

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 12/10/2013	(3) CONTACT/PHONE Brian Pedrotti, AICP, Planner III / 805-788-2788	
(4) SUBJECT Hearing to consider a request by DANA (Dana Adobe Nipomo Amigos) for a Land Use Ordinance Amendment to: 1) Section 22.112.030.B (South County Planning Area Standards, Combining Designations, Historic Area (H) Dana Adobe), and 2) Section 22.112.080.G (South County Planning Area Standards, Nipomo Urban Area, Recreation – Dana Adobe) to allow the applicant to process a Conditional Use Permit for the site to include a visitor's center, outdoor amphitheater, Chumash Interpretive Area and associated support features, within and immediately adjacent to the community of Nipomo. District 4.			
(5) RECOMMENDED ACTION That the Board of Supervisors: 1. Hold the public hearing on the amendment recommended for approval by the Planning Commission as set forth in the attached Exhibits and staff reports. 2. Consider and certify the Final EIR. 3. Adopt CEQA Findings and LUO Amendment Findings as set forth in the attached Exhibit LRP2011-00001C. 4. Take final action on the amendment heard today (LRP2011-00001) by adopting and instructing the Chairperson to sign the attached ordinance.			
(6) FUNDING SOURCE(S) Application Fees	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. <u>120 min</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS { } Resolutions { } Contracts {X} Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5 Vote Required {X} N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { } N/A Date: July 17, 2012	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 4			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Brian Pedrotti, AICP, Planner III

VIA: Ellen Carroll, Environmental Coordinator

DATE: 12/10/2013

SUBJECT: Hearing to consider a request by DANA (Dana Adobe Nipomo Amigos) for a Land Use Ordinance Amendment to: 1) Section 22.112.030.B (South County Planning Area Standards, Combining Designations, Historic Area (H) Dana Adobe), and 2) Section 22.112.080.G (South County Planning Area Standards, Nipomo Urban Area, Recreation – Dana Adobe) to allow the applicant to process a Conditional Use Permit for the site to include a visitor's center, outdoor amphitheater, Chumash Interpretive Area and associated support features, within and immediately adjacent to the community of Nipomo. District 4.

RECOMMENDATION

That the Board of Supervisors:

1. Hold the public hearing on the amendment recommended for approval by the Planning Commission as set forth in the attached Exhibits and staff reports.
2. Take final action on the amendment heard today (LRP2011-00001) by adopting and instructing the Chairperson to sign the attached ordinance.
3. Consider and certify the Final EIR.
4. Adopt California Environmental Quality Act (CEQA) Findings and LUO Amendment Findings as set forth in the attached Exhibit LRP2011-00001C.

DISCUSSION

At today's meeting, your Board is to hold a public hearing for the following amendment and take final action.

1. The Planning Commission is transmitting the record of their meeting of June 14, 2012 to your Board for the attached proposed amendment to the Land Use Ordinance as follows:

A request by DANA (Dana Adobe Nipomo Amigos) for a Land Use Ordinance (LUO) Amendment to: 1) Section 22.112.030.B (South County Planning Area Standards, Combining Designations, Historic Area (H) Dana Adobe), and 2) Section 22.112.080.G (South County Planning Area Standards, Nipomo Urban Area, Recreation – Dana Adobe). The amendment would allow the applicant to process a CUP for the site to include a visitor's center, outdoor amphitheater, Chumash Interpretive Area with exhibits and interpretive features, and associated support features. The project is located on the east side of South Oak Glen Avenue, approximately one mile southeast of West Tefft Street, within and immediately adjacent to the community of Nipomo, in the South County Inland planning area. Supervisorial District: 4

The proposed amendments clarify the intent of the portions of the LUO that relate to the Dana Adobe site. Specifically, they address emergency access conditions and update design and approval standards. The amendment would remove the reference to the Southland Street Interchange, which is no longer proposed for construction by the County and the California Department of Transportation (Caltrans), and add a requirement for privately-developed emergency access. The proposed amendments also include minor updates to correctly identify land currently owned by DANA, design standards to maintain historical context and ensure continued preservation and restoration of the Dana Adobe, and a requirement for Master Plan and Conditional Use Permit (CUP) approval. The proposed amendments do not remove any intended impediment to growth.

Background

On June 14, 2012, the Planning Commission held a public hearing to consider proposed amendments to Section 22.112.030.B and Section 22.112.080.G of the County Land Use Ordinance. After consideration of the project, the Commission recommended that the Board amend the sections as proposed with one minor revision; the description of who may use the proposed emergency access. These amendments would allow the applicant to process a CUP for the site to include a visitor's center, outdoor amphitheater, Chumash Interpretive Area with exhibits and interpretive features, and associated support features.

The Planning Commission considered the above referenced matter and took the following action to recommend approval of the proposed amendment:

On the motion of Commissioner Murphy, seconded by Commissioner Christianson and carried unanimously, recommending to the Board of Supervisors approval of this Land Use Ordinance text amendment as shown in Exhibit LRP2011-00001:B based on Findings A through D.

On July 17, 2012, the Board of Supervisors held a public hearing for the item. Following extensive public comment, mostly regarding issues related to cultural resources and Native American concerns, the Board continued the item to August 7, 2012, with direction for staff and interested parties to meet and discuss necessary changes. When County staff, the applicant, and Native American representatives were unable to resolve issues regarding the nature of impacts of the project to cultural resources, the applicant opted to indefinitely continue the project at the August 7, 2012 Board of Supervisors hearing and withdraw the Mitigated Negative Declaration. The applicant also volunteered to pursue an Environmental Impact Report for the project as the best course of action to address the concerns regarding cultural resources. Because the LUO Amendment is essentially unchanged from the recommendation of the Planning Commission, the LUO Amendment goes directly to the Board of Supervisors for action.

Environmental Impact Report (EIR)

The Board of Supervisors directed staff to initiate an EIR that included an evaluation of all environmental impacts of the project. An EIR consultant, SWCA Inc., was chosen by the County to prepare the EIR. Since impacts to cultural resources were a major focus area, SWCA included Albion Environmental, Inc., a cultural resources management firm that specializes in Native American consultation, as well as cultural resource evaluations. The evaluation included a compilation of all available background information, survey reports (Phase I surface and limited Extended Phase I subsurface surveys), records search documents, collected artifact records, and verbal information from the applicant and Native American representatives. All information was peer reviewed by Albion Environmental, who established a work plan that included formal Native American consultation, confirming the presence/absence of archaeological deposits where the nature was unclear, and conducting Phase II (subsurface) evaluations.

Native American Consultation. Based on a list of Native American contacts provided by the California Native American Heritage Commission (NAHC), SWCA invited each contact to the consultation process. Two groups responded to the letter, the Northern Chumash Tribal Council and yak tit'u tit'u Northern Chumash Tribe. Consultation included face-to-face meetings and telephone conversations, with notes taken during meetings. In addition to the formal consultation process, all relevant stages of the EIR (Notice of Preparation, Draft EIR, Final EIR, public hearing) have been noticed to all Native American representatives as well as any interested parties that have mailed letters or otherwise expressed interest in the project.

Results or Findings of EIR.

The EIR evaluation determined that cultural resources are present across most of the project site. Areas of concentration were determined to be significant. Most of the project site (significant and not significant areas) was shown to have had surface disturbance (down to approximately 16 inches and sometimes deeper). Many of the project components (Visitors Center, outdoor amphitheater) will be placed outside the areas of importance. Project components within the important areas (Chumash Interpretive Area, portion of trail system) do not involve significant grading and would result in minimal disturbance below the previously disturbed area. Mitigation measures for future development associated with the CUP are recommended, including a Phase III (data recovery) archaeological investigation, Cultural Resources Treatment Plan, archaeological monitoring, and cultural awareness training.

Required Actions for Approval

The proposed project evaluated in the EIR includes both the LUO Amendment and the Conditional Use Permit (CUP) for the proposed development. Approval of the LUO Amendment alone would not result in any physical effects, because the language does not permit a project to occur prior to approval of the Master Plan and a CUP. Approval of the subsequent CUP is a discretionary action, and CEQA review is required. The LUO Amendment may be approved by the Board of Supervisors following certification of the EIR. Approval of the CUP could occur following certification of the Final EIR and approval of the LUO Amendment. In summary, the following steps are required for approval:

1. Board of Supervisors certify Final EIR
2. Board of Supervisors approve LUO Amendment
3. Planning Commission approves CUP

OTHER AGENCY INVOLVEMENT/IMPACT

The amendment was referred to all applicable responsible agencies and were reviewed and approved by the Planning Commission. In addition, County Counsel reviewed and approved the ordinance as to form and content.

FINANCIAL CONSIDERATIONS

Proposed general plan amendments that are submitted by individual applicants are processed through an application fee deposit. On February 28, 2012, the Board of Supervisors approved a fee waiver for the project for a total of \$22,609.00.

RESULTS

Approval of the amendment will allow the applicant to process a Conditional Use Permit application for the site to include a visitor's center, outdoor amphitheater, Chumash Interpretive Area with exhibits and interpretive features, and associated support features. Denial of the application will mean that the owner would not be able to process the Conditional Use Permit, as the proposed use is dependent on the construction of a Highway 101 interchange with Southland Street, a project that is not feasible due to a lack of funding and commitment from necessary agencies.

ATTACHMENTS

- Attachment A: Exhibit LRP2011-00001:B (Signed Ordinance Amendment)
- Attachment B: Exhibit LRP2011-00001:A (Strike out and underline version)
- Attachment C: CEQA Required Findings
- Attachment D: Final Environmental Impact Report (Clerk's File)

Attachment E: Minutes from the July 17, 2012 Board of Supervisors
Attachment F: Planning Commission Letter
Attachment G: Draft Minutes from the June 14, 2012 Planning Commission Meeting
Attachment H: Staff Report for the June 14, 2012 Planning Commission Meeting