

# **EXHIBIT 17**

## **Proposed New Conditions of Approval for LP15-2040**

**GROWTH MANAGEMENT PERFORMANCE STANDARDS, FINDINGS, AND  
CONDITIONS OF APPROVAL FOR COUNTY FILE #LP15-2040**

**A. Growth Management Performance Standards**

1. **Traffic:** The Growth Management Element of the County General Plan requires consideration of permanent traffic increases related to population growth. Growth is influenced by development that increases population by attracting new residents to the county. New residential and commercial developments are the primary causes of growth that can increase traffic in an area on a permanent basis. No residential or commercial development is proposed as part of this project that would require implementation of the requirements of the Growth Management Element. The project is a modification to an existing entitlement for the continued operation of an existing off-road motorcycle recreational park. The subject motorcycle recreational park has been in operation since 1973. The project will continue the operation of the facility in a manner consistent with the existing entitlements. No expansion or intensification of the use is approved; therefore, no changes in existing traffic levels associated with the operation of the facility are proposed.
2. **Water:** The subject property currently receives water from an existing onsite water well. No new residential or commercial construction is proposed that would require additional water service to the site.
3. **Sewage Disposal:** The subject property is serviced by an existing septic system. No new residential or commercial development is proposed that would require additional sewage facilities; therefore, the project will not impact water-quality standards or waste-discharge requirements.
4. **Fire Protection:** The site is currently served by the East Contra Costa Fire Protection District. The District has reviewed the project and provided their comments and conditions relating to the proposed project, and no new or increased fire protection services were required.
5. **Public Protection:** The Growth Management Element, Section 4.4 of the County General Plan requires 155 square feet of Sheriff's station area and support facilities for every 1,000 members of the population. Since there is no residential or commercial development proposed, which could induce population growth, the project would not increase the population up to or within this threshold, and therefore, the project would not increase the demand for police service facilities or require the construction of, or the need for new police substations within the area.

6. **Parks and Recreation:** The County General Plan requires that three acres of neighborhood parks be available for every 1,000 members of the population. The proposed project will not result in an increase in the County population. There will not be an impact on the demand for parks within the County, nor will there be an associated increase in the population as a result of the project. The project proposes no residential or commercial development that could induce population growth in the area.
7. **Flood Control and Drainage:** The project does not propose any drainage improvements or significant changes in existing grades or contours on the subject property that could affect existing drainage patterns. The subject site is not located within a 100-year flood hazard zone as determined by the Federal Emergency Management Agency. Therefore, the proposed project will not adversely impact or alter flood control or drainage patterns.

B. **Land Use Permit Findings**

1. ***The proposed project will not be detrimental to health, safety, and the general welfare of the County.***

**Project Finding:** The proposed Land Use Permit modification for the existing off-road motocross recreation park as conditioned will not pose a threat to the health, safety, or welfare of the County. All of the requirements of the Community Development Division, the Building Inspection Division, the Health Services Department, and the Fire District must be adhered to at all times. The continued operation of an existing motorcycle recreational facility will not impact the health, welfare, and safety of the County.

2. ***The proposed project will not adversely affect the orderly development of property within the County.***

**Project Finding:** The project does not propose any development, but rather to continue the operation of an existing off-road motocross recreation park. The land use is consistent with both the General Plan and Zoning designations for the subject agricultural property, and thus it will not adversely affect the orderly development of property within the County.

3. ***The project as conditioned will not adversely affect the preservation of property values and the protection of the tax base within the County.***

**Project Finding:** Typically, illegal land uses that are established in a manner inconsistent with the General Plan and the zoning code have the potential to degrade property values. Also, homes, properties, and buildings that are allowed to decline into a condition of disrepair can contribute to negative property values. The proposed Land Use Permit modification for the existing off-road motocross recreation park is consistent with both the General Plan and Zoning designations for the subject agricultural property, and the facility and property has been maintained in good condition by the current property owners. Once the facility is open to the public, its operation will contribute to the tax base of the County with taxes generated from revenue received by operation of the park. Therefore, it will not have a detrimental effect on property values or the County tax base.

4. ***The project as conditioned will not adversely affect the policy and goals as set by the General Plan.***

**Project Finding:** The subject property has a General Plan designation of "Agricultural Lands" (AL), which states that extensive recreational facilities may be allowed in agricultural areas that are designated AL by issuance of a land use permit. The continued operation of the existing off-road motocross recreation park is consistent with the goals and policies of the General Plan.

5. ***The project as conditioned will not create a nuisance and/or enforcement problem within the neighborhood or community.***

**Project Finding:** The primary potential nuisance that could be associated with this land use would be posed by loud noise generated from running motorcycles. The sound study prepared for the project predicted that noise levels at all the modeled property line locations is below the Noise Element guideline of 75 decibels, which is considered "normally acceptable" for areas with a General Plan designation of Agricultural Lands. As conditioned, and with the reduced hours of operation and by reducing the days open from 7 days to 5 days per week, the project will not create a nuisance and/or enforcement problem within the neighborhood or community.

6. ***The proposed project will not encourage marginal development within the community.***

**Project Finding:** Development is controlled by zoning, the General Plan, and physical constraints. The existing motorcycle recreation park has been in operation since 1973 and has not contributed to marginal development in the surrounding community. In fact, the project proposes no new development, and therefore will not encourage or set precedence for marginal development within the community.

7. ***That special conditions or unique characteristics of the subject property and its location or surroundings are established.***

**Project Finding:** The subject property is unique in that it has been the location of the only permitted off-road motorcycle recreational facility in the county since 1973. The property has unique and varied topography that makes it ideal for motorcycle sports. These characteristics, along with the proper zoning and General Plan designations, and the isolated location, make the subject property ideal for this kind of land use.

## **CONDITIONS OF APPROVAL FOR COUNTY FILE #LP15-2040**

### **Land Use Permit Approval**

1. A Land Use Permit is APPROVED for the operation of an off-road motorcycle recreation park based on the following documents:
  - Application and materials submitted to the Department of Conservation and Development, dated October 8, 2015
  - Site plan received on October 8, 2015
  - Noise Study prepared by Wilson Ihrig Consultants, dated March 8, 2016

This permit and conditions of approval supersede County File #LP95-2020 and is approved for mechanical recreation and related activities (i.e. motorcycle and go-cart racing, recreational riding, and practice). The only vehicles allowed on this site for commercial recreation use are motorcycles and go-carts. Mini-sprint vehicles are allowed if they are motorcycle powered (i.e. chain driven) only as long as the noise levels referenced in the March 8, 2016 project noise study are

not exceeded. Any expansion, intensification of the use, change in hours of operation, or additional types of racing or other uses will require the approval of a new Land Use Permit.

All activities approved by this permit shall be restricted to the tracks and motocross areas as indicated on the October 8, 2015 site plan. The location of the main track as shown on the October 8, 2015 site plan should be interpreted as the general location of riding activities for that track, and is not to be strictly enforced as the required configuration of the track. Periodic routine minor changes to the configuration of the main track are allowed under this permit, as long as the changes occur in the general location shown on the approved site plan.

### **Application Costs**

2. This application is subject to an initial application deposit of \$2,700.00, which was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial deposit. Any additional costs due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever occurs first. The applicant may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.

### **Compliance Reviews**

3. The park operator and/or property owners shall submit an application for a compliance review annually for three (3) years, then every five (5) years thereafter. A report detailing the steps taken to comply with the conditions of approval shall accompany the application. The applicant is responsible for costs associated with the compliance reviews. A deposit/fee in the amount of \$1000.00 (subject to time and materials) will be filed with the compliance review application to allow for review of the conditions of approval. Compliance shall be determined by the Zoning Administrator in a public hearing with appropriate notice to property owners within 300 feet of the site and to any individuals or parties expressing interest in the project.

### **Prior to First Formalized Competitive Racing Event**

4. Upon reconstruction of the oval track to the east-central portion of the property, notify the Community Development Division a minimum of 30 days in advance

of the opening of the oval track for the first formalized weekend racing event and/or the first "Friday (or Saturday) Night Under The Lights" event.

5. At least 30 days prior to the first racing event, provide documentation to the Community Development Division that all Health Services Department requirements have been satisfied for that use.

### **Hours of Operation**

6. Recreational and Practice Riding Activities [*"Friday or Saturday Night Under The Lights" is considered a recreational riding activity.*]

Recreational and practice riding activities on the main track and the lighted oval track is permitted 5 days a week (Thursday through Monday) and shall be limited to the hours of 9:00 A.M. to 7:00 P.M. or sundown, whichever comes first.

The lighted oval track may be used for late night recreational riding until 10:00 P.M., but not more than two (2) days per each calendar month on a Friday or Saturday if no racing events are scheduled in the same month, and the park shall be emptied by 11:00 P.M.

Tuesdays and Wednesdays shall be "quiet days" with no riding activities allowed by customers, or for the property owners' private use or otherwise.

7. Formalized Racing Events [*A racing event is one that has registered contestants who have paid entry fees to compete in official competitive races on the site.*]

All motorcycle racing events on the main track and the lighted oval track shall be allowed on one night per weekend (Saturday or Sunday) and on holidays, but not to exceed two (2) racing events per calendar month. No motorcycle activity or racing shall be allowed on Thanksgiving or Christmas. Racing hours shall be limited from 9:00 A.M. to 7:00 P.M. or sundown, whichever comes first, except that the lighted oval track may be used until 10:00 P.M., and the site shall be emptied by 11:00 P.M. There shall be no late night recreational riding on the lighted oval track allowed during any month with a scheduled racing event.

### **Noise Emissions**

8. Average noise levels generated motorcycle/go-cart riding and racing activities shall not exceed the community noise exposure level of 75 decibels specified by the General Plan for agricultural areas, and shall not exceed those specified in the analysis of the March 8, 2016 project noise study. For formalized racing events, no more than 25 riders will be allowed on the main track at a time, and no more than 13 riders will be allowed on the oval track. The park operator shall maintain

a log of riders for all formalized racing events. Race heats shall be conducted on one track at a time to avoid simultaneous heats on both tracks in order to reduce noise levels.

9. All individual motorcycles and/or go-carts using the park shall be required to meet a noise standard of not more than 96 decibels when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287. Noise measurements shall be taken on a daily basis prior to admission and use of the park for all motorcycles and/or go-carts seeking to use the park. Any measured vehicles not meeting this standard shall not be allowed admission and use of the park.

### **Lighting for Oval Track**

10. Exterior lights for the oval racetrack shall be deflected so that lights shine onto the applicant's property and not toward adjacent properties. Lighting shall be reviewed for approval by the Community Development Division and the Building Inspection Division prior to installation and operation. If deemed necessary by the Building Inspection Division, a building permit must be issued prior to installation and operation of lighting.

### **Signage**

11. All signs shall be subject to the review and approval of the Community Development Division prior to installation. The hours of operation shall be clearly posted in a visible location at the park entrance.

### **Dust Control**

12. The off-street parking area shall be sprayed with water to prevent the creation of dust. This shall be done as needed to keep dust from causing nuisances to neighboring residences. On those days when there are 25 or more people present at one time on the site to either run or observe recreational vehicles, the applicant will apply water as necessary to avoid fugitive dust impacts on nearby properties. The application of water will include motorcycle and go-cart track areas, parking lot, and driveways.



**Health and Safety Requirements for All Racing Events and for Practice/Recreational Riding Activities**

13. The following regulations for the operation of the motocross facility shall be enforced by the park operator and/or property owners and made part of this permit as follows:
  - A. All riders shall wear helmets and boots.
  - B. Ambulance service, first aid, and fire-fighting equipment shall be provided at all racing events, or as required by the fire district or Health Services Department.
  - C. Posted speed limits shall be obeyed.
  - D. Smoking shall be allowed only in designated areas or parking lots.
  - E. All vehicles shall display current day's admission sticker.
  - F. All persons under the age of 18 shall have a signed release from a parent or legal guardian.
  - G. All guest vehicles shall be cleared from the grounds by closing time.
  - H. All trash shall be put in receptacles, including all trash and debris around the perimeter of the park resulting from the use.
  - I. All children under the age of 12 shall be accompanied by an adult at all times.
  - J. No open fires are allowed.
  - K. No wheel stands, spinning donuts, or racing in parking lots is allowed.
  - L. No riding on graded or filled banks around parking lots or main roads is allowed.
  - M. Anyone behaving in a manner dangerous to other persons or property shall be asked to leave and not come back.
  - N. No riding in or near Kellogg Creek is allowed.

- O. All motorcycles shall have spark arrestors and silencers.

### **Concerts/Live Music Prohibited**

14. Musical concerts and dances are prohibited.

### **Overnight Camping Prohibited**

15. No overnight camping or sleeping by patrons of the park, race participants, or spectators is allowed on the property. The park premises must be cleared of visitors at the end of each day.

### **Grading/Track Maintenance and Grooming**

16. Grading for routine track maintenance and grooming associated with the motorcycle park land use is exempt from the permit requirements of the grading ordinance. Extensive track reconfiguration will require the review and approval of the Community Development Division, and may require a grading permit.

### **Buffer Planting**

17. Within 30 days of approval of this permit, a row of mature Leyland Cypress trees shall be planted in a spacing pattern of no less than six feet apart along the fenceline adjacent to the arena and corral of APN 003-020-042 to serve as a physical buffer between the subject property and APN 003-020-042. Verification shall be provided to the Community Development Division once the planting is completed and prior to the first formalized racing event.

### **Indemnification**

18. The property owners shall deliver an executed indemnification agreement between the property owners and Contra Costa County requiring the property owners to defend, indemnify, and hold harmless Contra Costa County against any expenses arising from or related to claims or litigating regarding the County's actions in reviewing or approving this Land Use Permit application (County File No. LP15-2040). The Director of the Department of Conservation and Development is authorized to execute the indemnification agreement on behalf of the County.

**PUBLIC WORKS DEPARTMENT CONDITIONS OF APPROVAL FOR LP15-2040**

**General Requirements**

19. This development shall conform to the requirements of Division 914 (Drainage) and the remainder of Title 9 and Title 10 of the Subdivision Ordinance. Any exceptions therefrom must be specifically listed in this conditional approval statement.
20. Improvement plans prepared by a registered civil engineer shall be submitted to the Public Works Department, Engineering Services Division, along with the review and inspection fees, and security for all improvements required by the Ordinance Code or the conditions of approval for this project.

**Roadway Improvements (Frontage/On-site/Off-site)**

21. The applicant shall be permitted an exception from construction of full frontage improvements along the Camino Diablo Frontage of this property, at this time, provided that he improves the Camino Diablo entrance to this development to include at least a 6.1 meter (20-foot) wide paved driveway constructed to County private road standards from the edge of pavement to the proposed right-of-way line. The entrance shall also include paved tapers and flares designed and constructed in accordance with Figure 405.7 from the Caltrans Highway Design Manual from the edge of pavement along Camino Diablo to the right-of-way line (based on the basic 6.1 meter [20-feet] driveway width).

**Access to Adjoining Property**

22. Proof of Access/Acquisition  
Applicant shall furnish proof to the Public Works Department, Engineering Services Division, of the acquisition of all necessary rights-of-way, rights-of-entry, permits and/or easements for the construction of off-site, temporary or permanent, road or drainage improvements.
23. Encroachment Permit  
Obtain an encroachment permit from the Application & Permit Center for construction of driveways, or other improvements within the right-of-way of Camino Diablo.

24. Restrict Access

Restrict access along Camino Diablo, with the exception of the proposed access.

**Road Dedication**

25. Applicant shall convey to the County, by Offer of Dedication, additional right-of-way on Camino Diablo as required for the planned future width of 33.5 meters (110 feet) with at least a 457 meter (1,500 feet) centerline radius.

**Intersection Design/Sight Distance**

26. Provide a sight distance analysis, subject to the review of the Public Works Department, which analyzes the proposed Camino Diablo entrance to this development. Provide sight distance based on a design speed of 104 kilometers per hour (65 miles per hour) along Camino Diablo.

**Drainage Improvements/Collect and Convey**

27. Division 914 of the Ordinance Code requires that all storm waters entering or originating within the subject property shall be conveyed, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage facility which conveys the storm waters to a natural watercourse.
28. Discharging concentrated storm water into roadside ditches is prohibited by the Ordinance Code. However, as roadside ditches are characteristic of the area, an exception from this requirement is granted provided the applicant verifies the adequacy of the downstream ditch system or constructs any necessary improvements to make this system adequate.

**Miscellaneous Drainage Requirements**

29. The applicant shall install within a dedicated drainage easement any portion of the drainage system which conveys run-off from public streets.

**Utilities/Undergrounding**

30. An exception is permitted from undergrounding utility distribution facilities due to the rural nature of this area.

### **Traffic Control**

31. The applicant shall provide special traffic control personnel at the Camino Diablo access to this property for events involving more than 500 vehicles, unless the Zoning Administrator approves the special event without traffic control. Traffic Control may also be required for smaller events if significant traffic complaints substantiate a need.

### **Creek Structure Setbacks**

32. The applicant shall be required to observe the creek structure setback line in accordance with Section 914-14.012, "Structures Setback Lines for Unimproved Earth Channels" for any new structures on this property.

### **National Pollutant Discharge Elimination System (in addition to NPDES permit)**

33. Within 30 days of the effective date of this (1998) modified permit, the applicant shall ensure that he has complied with all components of this condition of approval.
  - A. Hazardous wastes, including but not limited to used motor oil, battery acid or antifreeze shall not be discharged onto the ground.
  - B. All hazardous wastes shall be stored in appropriate containers on a covered concrete slab in an area which is not subject to inundation and shall be removed from the facility at least one each 90 days.
  - C. The applicant shall pave, cover and contain the various vehicle repair pit areas to prevent contaminants from these areas from reaching the creek. The applicant shall obtain a Hazardous Waste Generator's Permit from the County Health Department to assure adequate maintenance of the vehicle repair pit areas and disposal of the hazardous wastes.
  - D. The applicant shall provide an erosion control plan showing how the quantity of silt entering the creek from this property will be reduced. The erosion control plan shall be subject to the review of the Public Works.

**NOTE: In the event that the improvements required by the Public Works Department have been constructed, the applicant shall provide the Public Works Department with evidence that these improvements have been completed.**

**ADVISORY NOTES**

**ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.**

- A. NOTICE OF OPPORTUNITY TO PROTEST FEES, ASSESSMENTS, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

Pursuant to California Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations or exactions required as part of this project approval. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this project is approved. If the 90th day falls on a day that the Community Development Division is closed, then the protest must be submitted by the end of the next business day.

- B. Additional requirements may be imposed by the East Contra Costa Fire Protection District. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.
- C. Additional requirements may be imposed by the Contra Costa Health Services, Environmental Health Division. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.
- D. Additional requirements may be imposed by the Building Inspection Division. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.
- E. Additional requirements may be imposed by the Public Works Department. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.