

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
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F17b

ADDENDUM

June 6, 2022

TO: Coastal Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: **ADDENDUM TO ITEM F17b, APPLICATION NO. A-4-STB-18-0074 (WALL FAMILY TRUST) FOR THE COMMISSION MEETING OF FRIDAY, JUNE 10, 2022**

I. TRIBAL CONSULTATION

On May 24, 2022, Commission staff received a request for consultation from the Santa Ynez Band of Chumash Indians, and on June 1, 2022, the consultation was conducted. The representative from the Santa Ynez Band of Chumash Indians indicated that there are several culturally sensitive sites at Hollister Ranch, and, therefore, there is a potential for archaeological resources to exist at the project site and to be disturbed during project activities. The tribal representative did not raise any specific objections to the project as staff recommended it be conditioned in Commission staff's May 19, 2022 report. The tribal representative indicated that the Tribe wanted to ensure that a local Chumash tribal representative could be present during all ground-disturbing activities and that work would also be required to cease if human remains were discovered during ground-disturbing activities.

In past permit actions regarding development on sites containing potential cultural resources, the Commission has required that a qualified archaeologist and appropriate Native American consultant be present on-site during all grading, excavation, site preparation, and landscaping activities that involve earth-moving operations in order to ensure that adverse effects to archaeological resources are minimized during such operations. As indicated in Commission staff's May 19, 2022 report, Commission staff is recommending Special Condition Two (2) (with changes discussed in Section II, below, to clarify that it is the earth-moving operations that are subject to monitoring), which is consistent with the Santa Ynez Band of Chumash Indians' request. Special Condition 2 requires the applicant to have a qualified archaeologist, at least one Native American monitor from each tribal entity with documented ancestral ties to the area (and which expresses an interest in monitoring), and a Native American most likely descendent (MLD) (when State Law mandates identification of a MLD) to be present on-site during all

grading, excavation, site preparation and significant landscaping activities that involve earth-moving operations in order to monitor these activities. Special Condition 2 would also require all construction activities to cease if cultural deposits were discovered during the course of the project and would require a qualified cultural resources specialist to analyze the significance of the find. To recommence construction following discovery of cultural deposits, the applicant would be required to submit an archaeological plan for the review and approval of the Executive Director, prepared in consultation with appropriate tribal representatives, to determine whether the changes are de minimis in nature and scope, or whether an amendment to this permit is required.

II. CORRESPONDENCE RECEIVED AND STAFF'S RESPONSE

A letter from the applicant was received on June 2, 2022. In the letter, the applicant objects to the two (2) Special Conditions in the staff report (Special Condition 1 Hollister Ranch Public Access In-Lieu Fee and Special Condition 2 Archeological Monitoring). The proposed findings in the staff report explain the bases for the Special Conditions. Special Condition 1 requires payment of the \$5,000 *in lieu* fee prior to issuance of the permit. This condition is required by statute. Cal. Pub. Resources Code §§ 30610.3 & 30610.8. The applicant claims the fee is unreasonable because it is a public access fee, and the project being approved will not affect public access interests. However, the litigation over this very permit resulted in a ruling affirming that the fee required by the above-referenced statutory provisions applies to all CDPs for development in Hollister Ranch. *Wall v. California Coastal Commission*, 72 Cal. App. 5th 943 (2021) (“instead of limiting the fees to ‘development[s] on any vacant lot’ . . . the Legislature instead required a fee ‘for each permit’”). Thus, Special Condition 1 is necessary here.

Additionally, regarding Special Condition 2, although the applicant does not object to having one archaeological monitor, the applicant specifically objects to providing at least one Native American monitor in addition to the archaeological monitor during the project. As noted in the staff report, as well as in the Tribal Consultation section above, there are several culturally sensitive sites at Hollister Ranch, and while the proposed development is located on a developed site, the project involves grading and excavation, which can adversely impact potential archaeological resources. It is important for a Native American monitor with documented ancestral ties to the area and that expresses interest in monitoring to be present (such as a monitor from the Santa Ynez Band of Chumash Indians), in addition to an archaeologist, to ensure that the interests of the local Native American tribe are represented during project activities that have the potential to harm cultural resources.

At the same time, in response to the applicant's concern about the scope of the monitoring work, Commission staff is suggesting language to clarify that the activities subject to monitoring are only those that involve earth-moving operations and that the only landscaping activities that will be subject to the monitoring requirement are those that are significant in nature and involve earth-moving operations. Therefore, Commission staff continues to recommend Special Condition 2, with the changes shown in Section III below, in order for the project to be found consistent with Coastal Act Section 30244 and Santa Barbara County's certified Local Coastal Program Gaviota Coast Plan Policies CS-1 and CS-2, which require archaeological and tribal cultural resources to be protected to the maximum extent feasible.

A letter of correspondence was also received from the Gaviota Coastal Trail Alliance (GCTA) on June 3, 2022. The letter states a number of concerns regarding the approval of

CDPs for development at Hollister Ranch when the public still does not have access to the tidelands and beaches that border the Ranch and subsequently notes that GCTA does not fully support the staff recommendation of approval with conditions but that “given the direction from the Court of Appeals, GCTA understands if the Commission decides to support staff’s recommendation and move on.” In response, staff would note that based on the factual issues specific to the *Wall* case and the Court of Appeal’s decision, staff continues to recommend approval of the CDP as proposed in the staff recommendation, with the slight modification explained below.

III. CHANGES TO STAFF REPORT

In response to the applicant’s concern regarding the scope of archaeological monitoring, Commission staff recommends changes to Special Condition 2.A.(i) of the staff report dated May 19, 2022. Language to be added is shown in underlined text.

2. Archaeological Monitoring

- A. By acceptance of this permit, the applicant agrees to comply with the following monitoring and testing requirements:
 - (i) Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and a minimum of 1 Native American monitor, including at least one monitor from each tribal entity with documented ancestral ties to the area and that expresses interest in monitoring, appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading, excavation work, site preparation or significant landscaping activities that involve earth-moving operations associated with the approved development. Prior to the commencement and/or re-commencement of any monitoring, the permittee shall notify each archaeological and Native American monitor of the requirements and procedures established by this special condition, including all subsections.