Exemption.

### 2.0 ADMINISTRATIVE FINDINGS

#### 2.1 REZONE FINDINGS

In compliance with Section 35.104.060 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for an Amendment to the Development Code, Local Coastal Program, or Zoning Map the review authority shall first make all of the findings. However, as a result of the recommendation for project denial, only those findings which cannot be made are discussed below.

##### **2.1.1 The request is in the interests of the general community welfare.**

The unpermitted active public recreational uses consisting of soccer fields, a paintball field, and a remote-controlled car track are located directly adjacent to agriculturally zoned property under cultivation. There are no permanent buffers established between the existing active public recreation, and adjacent agricultural operations. The proposed rezone would facilitate the approval of a project located on agriculturally zoned property without the establishment of permanent buffers between proposed recreational uses and agriculturally designated property, including properties that are in active production. The close proximity of these active public recreational uses to active agriculture without the establishment of permanent buffers creates land use conflicts which would adversely impact agricultural operations by threatening the long-term agricultural productivity on surrounding parcels. Therefore, approval of the rezone is not in the interests of the general community welfare.

##### **2.1.2 The request is consistent with good zoning and planning practices.**

The unpermitted active public recreational uses consisting of soccer fields, a paintball field, and a remote-controlled car track are located directly adjacent to active agricultural operations which are under cultivation (flowers). The close proximity of these active public recreational uses to active agriculture without the establishment of permanent buffers creates land use conflicts which would adversely impact agricultural operations by threatening the long-term agricultural productivity on surrounding parcels. Therefore, approval of the proposed rezone is not consistent with good zoning and planning practices.



## 2.2 **CONDITIONAL USE PERMIT FINDINGS**

**Findings required for all Conditional Use Permits.** In compliance with Subsection 35.82.060.E.1 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Conditional Use Permit or Minor Conditional Use Permit the review authority shall first make all of the findings, as applicable.

However, as a result of the recommendation for project denial, only those findings which cannot be made are discussed below.

### 2.2.1 **The site for the proposed project is adequate in terms of location, physical characteristics, shape, and size to accommodate the type of use and level of development proposed.**

The subject 9.99 (APN 099-141-016) and 9.50 (APN 099-141-017) gross acre parcels are located on the northwest side of Highway 246 approximately 0.5 miles northeast of the City of Lompoc and the intersection of Highway 1 and Highway 246. The project site is located adjacent to active agricultural cultivation with cultivated fields (flowers) located within 100 feet of the subject property.

The close proximity of these active public recreational uses to cultivated agriculture creates land use conflicts which would adversely impact agricultural operations by threatening the long-term agricultural productivity on surrounding parcels. The small size of the parcels precludes the ability to provide adequate buffers onsite to separate the recreational uses from the surrounding agricultural uses. Therefore, the project site is not adequate in terms of location and physical characteristics to accommodate the type of use and level of proposed development, and the project is not consistent with this finding.

### 2.2.2 **The proposed project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will be compatible with the surrounding area.**

The close proximity of existing agricultural operations to the existing and proposed active public recreational activities would introduce land use conflicts which would be detrimental to the general welfare, comfort, health, and safety of sensitive receptors (i.e. children and adults utilizing the recreation facility). Therefore, the project is not consistent with this finding.

### 2.2.6 **The proposed project will comply with all applicable requirements of this Development Code and the Comprehensive Plan, including any applicable community or area plan.**

The unpermitted active public recreational uses consisting of soccer fields, a paintball field, and a remote-controlled car track are located directly adjacent to agriculturally zoned property under cultivation. There are no permanent buffers

established between the existing active public recreation, and adjacent agricultural operations. The close proximity of these active public recreational uses to active agriculture without the establishment of permanent buffers creates land use conflicts which would adversely impact agricultural operations by threatening the long-term agricultural productivity on surrounding parcels. As a result, the project would not comply with the Lompoc Area Goals and Comprehensive Plan Land Use Element Policies discussed in Attachment C.

**2.2.7 Within Rural areas as designated on the Comprehensive Plan maps, the proposed use will be compatible with and subordinate to the rural and scenic character of the area.**

The close proximity of active public recreational uses to cultivated agriculture would introduce land use conflicts which are incompatible with, and insubordinate to, surrounding agricultural activities in a designated Rural area of the County. The small size of the parcels precludes the ability to provide adequate buffers onsite to separate the recreational uses from the surrounding agricultural uses. Therefore, the proposed use is not compatible with or subordinate to the rural character of the area, and the project is not consistent with this finding.

**ATTACHMENT B**

**NOTICE OF EXEMPTION**

**TO:** Santa Barbara County Clerk of the Board of Supervisors

**FROM:** Dana Eady, Santa Barbara County Planning and Development Department

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

**APN(s):** 099-141-016, 099-141-017

**Case No.:** 12RZN-00000-00003  
11CUP-00000-00032

**Location:** The project site is located approximately ½ mile northeast of the City of Lompoc, known as 625 E. Highway 246, Fourth Supervisorial District.

**Project Title:** Mosby Consistency Rezone and Outdoor Sports and Recreation Facility

**Project Applicant:** Mr. James Mosby

**Project Description:** Disapproval of the Mosby Consistency Rezone and Outdoor Sports and Recreation Facility which includes the following: 1) a consistency rezone to update the zoning of the subject parcels from General Agriculture, 40-acre minimum lot area (40-AG) under the outdated Zoning Ordinance No. 661 to Agriculture, II, 40-acre minimum lot area (AG-II-40) under the current Santa Barbara County Land Use and Development Code (LUDC); and 2) A Conditional Use Permit to allow for existing outdoor recreational development and activities consisting of a 1.5-acre paintball field, two (2) athletic fields used totaling approximately 4.5-acres, and a 0.50-acre remote control car track.

**Name of Public Agency Approving Project:** County of Santa Barbara

**Name of Person or Agency Carrying Out Project:** Santa Barbara County Planning & Development

**Exempt Status:** (Check one)

- Ministerial
- Statutory Exemption
- Categorical Exemption
- Emergency Project
- Declared Emergency

**Cite specific CEQA and/or CEQA Guideline Section 15270 of the CEQA Guidelines (Projects which are disapproved).**

**Reasons to support exemption findings:** CEQA Section 15270 states that “CEQA does not apply to projects which a public agency rejects or disapproves.”

The proposed project would permit existing development and uses consisting of the following: 1) 1.5-acre paintball field, 2) two athletic fields totaling approximately 4.5-acres, and 3) a 0.50-acre remote control car track. Based on land use incompatibility between the proposed recreational uses and existing adjacent agricultural operations, staff is unable to recommend approval of the project as proposed.

Lead Agency Contact Person: Dana Eady Phone #: (805) 934-6266

Department/Division Representative:  Date: 11-26-13

Acceptance Date: \_\_\_\_\_

distribution: Hearing Support Staff

Date Filed by County Clerk: \_\_\_\_\_