



**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: County Board of Supervisors

FROM: Glenn Russell Ph.D., Director, 568-2085
Planning & Development, Development Review

DATE: June 21, 2016

RE: Pollyrich Farms Appeal of the Sierra Grande Rural Recreation Project
Conditional Use Permit; 16APL-00000-00005

At the May 17, 2016 hearing, the Pollyrich Farms appeal of the Sierra Grande Rural Recreation project (13CUP-00000-000012) was continued to June 21, 2016. The continuance was to address comments received by the California Department of Fish and Wildlife (CDFW). Planning & Development staff contacted Ms. Sarah Rains and Mr. Martin Potter of the CDFW to discuss their comments and to clarify CDFW's permitting requirements, if any, for the project. During this discussion, CDFW asked for additional information regarding the construction and use of the zip line course in connection with any ephemeral streams on the project site. Subsequently, a biological report, prepared by Bruce Reitherman, was submitted by the applicant to address CDFW comments regarding the construction and use of the zipline.

This memo also includes additional information and proposed conditions of approval related to the driveway access to the project site, the crossing over the Santa Ynez River, and the operation of the project. In addition, information regarding the Fire Department's requirements for the projects is also provided. Revised recommended actions have also been included regarding the appeal.

California Department of Fish and Wildlife Permitting Requirements

The Planning Commission Memorandum prepared for the Sierra Grande Rural Recreation Project dated January 13, 2016 describes the Streambed Alteration Agreements approved by the California Department of Fish and Game (now the Department of Fish and Wildlife) for the project site's access driveway river crossing in 2007, 2010 and 2012. In addition, the 2007 and 2010 Agreements were attached to the Memorandum as Attachment E. For information purposes, a copy of the 2012 Streambed Alteration Agreement is attached to this memo as Attachment 1. The 2012 Agreement did not include any conditions of approval or other requirements.

Prior to the May 17, 2016 appeal hearing, CDFW raised questions related to the project's use of the existing river crossing and the use of the previously approved river crossing Streambed Alteration Agreements in relation to the proposed zipline project. Staff has had the opportunity to contact CDFW and additional information related to their questions and concerns is provided below.

Use of the Existing River Crossing. In discussions with staff, CDFW indicated that the existing river crossing is already permitted through a Streambed Alteration Agreement (Attachment 3). The existing Agreement already provides access across the river to properties located on the other side of the river. CDFW indicated that the existing Streambed Alteration Agreement should not be considered as part of the project as it is already a permitted crossing. CDFW staff indicated that no additional notifications or amendments to the existing Agreement would be required. In the event that any changes are proposed to the existing crossing, then a notification would be required to the CDFW to determine if an amendment would be needed. The project is not proposing any changes or modifications to the existing crossing, therefore, notifications to CDFW or amendments to the Agreement are not needed. On June 2, 2016, an email response was sent to CDFW that summarizes staffs understanding of the issues raised by CDFW (Attachment 4). CDFW staff has stated that they concur with this description of their permitting requirements for the proposed project (Martin Potter, phone conversation, June 6, 2016).

Zipline Construction. Separate from the access across the river, CDFW indicated that the applicant would be required to obtain a Streambed Alteration Agreement if construction or operations of the proposed ziplines would impact any ephemeral streams that are under the Department's jurisdiction. Any Agreement needed for ephemeral streams would be a separate process and agreement and not part of the existing Agreement for the crossing for the Santa Ynez River. Additional information regarding the potential need for the project to obtain a Streambed Alteration Agreement for ephemeral streams on the project site is provided below.

The proposed ziplines consist of two structural elements: support poles and cables. The support poles would be located on ridges or at other elevated locations and their installation would result in minimal ground disturbance. Therefore, the installation of the support poles would not have the potential to impact streams that may be located in canyon bottoms or slopes.

The zipline cables would be suspended between the support poles, and it may be possible that the installation of the cables could result in the disturbance of the ground surface located between the support poles. CDFW's concern was that any such ground disturbance could result in short- and long-term impacts to ephemeral streams.

The project applicant has indicated that zipline cables could be installed using a variety of methods, including: the use of temporary poles and pulleys in areas where topography is relatively level and vegetation is sparse; using a "bean bag canon" that shoots a bean bag and an attached line approximately 500 feet and that line is used to pull a rope that is then used to pull the zipline cable; or transporting the cable by helicopter in areas with steep topography or dense

vegetation. The proposed cable installation techniques would result in minimal or no ground disturbance, which would substantially reduce the potential for impacts to ephemeral streams or other sensitive habitat that may be located along a zipline cable installation route. Recommended condition of approval No. 1 (Project Description) has been clarified to describe the zipline cable installation methods that may be used on the project site. The additional language added to Condition No. 1 is shown below in underline format:

Zipline. The zip line course would consist of 20 poles. ~~Eighteen~~ All of the zipline poles would be located on the High Lonesome Ranch (APNs 137-270-031 and 137-280-017). ~~and the remaining two (2) poles would be located on the Sierra Grande Ranch property~~ Each pole would be approximately 20 feet in height and 12 -18 inches in diameter. The poles are 30 feet in length, with approximately 10 feet buried, leaving 20 feet of pole height exposed. Zipline cables would be transported and installed between the support poles using a variety of methods, including: the use of small temporary poles and pulleys in areas where topography is relatively level and vegetation is sparse; using a “bean bag canon” that shoots a bean bag and an attached line approximately 500 feet and that line is used to pull a rope that is then used to pull the zipline cable; or transporting the cable by helicopter in areas with steep topography or dense vegetation. Visitors to the zipline course would be shuttled to the first zip line (zipline 0) by shuttle van via an existing 16-foot wide paved private driveway. The drop off point for the zipline 0 provides sufficient area for emergency vehicle turn around and would be utilized by emergency vehicles, if necessary.

To determine if any ephemeral streams under the jurisdiction of the CDFW exist in the proposed zipline area, the project biologist, Bruce Reitherman, conducted an evaluation of the proposed zipline cable routes. That evaluation considered a variety of factors that could result in the presence of ephemeral streams on the project site, including: precipitation characteristics, topography, hydrology, soil types and biotic indicators (i.e., wetland or riparian vegetation). In addition, each of the proposed cable installation routes was walked to the extent possible. The evaluation concluded that the existing site conditions “*strongly indicates that none of the potential drainages within the Project site rise to the level where they could reasonably be designated as a watercourse qualifying for further review under this (CDFW Code 1602) regulation.*”

Based on the apparent absence of ephemeral streams in areas that would be crossed by zipline cables, and the proposed cable installation methods that would result in little or no ground disturbance, the potential for project-related impacts to ephemeral streams, or other resources under the jurisdiction CDFW resulting from the construction or use of the proposed ziplines is very low and not considered to be significant.

The information related to proposed zipline cable installation methods, and information regarding the apparent absence of ephemeral streams in the zipline area, has been added to Section 4.4 (Biological Resources) of the Mitigated Negative Declaration (MND) prepared for the project. The Revised Final MND, dated June 3, 2016, is provided as Attachment 2 to this

memo. The biological report that evaluated the potential for ephemeral streams to be located in the proposed zipline area is included as Attachment 7 in the Revised Final MND. Minor edits were made to the Final MND to reflect the conclusions of the report, but impact levels related to biological resources were not changed.

Although it is unlikely that the project would affect ephemeral streams that are under the jurisdiction of the CDFW, the following condition of approval is proposed to address the Department's concerns regarding the construction and operation of the zipline course and conformance with their permitting requirements.

- 30.** Prior to Zoning Clearance for the construction of the zip line course, the Owner/Applicant shall provide evidence to the County of initiating the Streambed Alteration Agreement notification process with CDFW. Prior to the issuance of a Building Permit for the construction of the zipline course, the Owner/Applicant shall submit evidence to the County that the Streambed Alteration Agreement process has been completed, if required.

MONITORING: The applicant shall submit to P&D Permit Compliance evidence that CDFW requirements have been initiated prior to zoning clearance. Prior to issuance of a Building Permit, the applicant shall submit to P&D Permit Compliance evidence that a Streambed Alteration Agreement has been obtained, if required, or documentation from CDFW that it is not required.

Upon receipt of the Streambed Alteration Agreement notification, CDFW will review the application and make one of the following determinations: 1) the construction of the zipline course is not within the Department's jurisdiction; 2) the construction of the zipeline course is within the Department's jurisdiction but a Streambed Alteration Agreement is not required; or 3) the construction of the zipline course would impact ephemeral streams under the Department's jurisdiction and a Streambed Alteration Agreement is required. Implementation of proposed condition of approval No. 30 will ensure that the project complies with CDFW regulations, and that the project would not result in a long-term loss or impacts to a unique, rare or threatened plant community, a reduction in the number or restriction in the range of any unique, rare or threatened species of plants, as was determined by the project's Revised Final Mitigated Negative Declaration dated June 3, 2016.

Other Proposed New Conditions of Approval

The following items address questions and concerns regarding the project that were also discussed with staff prior to the scheduled May 17, 2016 hearing.

- 1. Concerns related to vehicle access to the project site along a private driveway that extends between SR 246 and the project site and that crosses the Santa Ynez River via a paved "Arizona crossing."**

To minimize the potential for safety impacts related to the use of the crossing when high water flow conditions exist in the River, Condition of Approval No. 1 (Project

Description) states “The project would not operate during or immediately after periods of inclement weather.” The following additional condition of approval is proposed to clarify when access to the project site by the driveway river crossing may and may not be used by the project.

31. Access Driveway River Crossing Use. The project facilities, including the picnic and hiking services, shall be temporarily closed when: a) it is raining; b) when a greater than 60% chance of rain has been predicted to occur in the project area over a 24-hour period; or c) when water in the Santa Ynez River is flowing over the driveway river crossing. The project shall remain closed until such time that the three conditions described above no longer exist. The temporary closure shall include posting a temporary sign that states why the driveway and project site are closed. The sign shall also provide a phone number that can be called for additional information. The applicant/site operator shall make reasonable efforts, such as but not limited to phone calls, emails, and posting website information, to inform persons with reservations that the zipline and ropes course are temporarily closed due to weather conditions. **PLAN REQUIREMENTS AND TIMING:** The days that the zipline and ropes course facilities are closed due to weather conditions shall be reported for the calendar year (January 1 – December 31). Required quarterly and annual reports as required by Condition No. 9 (Annual Reporting Required) shall be submitted to P&D Permit Compliance within 45 days of the end of each reporting period.

MONITORING: P&D Permit Compliance shall review quarterly and annual reports, and compile information regarding when weather-related closures occurred.

2. Methods to minimize land use conflicts that may result from the use of the project site access driveway.

Providing information about the operation of the project to visitors before they arrive would have beneficial effects related to traffic safety along the project site access driveway, and to reduce the potential for conflicts with neighboring properties. The following information shall be included in promotional materials that are distributed by the project applicant/operator.

32. Promotional Material Requirements. Promotional materials for the project shall include information stating that the use of all project-site facilities requires an advance reservation and that persons arriving at the project site without a reservation will not be accommodated. The promotional material shall also specify a vehicle speed limit for the access road, and inform visitors that the project site access driveway crosses private property and that trespassing onto lands adjacent to the driveway, including the Santa Ynez River, is not allowed. **PLAN REQUIREMENTS AND TIMING:** The applicant shall submit proposed

promotional material wording to P&D for review and approval prior to zoning clearance.

MONITORING: P&D Permit Compliance shall review the submitted promotional material wording for compliance with condition requirements.

3. Methods to minimize the potential for project operations to result in an increase in the risk of a wildfire.

The project site is located within a designated high fire hazard zone (Final MND, page 21). To further reduce the potential for a fire on the project site, proposed Condition of Approval No. 32 requires the Applicant to install and maintain “No Smoking” signs.

33. No Smoking Signs Required. The applicant shall install and maintain “No Smoking” signs in and around the proposed vehicle parking area, orientation/restroom building, picnic area, and other appropriate areas of the project site. **PLAN REQUIREMENTS AND TIMING:** The locations of the “No Smoking” signs shall be shown on final building plans. The signs shall be installed prior to final building inspection clearance.

MONITORING: P&D Permit Compliance shall review the final building plans and inspect the project site to confirm the signs have been installed.

Proposed Revised Condition of Approval for 13CUP-00000-000012

Staff recommends the following minor correction to proposed Condition of Approval No. 4. The proposed correction is shown in strikeout/underline format

4. Special Condition: Pre-Construction Surveys for Nesting Birds. If construction occurs during the bird breeding and nesting season (February 1 to August 15), the applicant shall hire a County-approved biologist to conduct a pre-project survey of all habitat areas within 100 feet of construction areas, including roadways. **PLAN REQUIREMENT AND TIMING:** This survey shall be undertaken 10 days prior to construction of ~~future residences~~ proposed structures, to determine whether raptors or other special status species are nesting on site. A brief letter shall be prepared by the biologist and reviewed and approved by P&D before project activities are initiated. If raptors or other special status species are found to be nesting, applicant shall avoid work in the area by providing a buffer of a distance specified by the County-approved biologist from active nests until birds have fledged as determined by the qualified biologist.

MONITORING: P&D shall be given the name and contact information for the qualified biologist prior to initiation of the survey. Biologist shall contact P&D at the conclusion of the field survey to inform P&D in writing of the results of the

surveys. If no sensitive species are found, P&D will allow grading activities to commence. All required mitigation shall be implemented prior to the start of proposed grading activities. Grading Inspectors shall inspect as needed.

Fire Department Requirements

The Fire Department indicated to staff on May 19, 2016 that they have met with the applicant to review their requirements related to the preparation of an Emergency Response Plan, and the Fire Department's development standards and applicable fire code requirements. The Fire Department has informed the applicant that compliance with the Department's standards and requirements could include Fire Department approvals related to road width, surface and grade requirements, vegetation management, and fire sprinklers in buildings, depending upon the extent of development. The Fire Department determined that their current condition letter, dated June 18, 2015, adequately addresses the Department's requirements for the proposed project, including the proposed access, and no additional conditions of approval are required.

Revised Recommended Actions for 13CUP-00000-00012

- a) Deny the appeal, Case No.16APL-00000-00005;
- b) Make the required findings for approval of the project specified in Attachment 1 of the Board Agenda Letter dated May 17, 2016, including CEQA findings;
- c) Adopt the Revised Final Mitigated Negative Declaration dated June 3, 2016 included as Attachment 2 to this Memorandum, and adopt the mitigation monitoring program contained in the conditions of approval included in the Planning Commission Action Letter dated January 25, 2016 (Attachment 3 of the May17, 2016 Board Agenda Letter) and the new and modified conditions outlined in this Memorandum dated June 21, 2016.
- d) Grant *de novo* approval of the project, Case No. 13CUP-00000-00012 subject to the conditions included in the Planning Commission Action Letter dated January 25, 2016 (Attachment 3 of the May17, 2016 Board Agenda Letter) and the new and modified conditions outlined in this Memorandum dated June 21, 2016.

Memo Attachments:

- 1) 2012 CDFG Streambed Alteration Agreement
- 2) Revised Final Mitigated Negative Declaration dated June 3, 2016
- 3) Sarah Rains email, California Department of Fish & Wildlife dated May 20, 2016
- 4) John Zorovich email, Planning & Development dated June 2, 2016.