



September 24, 2018

County of Santa Clara
Department of Planning and Development
Planning Office
Attention: Manira Sandhi, AICP, Principal Planner
County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705

Subject: Bear Creek Stables, 19100 Bear Creek Road
File: 5814026046-00Z1, 5814-15PA

The Midpeninsula Regional Open Space District (District) is submitting this letter to request formal clarification regarding the operational, repair, and maintenance limitations for Bear Creek Stables under the existing legal nonconforming status.

The District acquired Bear Creek Stables (Stables) in 2000 and entered into a lease with a tenant to manage the Stables. The tenant submitted a request for a "letter of compliance" to the County to confirm that the boarding operation was considered a legal nonconforming use with documentation of the Stables' continual use prior to 1975. In November 2000, the County's Zoning Administrator responded to the letter, confirming that the use on the property is allowed (Attachment 1: 5814-26-00Z1).

The County determined the following:

- a) The existing stabling use is legal nonconforming and may continue operation without benefit of a use permit.
- b) 72 horses is the maximum number of horses the District may maintain on the subject property as a legal nonconforming use.
- c) No expansion or intensification of the use may be allowed without first obtaining a use permit.

In 2014, the District was exploring possible scenarios for addressing deferred maintenance at the Stables, enhancing horse and boarder safety, and expanding public programming at the site. In 2015, the District presented various alternatives to the County at a Use Permit Pre-Application Meeting (Attachment 2: 5814-15PA, Use Permit Pre Application Meeting Comment) to begin discussions on the permitting requirements. Unfortunately, it became clear in the discussions that the options presented and the number of new site improvements proposed triggered a use permit and therefore a host of prohibitive code improvements. With this realization, the District is evaluating a new option that maintains the status quo uses on the site and focuses only on deferred maintenance repairs and public

Following phone conversations with County staff on July 20, 2018, the District requests formal clarification on the operational, repair, and maintenance limitations for Bear Creek Stables under its existing legal nonconforming status. Current uses would remain the same; no new uses would be added nor would existing uses be intensified.

To assist us with defining this new, basic repair option, the District seeks County clarification regarding the extent of the repair that can be completed for the following items so as to not trigger a use permit:

- Minor structural maintenance and repairs (e.g. repairs to an existing barn);
- Driveway repairs to ensure safe ingress/egress for boarders and emergency vehicles;
- Demolition of structures, including two dilapidated residences with leach fields located within 100 feet from a creek;
- Replacement of the two residence restrooms and a portable restroom, with two public restrooms for public (operator/boarder) health;
- Replacement of an unreliable, low-pressure spring-fed water system with a connection to a San Jose Water Company main waterline for potable, non-potable, and fire safety use;
- Grading activities to improve surface drainage; and
- Minor site work to enhance Americans with Disabilities Act access to existing site amenities.

In addition, the District respectfully requests County responses to the following questions:

1. What is the allowable extent of modifications that the District can make to existing buildings under the legal nonconforming use that does not trigger a use permit?
2. How do you calculate the construction valuation of a building, and what is the County building inspector's current multiplier for calculating the per-square-foot value?
3. Is the replacement of site utilities to service current uses and protect public health and safety, such as replacing a spring-fed water line with a San Jose Water Company connection and bringing the electrical system to current standards, allowed under the legal nonconforming use?
4. Under the District's grading exemption, grading is allowed with the submittal of a letter of responsibility. Does the exemption apply to grading and site work related to driveway repairs, correcting surface drainage, adding baserock and/or asphalt on drivable asphalted surfaces, replacing culverts, maintaining existing horse arenas, and enhancing ADA access (ADA parking and pathways)?
5. Under the District's grading exemption, please confirm that site grading, erosion control, re-vegetation, and restoration activities to protect hillsides from erosion and to restore areas to a natural condition does not trigger County permits.
6. Would the District be able to demolish dilapidated structures that are beyond repair without triggering a use permit? Are there other permits required?

7. Could the District make minor improvements to existing manure storage without triggering a use permit in order to meet County recommendations on how to store and handle manure to improve public health and safety?
8. Without expanding the existing number of restrooms, would the County allow the District to remove the two dilapidated residences and replace the two residence restrooms with two ADA-accessible public restrooms? Would the County allow for vault toilet restrooms? Minimally, would the County allow the District to park an ADA-accessible portable restroom that is pumped periodically?

Please let us know if you have any questions. For reference, attached is the County's letter of compliance dated November 14, 2000 and Use Permit Pre-Application comment letter dated Aug 7, 2015. If you would like to tour the Stables facility in the future, we would be glad to meet you at the site and discuss the proposed site plan improvements.

Sincerely,



Jane Mark, AICP, Planning Manager

cc: Rob Eastwood, Planning Manager
Ana Ruiz, AICP, General Manager
Jay Lin, Acting Assistant General Manager
Gretchen Laustsen, Project Manager/Planner III

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