



MEMORANDUM

TO: City Council

FROM: Brian Pedrotti, Community Development Director

BY: Patrick Holub, Associate Planner

SUBJECT: Consideration of CUP23-002; AG Creek Stream Gauge Fish Passage Improvement, Requested Fee Waiver and Finding Action Exempt from Review Under CEQA Pursuant to State Guidelines § 15301, 15302, & 15304; Applicant–Steph Wald, Creek Lands Conservation

DATE: December 12, 2023

SUMMARY OF ACTION:

Adoption of a Resolution approving CUP23-002 will allow Creek Lands Conservation to demolish old stream gauge facilities and in the same location, complete a new stream gauge improvement project that will facilitate fish passage.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

Staff time and resources are typically offset by Conditional Use Permit application fees paid by the applicant. However, the applicant is requesting a fee waiver in the amount of \$6,388 and staff is recommending the fee waiver be approved by City Council because of the public benefits set forth within these materials. If the fee waiver is approved, staff time and resources will be funded by the General Fund.

RECOMMENDATION:

1) Adopt a Resolution approving the proposed Conditional Use Permit and corresponding fee waiver; and 2) Determine that this project is categorically exempt per Section 15301, 15302 and 15304 of the CEQA Guidelines.

BACKGROUND:

On January 15, 2008, the San Luis Obispo County Board of Supervisors approved a Memorandum of Understanding (MOU) between the San Luis Obispo County Flood Control and Water Conservation District, Zone 3 and Central Coast Salmon Enhancement (CCSE) to modify the Arroyo Grande stream gauge, which includes a tower structure, stream gauge equipment, stairs down to the creek from the top of the bank and a concrete platform across the creek channel. The gauge measures water surface level elevations and flow (Attachment 2). The existing stream gauge has developed into a migration

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barrier for steelhead trout, which is listed as a threatened species by the federal government. After installation of the gauge by the US Geological Survey (USGS) in the 1940s, downcutting erosion of the streambed has made the fish passage barrier increasingly more severe over time. Given the numerous studies required to implement the stream gauge improvement project and limited funding opportunities, it took several years to assemble all of the project components. Funding to implement the project occurred through the National Fish and Wildlife Foundation (NFWF) and the California Department of Fish and Wildlife (CDFW).

Central Coast Salmon Enhancement (CCSE) is a local non-profit organization formed to help communities strengthen, protect, and understand their watersheds and fisheries through education and engagement. CCSE applied for and received funding through NFWF and CDFW to implement the project.

On [May 12, 2015](#), the City Council adopted Resolution 4658 waiving application fees in the amount of \$3,623 for the Conditional Use Permit application to make the repairs to the stream gauge. Council made findings at that time that the proposed scope of work will benefit the entire community and meets multiple objectives and policies of the General Plan (Attachment 3). On August 4, 2015, the Planning Commission (PC) adopted PC Resolution 15-2232 approving Conditional Use Permit 15-001, a project with the same scope as the current application (Attachment 4). In 2015, the project's contract manager at CDFW cancelled funding for the project due to a shortfall of \$8,000. The Planning Commission's prior approval expired on August 4, 2017.

In 2018 CCSE rebranded, and their organization is now called Creek Lands Conservation (CLC).

Staff Advisory Committee (SAC)

The SAC reviewed the proposed project on October 26, 2023. The Committee discussed road closures, neighborhood impacts, notification and permit requirements. The SAC was supportive of the project and recommended approval to the Planning Commission with conditions to obtain all necessary permits from the City and responsible agencies.

Planning Commission

The Planning Commission reviewed the proposed project on [November 7, 2023](#), and adopted PC Resolution 23-2391 (Attachment 5). The Planning Commission was supportive of the project and approved the project as submitted.

Permit Requirements

[Arroyo Grande Municipal Code Section 16.44.050.C.6](#), states that "Creeks shall remain in their natural state and shall not be altered unless approved by the city council in

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conjunction with an application for a conditional use permit and permitted by other responsible agencies.” The Municipal Code thus authorizes the City Council to approve Conditional Use Permit applications that propose alterations to creeks, in contrast to how other Conditional Use Permits are approved. Under Section 166.44.050.C.6, the Planning Commission is tasked with reviewing the application as an advisory body and making a recommendation to the City Council. The applicant will be responsible for obtaining any permits required by other responsible agencies such as the California Department of Fish and Wildlife (CDFW), the National Fish and Wildlife Foundation (NFWF) and the Central Coast Regional Water Quality Control Board (CCRWQCB) prior to commencing construction.

Fee Waiver Request

CLC submitted a letter requesting a waiver of the Conditional Use Permit application fee (\$6,388) for the Stream Gauge Fish Passage Improvement Project in order assist with project costs. Justification for the fee waiver request can be found in Attachment 6.

Staff is supportive of the requested fee waiver because the project, through CLC, a local non-profit organization, provides a community benefit by implementing General Plan policies related to the enhancement of natural creek functions and values, and because the improved fish habitat will benefit a federally threatened species. Furthermore, staff has determined that the project will be beneficial to the public because the health of the City’s natural ecosystems and riparian network benefit the community at large and the project helps maintain a significant and unique natural feature (Arroyo Grande Creek) that is largely owned by the City.

ANALYSIS OF ISSUES:

Project Description

CLC proposes to modify the existing broad-crested concrete weir spanning the width of the main stem of Arroyo Grande Creek. A weir is a type of small dam or barrier that stretches across the width of a creek or river and alters the flow characteristics of the water. Weirs are commonly used to measure water discharge or flow. The weir, combined with a stream gauge, was once used by the United States Geological Survey (USGS) as a gauging station and is still currently in use by the County of San Luis Obispo. The gauge consists of a tower structure, stream gauge equipment, stairs down to the creek from the top of the bank and a concrete platform across the creek channel. The worksite is about thirty-five feet (35’) below the top of the bank.

The project will lower this weir to restore reliable access to 3.3 miles of critical steelhead habitat upstream of the barrier. The barrier modification will provide passage for both adult and juvenile steelhead trout at both low and high flows by notching the weir to lower the jump height and reduce velocity. Technical details of passage and flow conditions

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resulting from the proposed project have been vetted by an experienced team of biologists, engineers, and other scientists from a range of public agencies, non-profits, and private firms.

The project will involve accessing the site from Myrtle Street. A crane will be utilized to lower heavy machinery into the creek and remove demolished concrete. The westbound lane of Myrtle Street will need to be closed at the time the crane is deployed and removed from the site. City staff will verify that the contractor has an approved traffic control plan consistent with the requirements of the Manual on Uniform Traffic Control Devices (MUTCD). The staging area for the heavy machinery is at the top of the bank immediately upstream of the gauge. An access path for manual movement of material into and out of the creek will be created adjacent to the staging area. The new weir will be poured using a quick set concrete that requires approximately 24 hours of cure time. Water will be diverted around the project site during construction and concrete cure time. Construction is tentatively scheduled to commence in August 2024.

Special care will need to be taken by the engineering and construction teams with the rock slope on the south bank, which may not be connected to the outfall structure in the channel bed. If the rock slope is not correctly connected, it could be affected when the stream channel naturally adjusts to the new weir elevation during winter flows. To prevent any impacts to the rip rapped slope, an exploration trench at the toe of the existing rip rapped slope is proposed to confirm the depth of the existing embedment. After inspection by the engineer, the contractor will either backfill and compact the trench or extend the trench along the entire base of the existing rip rapped slope and backfill with four (4) ton rock.

Specific construction activities of the project include:

- Establishing access and equipment staging areas;
- Installing Best Management Practices (BMPs) for stormwater management;
- Installing and removing water diversion;
- Clearing and grubbing the site and removing debris;
- Demolishing weir concrete;
- Excavating bedrock and native soil;
- Building forms and pouring concrete to build concrete weir and grade control; and
- Re-vegetating disturbed areas of the project site.

Because there is state grant funding, there will be consistent and thorough pre- and post-construction monitoring and reporting of sensitive biological resources.

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Conditions of Approval

The prepared Resolution includes conditions of approval that address concerns identified by staff. Specifically, these conditions include:

- The applicant is conditioned to obtain an encroachment permit and provide an acceptable traffic control plan for diverting pedestrian and vehicle traffic while the crane is being deployed and removed at the end of construction.
- Noise impacts – Water from the creek will be re-routed around the work area by using a sump pump. To mitigate noise impacts related to the operation of the pump, the applicant has elected to install a temporary power pole near the construction site to eliminate the need for a generator and the accompanying noise impacts to nearby residents. The applicant is required to provide additional information concerning pumping requirements, pumping hours of operation, who to call with noise complaints, and the size of the pump.
- Neighborhood notification – It was anticipated that work will commence in August 2024. The applicant will be required to notify all neighbors located within a 500-foot radius of the project area at least thirty (30) days prior to earthmoving activities.
- Other agency permits – The project is conditioned to obtain permits from CDFW, NFWF and CCRWQCB prior to commencing earthmoving operations.
- Impacts to biological resources – The project does not include any tree removal, although trimming of several willow trees will be necessary. The project will also involve grubbing, which will require removal of some riparian vegetation. A vegetation restoration plan has been submitted. Mitigation monitoring will occur throughout the project construction to protect any potential threatened or endangered plant or animal species.
- Stormwater Control Measures – The project is conditioned to prepare a Stormwater Pollution Prevention Plan/Erosion Control Plan prior to the commencement of any earthmoving activities.
- Fence – The fence located along Myrtle Street where access to the site will occur will be temporarily removed to allow a crane and heavy equipment into and out of the project site. The fence will be replaced when the work is complete.

General Plan Consistency

The Project is consistent with General Plan Objective C/OS2, which aims to: “Safeguard important environmental and sensitive biological resources contributing to healthy,

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functioning ecosystems.” The Project is also consistent with General Plan Implementing Policy C/OS2-1.6: “Plan, design, and develop sites to: Protect scenic resources, water quality and natural creekside habitat, including opportunities for wildlife habitation, rest, and movement. Further the restoration of damaged or degraded habitat, especially where a continuous riparian habitat corridor can be established.”

The project serves the public purpose of implementing general plan policies to enhance natural creek functions and values by providing erosion control, sedimentation prevention, enhancement of riparian habitat corridors, water quality protection and aesthetic and recreational opportunities.

ALTERNATIVES:

1. Adopt a Resolution recommending approval of the proposed project to the City Council and determine that this project is categorically exempt per Section 15301, 15302, and 15304 of the CEQA Guidelines;
2. Do not adopt a Resolution recommending approval of the proposed project; or
3. Provide other direction to staff.

ADVANTAGES:

Approving the Stream Gauge Fish Passage Improvement project will restore reliable access to 3.3 miles of critical habitat upstream of the stream gauge for steelhead trout, which is listed as an endangered species.

DISADVANTAGES:

Impacts related to this project include minor temporary impacts to traffic on Myrtle Street and construction related noise during construction.

ENVIRONMENTAL REVIEW:

This Project is exempt from review under the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Section 15301 (Existing Facilities). This exemption consists of the operation, repair, maintenance or minor alterations to existing public or private structures involving negligible or no expansion of existing or former use. This includes maintenance of artificial wildlife waterway devices to protect fish and wildlife resources. Here, the Project involves the operation, repair, and minor alteration to the existing stream gauge that involves little to no expansion of the existing use. Further, the stream gauge will continue to be used for its original purpose of gathering water level data, while improving the critical steelhead trout habitat.

Alternatively, the Project is exempt from review under CEQA pursuant to State CEQA Guidelines Section 15302 (Replacement or Reconstruction). This exemption consists of the replacement or reconstruction of existing structures where the new structure will be

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located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The Project will involve the reconstruction of the stream gauge, located on the same site as the existing stream gauge, and will have the same purpose of gathering water level data on Arroyo Grande Creek. Once complete, the project will improve the steelhead trout habitat with the same capacity as the existing structure.

Lastly, the Project is exempt from review under CEQA pursuant to State CEQA Guidelines Section 15304 (Minor Alterations to Land). This exemption consists of minor alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees. This includes minor alterations in land and water to fish production facilities which result in improvement of habitat for fish and wildlife resources or greater fish production. Here, the Project involves reconstruction of the stream gauge that will lead to the improvement of habitat for the steelhead trout.

None of the exceptions to the categorical exemptions set forth in State CEQA Guidelines section 15300.2 have any applicability here. The Project will not impact any environmental resource of hazardous or critical concern, will not result in significant cumulative impacts, is not subject to any unusual circumstances that could result in a significant environmental impact, would not damage any scenic resources within a scenic highway, is not located on a hazardous waste site identified on any list compiled pursuant to Government Code section 65962.5, and would not impact an historical resource.

Staff is directed to file the corresponding Notice of Exemption within five working days from the approval of this Project.

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City’s website in accordance with Government Code Section 54954.2. A public hearing notice was posted at the project site, published in the Tribune and mailed to property owners within 300 feet of the project site.

Attachments:

1. Proposed Resolution
2. Memorandum of Understanding
3. City Council Resolution 4658
4. PC Resolution 15-2232
5. PC Resolution 23-2391
6. Fee Waiver Request