

FINDINGS FOR DENIAL

1.0 CEQA FINDINGS

Denial of the project is exempt from environmental review based upon Section 15270 [Projects Which Are Disapproved] of the California Environmental Quality Act (CEQA) Guidelines. Section 15270 states that CEQA does not apply to project which a public agency rejects or disapproves.

2.0 LAND USE PERMIT FINDINGS

In compliance with Subsection 35.82.110.E.1 of the County Land Use and Development Code, a Land Use Permit can only be approved if the review authority can make all of the required findings. The first, third and fourth required findings cannot be made for the proposed project.

Finding No. 1.

The proposed development conforms to the applicable provisions of the Comprehensive Plan, including any applicable community or area plan and with the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).

The proposed development does not conform to the applicable provisions within the County Comprehensive Plan, or those within the Goleta Community Plan. Specifically, the proposed development is inconsistent with Comprehensive Plan Hillside and Watershed Protection Policies #1, #2 & #6 and with the Goleta Community Plan policies *GEO-GV-5, BIO-GV-1, and BIO-GV-2*, which are provided and discussed below.

County Comprehensive Plan, Land Use Element – Hillside and Watershed Protection

Policy #1: Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.

Policy #2: All developments shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

Policy #6: Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Water runoff shall be retained onsite whenever possible to facilitate groundwater recharge.

Goleta Community Plan

GEO-GV-5: *Ground disturbances and development on slopes of 20 percent or greater should be avoided, unless such avoidance would prohibit development, wherein the portion of the site which exhibits the least amount of slope shall be utilized. Development on these sites should be designed to minimize combined grading from driveway and building pad creation.*

BIO-GV-1: *The County shall designate and provide protection to important or sensitive environmental resources and habitats in the Goleta Planning Area.*

BIO-GV-2: *Environmentally Sensitive Habitat (ESH) areas and Riparian Corridors within the Goleta Planning Area shall be protected and, where feasible and appropriate, enhanced.*

Site topography in the area of proposed development was substantially altered with the importation of approximately 8,000 cubic yards of fill materials in 1999. Regardless of the flattened area created by this fill, surrounding site topography remains hilly with slopes of 20% and greater, and Franklin Creek, a mapped riparian corridor, borders the east side of the project site. The proposed project, which includes a horse arena measuring 195' x 105', a round pen measuring 60-feet in diameter, partially covered horse corrals measuring 40' x 80', a horse stall measuring 18' x 35' (630 gross sq. ft. w/ an additional 10' x 35' overhang) and a hay barn measuring 20' x 25' (500 gross sq. ft.), requires substantial flattened areas which are unavailable in the area of proposed development absent extensive grading on hilly ground of 20% slopes and greater. The project would also result in encroachment into the 50-foot buffer of the environmentally sensitive habitat (ESH) area Franklin Creek. Natural landforms would be significantly altered to accommodate this project, with grading of 1,250 cubic yards of cut into a natural, steeply sloped hillside and introduction of fill, equestrian stabling and potentially polluted stormwater runoff into the mapped ESH stream corridor of Franklin Creek. Additionally, there is another area on the ten-acre parcel apparently more suitable for at least some elements of the proposed project. This area is located on the south side of the property in another former gully that had received P&D approval for a large amount of fill in May of 2004. This permitted fill area has already been flattened and graded and, with its buttress fill, is appropriate to support at least some components of the contemplated horse facilities.

In summary, the project does not minimize grading operations for combined cut and fill on the site as the property owners seek to validate the creation of an elevated flat pad to use as a horse riding arena. Furthermore, the proposed cut and fill operation does not fit the site topography and natural landforms and substantially alters the site to accommodate the creation of a flat elevated riding arena. The ESH buffer of the adjacent Franklin Creek would be encroached upon and as such, would neither be protected, preserved to the maximum extent feasible, nor would the creek be enhanced. Lastly, as previously discussed, there is another area on the ten-acre property that, with respect to County and Goleta Community Plan Policies, is apparently more suitable for some of the elements of the proposed project. As such, the project is inconsistent with the cited policies and this finding cannot be made.

Finding No. 3.

The subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement fees and processing fees have been paid.

The subject property is currently in violation of the County Land Use & Development Code section 35.82.110.B, which requires a Land Use Permit for all new structural development and grading in excess of 50 cubic yards on a parcel within the inland area of the County. The property currently has a number of outstanding zoning violations that have not been validated or permitted by the issuance of a Land Use Permit, including the grading that exceeded the scope of Emergency Permit 11EMP-00000-00007, the relocation and reconstruction of unpermitted horse stalls, and an unpermitted hay barn. Therefore, this finding cannot be made.

Finding No. 4.

In compliance with Subsection 35.28.100.E of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Land Use Permit the review authority shall first find that the proposed development is consistent with all applicable biological goals, objectives, policies, actions and development standards of the Goleta Community Plan, in addition to all other findings required by the County Land Use and Development Code for permit approval.

As discussed above in Findings No. 1 and 3 above and incorporated herein by reference, the proposed project is not consistent with the applicable biological goals, objectives, policies, actions and development standards of the Goleta Community Plan (Policies *BIO-GV-1* and *BIO-GV-2*), nor can all of the findings required by the County Land Use and Development Code for permit approval be made. Therefore, this finding cannot be made.