

COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT



MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Glenn S. Russell, Ph.D., Director *by Dianne M Black*
Planning and Development Department

DATE: October 30, 2009 (for November 3, 2009 hearing)

RE: Revised Findings: Approval of Crossroads Consistency Rezone and Denial of Conditional Use Permit; Case nos. 07RZN-00000-00004 and 09CUP-00000-00021; APN 133-190-014

On October 13, 2009 the Board of Supervisors voted 3-2 to conceptually approve Consistency Rezone case no. 07RZN-00000-00004 but conceptually deny special events Conditional Use Permit case no. 09CUP-00000-00021, thereby overturning the Planning Commission's June 11, 2008 recommendation for approval. The Board's decision to deny the CUP was based on the inability to make the following findings: (1) that the 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; (2) that the project complies with County Land Use and Development Code Section 35.42.260.F.9 which allows reception facilities when they are accessory and incidental to the principal use of the property, which in this zone is agriculture; and (3) that the use will be compatible with and subordinate to the rural and scenic character of the area. The Board directed staff to return on November 3, 2009 with appropriate findings.

Draft findings are attached hereto for your Board's consideration (Attachment A). The Board of Supervisors' action should include the following motions:

A. Motions to Approve the Rezone

1. Make the required findings for the Rezone, case no. 07RZN-00000-00004 specified in Attachment A, including CEQA findings;
2. Adopt an Ordinance Zoning Map Amendment for APN 133-190-014, amending the Inland Zoning Map for the Santa Ynez Valley Rural Areas Zone, included as Attachment B;
3. Adopt the revised Mitigated Negative Declaration no. 08NGD-00000-00013 (included as Attachment C) for the limited purpose of approving the consistency rezone; and
4. Approve case no. 07RZN-00000-00004.

B. Motions to Deny the Conditional Use Permit

1. Make the required findings for denial of Conditional Use Permit case no. 09CUP-00000-00021, as specified in Attachment A of this Board Agenda Letter dated November 3, 2009;
2. Determine the project is exempt pursuant to CEQA Guidelines section 15270 [projects which are disapproved]; and
3. Deny case no. 09CUP-00000-00021.

Background: On March 29, 2007 Planning and Development received an application for a consistency rezone (case no. 07RZN-00000-00004) and special events Conditional Use Permit (CUP) (case no. 07CUP-00000-00026) at 3345 Foxen Canyon Road. The site is an approximately 54-acre parcel in the 40-AG-O Zone District under Ordinance 661. At the Planning Commission hearing of June 11, 2008, the Commission voted 4-0-1 (Jackson recused) to recommend that the Board of Supervisors approve the consistency rezone to AG-II-40, adopt the Ordinance Zoning Map Amendment, approve the Mitigated Negative Declaration and approve the Conditional Use Permit for special events with certain revisions and added conditions.

Subsequent to that hearing, the subject property was acquired by a new owner who submitted a revised project description requesting fewer proposed events with a reduced maximum number of attendees (case no. 09CUP-00000-00021). The request for the consistency rezone did not change.

Attachments:

- A. Revised Findings
- B. Ordinance Zoning Map Amendment
- C. Revised Mitigated Negative Declaration 08NGD-00000-00013

ATTACHMENT A: FINDINGS

1.0 CEQA FINDINGS

1.1 Rezone

- 1.1.1** The County Board of Supervisors has considered the Mitigated Negative Declaration No. 08NGD-00000-00013 together with the comments received and considered during the public review process. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County Board of Supervisors, has been completed in compliance with CEQA, and is adequate for this proposal.
- 1.1.2** The County Board of Supervisors finds on the basis of the whole record that through feasible conditions placed upon the project, that there is no substantial evidence that the project will have a significant effect on the environment.
- 1.1.3** The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Secretary of the Santa Barbara County Planning Commission, Ms. Dianne Black, Planning and Development, located at 123 East Anapamu Street, Santa Barbara, CA 93101.
- 1.1.4** Public Resources Code Section 21081.6 requires the County to adopt a reporting or monitoring program for the changes to the project that it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby adopted as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.

1.2 Conditional Use Permit

- 1.2.1** Find that the project is exempt from CEQA pursuant to CEQA Guidelines Section 15270 [Projects which are Disapproved]. This finding can be made because the project is inconsistent with LUDC Section 35.42.260.F (9), and therefore cannot be approved.

2.0 ADMINISTRATIVE FINDINGS

2.1 ZONING MAP AMENDMENT FINDINGS

Pursuant to Land Use Development Code Section 35.104.060, an Amendment to the Zoning Map may be approved only if all of the following findings are made.

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

The subject Zoning Map Amendment will be in the public interest as it will replace the antiquated zone designation of the subject lot with a zone designation consistent with the current LUDC. Therefore, the Planning Commission recommends that the Board of Supervisors finds that the General Plan Amendment is in the public interest.

2.1.2 *The request is consistent with the Comprehensive Plan, the requirements of State planning and zoning laws, and the Development Code.*

The Zoning Map Amendment will be consistent with the Comprehensive Plan. Development Code consistency will be accomplished with approval of the Zoning Amendment. Therefore, the Planning Commission recommends that the Board of Supervisors find that the request is consistent with the Comprehensive Plan, the requirements of State planning and zoning laws, and the Development Code.

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

The zoning map amendment will replace the antiquated zone designation of the subject lot with a zone designation consistent with the current LUDC. Therefore, the Planning Commission recommends that the Board of Supervisors find that the request is consistent with good zoning and planning practices.

2.2 CONDITIONAL USE PERMIT FINDINGS

Pursuant to Section 35.82.060E of the Land Use and Development Code, a Conditional Use Permit application shall only be approved or conditionally approved if all the required findings can be made. The following findings cannot be made by the Board of Supervisors, thereby supporting an action to deny the project.

2.2.1 *The 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 proposed Minor Conditional Use Permit in the AG-II-40 zone district would allow for an annual maximum of 25 special events and a maximum of 250 attendees per event. The surrounding area is characterized by widely spaced agricultural accessory structures and residences, open space, grazing use and vineyards. The use would include the option of amplified music in a three-sided barn. Assuming five service personnel per event, maximum traffic associated with the use could peak at 6,375 annual vehicular round trips to and from this rural property, which is served by two, two-lane roads. The proposed use will be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood because of the potential effects of noise and traffic. Further, this intensity of use is incompatible with the rural and scenic character of the area. Therefore, this finding cannot be made.

2.2.2 *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 County Land Use & Development Code (LUDC) specifies that commercial facilities and events may be permitted with a Minor Conditional Use Permit in the AG-II zone district upon demonstration that they are accessory and incidental to the agricultural use of the property.

Specifically, LUDC Section 35.42.260.F.9 allows “Reception facilities providing indoor or outdoor facilities that are *accessory and incidental* (emphasis added) to the principal use of the property on a temporary, commercial basis for receptions, parties, weddings, or other similar gatherings that are not included in Subsection F.7 (Public assembly facilities) above” The applicability of this section derives from LUDC Table 4-10 which specifies that in the AG-II zone district, commercial reception and similar gathering facilities are permitted with a Minor Conditional Use Permit when in compliance with specific use regulations located in LUDC Section 35.42.260 F.

The proposed Minor Conditional Use Permit in the AG-II-40 zone district would allow for an annual maximum of 20 commercial special events and five charitable special events (with a monthly maximum of two charitable events) and a maximum of 250 attendees per event. The subject 54-acre parcel contains approximately 11 acres in vineyard and the remainder is uncultivated. The special events themselves would require three to four acres, with parking requiring up to five additional acres depending on the size of the event.

The scale of the proposed CUP cannot be considered as accessory and incidental to the principal use of the property because the agricultural use of the subject parcel is limited to approximately 11 acres of vineyard and the grapes produced on site are processed elsewhere. Twenty five annual events: (1) serving a total of 6,250 attendees and (2) requiring substantial numbers of support services and staff (such as caterers, performers, etc.), none of whom have any role in the agricultural use of the property, cannot be considered accessory and incidental to a vineyard operation that is a minor component of the larger agricultural use of the area. Therefore, this finding cannot be made.

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

The proposed use is located in a rural area as designated on the Comprehensive Plan maps. The surrounding area is characterized by widely spaced agricultural accessory structures and residences, open space, grazing use and vineyards. The Minor Conditional Use Permit would allow for an annual maximum of 25 special events and a maximum of 250 attendees per event. The use would include the option of amplified music in a three-sided barn. Assuming five service personnel per event, maximum traffic associated with the use could peak at 6,375 annual vehicular round trips along rural two-lane roads. This intensity of use is incompatible with the rural and scenic character of the area. Therefore, this finding cannot be made.