



County of San Diego

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MITIGATED NEGATIVE DECLARATION

PROJECT NAME: Sierra Lowe Winery

RECORD ID: PDS2016-AD-16-034

ENVIRONMENTAL LOG NO.: PDS2019-ER-19-04-001

This Document is Considered Draft Until it is Adopted by the Appropriate County of San Diego Decision-Making Body.

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study Form
 - b. Environmental Analysis Form and attached extended studies for
1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.

2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

ANY PERMIT: *(Prior to the approval of any plan, issuance of any permit, and prior to occupancy or use of the premises in reliance of this permit).*

1. **BIO#1–BIOLOGICAL EASEMENT: [PDS, PCC] [DPR, TC] [DGS, RP] [BP, GP, CP, UO] [PDS, FEE X 2]. INTENT:** In order to protect sensitive biological resources, pursuant to the Resource Protection Ordinance (RPO), a biological open space easement shall be granted. **DESCRIPTION OF REQUIREMENT:** Grant to the County

of San Diego an open space easement as shown on the approved plot plan. This easement is for the protection of biological resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation. The only exception(s) to this prohibition are:

1. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the applicable fire code of the Fire Authority Having Jurisdiction and the Memorandum of Understanding dated February 26, 1997, (<http://www.sdcountry.ca.gov/PDS/docs/MemoofUnder.pdf>) between the wildlife agencies and the fire districts and any subsequent amendments thereto.
2. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of PDS, DPW or DPR.
3. Maintenance and construction of private and public drainage facilities to the extent approved or required by written order of the Director of Public Works for the express purpose of reducing an identified flooding or drainage hazard. All maintenance of drainage facilities pursuant to this exception shall not be initiated until all applicable federal, state and local permits (e.g., California Section 1600 Streambed Alteration Agreement, County Watercourse Permit) have been obtained.

DOCUMENTATION: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for preparation and recordation with the *[DGS, Real Property Division]*, and pay all applicable fees associated with preparation of the documents. Upon Recordation of the easements, the applicant shall provide copies of the recorded easement documents to *[PDS, PCC]* for approval. **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit the easements shall be recorded. **MONITORING:** The *[DGS, RP]* shall prepare and approve the easement documents and send them to *[PDS, PCC]* for pre-approval. The *[PDS, PCC]* shall pre-approve the language and estimated location of the easements before they are released to the applicant for signature and subsequent recordation. Upon Recordation of the easements *[DGS, Real Property Division]* shall forward a copy of the recorded documents to *[PDS, PCC]* *[DPR, TC]* for satisfaction of the condition.

BIO#2–LBZ EASEMENT [PDS, FEE X 2]

INTENT: In order to protect sensitive biological resources, pursuant to the [Resource Protection Ordinance \(RPO\)](#), a Limited Building Zone Easement shall be granted to limit the need to clear or modify vegetation for fire protection purposes within an adjacent biological resource area. **DESCRIPTION OF REQUIREMENT:** Grant to the County of San Diego a Limited Building Zone Easement as shown on the approved

plot plan. The purpose of this easement is to limit the need to clear or modify vegetation for fire protection purposes within the adjacent biological open space easement and prohibit the construction or placement of any structure designed or intended for occupancy by humans or animals. The only exceptions to this prohibition are:

4. Decking, fences, and similar facilities.
5. Sheds, gazebos, and detached garages, less than 250 square feet in total floor area, that are designed, constructed and placed so that they do not require clearing or fuel modification within the biological open space easement, beyond the clearing/fuel modification required for the primary structures on the property.
6. Winery facility structures as existing at the time of decision.

DOCUMENTATION: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for preparation and recordation with the [DGS, RP], and pay all applicable fees associated with preparation of the documents.

TIMING: Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the easements shall be recorded.

MONITORING: The [DGS, RP] shall prepare and approve the easement documents and send them to [PDS, PCC] for pre approval. The [PDS, PCC] shall pre-approve the language and estimated location of the easements before they are released to the applicant for signature and subsequent recordation. Upon recordation of the easements [DGS, RP] shall forward a copy of the recorded documents to [PDS, PCC] for satisfaction of the condition.

BIO#3- OPEN SPACE SIGNAGE: [PDS, PCC] [MA, GP, IP] [PDS, FEE]. INTENT:

In order to protect the proposed open space easement from entry, informational signs shall be installed. **DESCRIPTION OF REQUIREMENT:** Open space signs shall be placed along the biological open space boundary of lots as indicated on the approved grading plan. The signs must be corrosion resistant, a minimum of 6" x 9" in size, on posts not less than three (3) feet in height from the ground surface, and must state the following:

**Sensitive Environmental Resources
Area Restricted by Easement**

Entry without express written permission from the County of San Diego is prohibited. To report a violation or for more information about easement restrictions and exceptions contact the County of San Diego,
Planning & Development Services
Reference: AD-16-034

DOCUMENTATION: The applicant shall install the signs as indicated above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor, that the open space signs have been installed at the boundary of the open space easement(s). **TIMING:** Prior to the approval of any plan and issuance of any permit, the open space signs shall be installed. **MONITORING:** The [PDS, PCC] shall review the photos and statement for compliance with this condition.

BIO#4 OFF-SITE MITIGATION: [PDS, PCC] [BP, GP, CP, UO] [DPR, GPM] [PDS, FEE X2] INTENT: In order to mitigate for the impacts to 7.58 acres of granitic northern mixed chaparral, which is a sensitive biological resource pursuant to Biological Mitigation Ordinance (BMO), Resource Protection Ordinance (RPO), off-site mitigation shall be acquired. **DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit or provide for the conservation of habitat of 3.79 acres of mixed chaparral, located as indicated below.

- a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Game. The following evidence of purchase shall include the following information to be provided by the mitigation bank:
 1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
 2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
 3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
 4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in San Diego County as indicated below:
 1. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS].
 2. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.
 3. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
 4. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
 5. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land).

Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

DOCUMENTATION: The applicant shall purchase the off-site mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared and an application for the RMP shall be submitted to the [PDS, ZONING]. **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the mitigation shall occur. **MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, REG] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

BIO#5–RESOURCE AVOIDANCE [PDS, FEE X2]

INTENT: In order to avoid impacts to migratory birds, which is a sensitive biological resource pursuant to the Migratory Bird Treaty Act (MBTA), a Resource Avoidance Area (RAA), shall be implemented on all plans. **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing and/or grading such that none will be allowed during the migratory bird breeding season. The breeding season is defined as occurring between February 1st and August 31st. The Director of PDS [PDS, PCC] may waive this condition, through written concurrence from the US Fish and Wildlife Service and the California Department of Fish and Wildlife, provided that no migratory birds are present in the vicinity of the brushing, clearing or grading. **DOCUMENTATION:** The applicant shall provide a letter of agreement with this condition; alternatively, the applicant may submit a written request for waiver of this condition. Although, No Grading shall occur within the RAA until concurrence is received from the County and the Wildlife Agencies. **TIMING:** Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. **MONITORING:** The [DPW, PDC] shall not allow any grading in the RAA during the specified dates, unless a concurrence from the [PDS, PCC] is received. The [PDS, PCC] shall review the concurrence letter.”

ONGOING: *(Upon establishment of use The following conditions shall apply during the term of this permit)*

CULT#1. POST-CLEARING/PRE-GRADE ARCHAEOLOGICAL MONITORING

INTENT: In order to ensure that buried resources are evaluated, a Post-Clearing/Pre-Grade Archaeological Monitoring and Evaluation Program shall be implemented

pursuant to the County of San Diego Guidelines for Determining Significance for Cultural Resources and the California Environmental Quality Act (CEQA). **DESCRIPTION OF REQUIREMENT:** A County Approved Principal Investigator (PI) known as the "Project Archaeologist," shall be contracted to perform archaeological monitoring and evaluation for the southern and western portions of the site that have not been cleared of vegetation. The archaeological monitoring and evaluation program shall take place once the vegetation in the western and southern portions of the project site has been removed and shall include but is not limited to the following:

- a. The Project Archaeologist shall perform the monitoring and evaluation duties after the clearing of the western and southern portions of the project site has been completed. The contract or letter of acceptance provided to the County shall include an agreement that the archaeological monitoring and evaluation will be completed, and a Memorandum of Understanding (MOU) between the Project Archaeologist and the County of San Diego shall be executed. The contract or letter acceptance shall include a cost estimate for the monitoring work and reporting.
- b. The Project Archaeologist shall provide evidence that a Cupeño or Luiseño Native American has been contracted to perform Native American Monitoring for the project.
- c. The Project Archaeologist and Native American monitor shall attend the pre-meeting with the contractors and/or staff to explain and coordinate the requirements of the archaeological monitoring and evaluation program.
- d. The Project Archaeologist and the Cupeño or Luiseño Native American monitor shall be onsite as determined necessary by the Project Archaeologist in consultation with the Cupeño or Luiseño Native American monitor. Inspections will vary based on the rate of clearing, and the presence and abundance of artifacts and features identified. The frequency and location of inspections will be determined by the Project Archaeologist in consultation with the Cupeño or Luiseño Native American Monitor.
- e. In the event that previously unidentified potentially significant cultural resources are discovered:
 1. The Project Archaeologist or the Cupeño or Luiseño Native American monitor shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources.
 2. At the time of discovery, the Project Archaeologist shall contact the PDS Staff Archaeologist.
 3. The Project Archaeologist, in consultation with the PDS Staff Archaeologist and the Cupeño or Luiseño Native American Monitor, shall determine the significance of the discovered resources.
 4. Construction activities will be allowed to resume in the affected area only after the PDS Staff Archaeologist has concurred with the evaluation.
 5. Isolates and clearly non-significant deposits shall be minimally documented in the field.
 6. Should the cultural materials for isolates and non-significant deposits not be collected by the Project Archaeologist, then the Cupeño or Luiseño Native

- American monitor may collect the cultural material for transfer to a Tribal Curation facility or repatriation program.
7. A Research Design and Data Recovery Program to mitigate impacts to significant cultural resources shall be prepared by the Project Archaeologist in coordination with the Cupeño or Luiseño Native American Monitor. The Research Design and Data Recovery Program shall include (1) reasonable efforts to preserve (avoidance) "unique" cultural resources or Sacred Sites; (2) the capping of identified Sacred Sites or unique cultural resources and placement of development over the cap, if avoidance is infeasible; and (3) data recovery for non-unique cultural resources.
 8. The County Archaeologist shall review and approve the Program, which shall be carried out using professional archaeological methods.
- f. If any human remains are discovered:
1. The Property Owner or their representative shall contact the County Coroner and the PDS Staff Archaeologist.
 2. The Property Owner or their representative shall contact the County Coroner and the PDS Staff Archaeologist.
 3. Upon identification of human remains, no further disturbance shall occur in the area of the find until the County Coroner has made the necessary findings as to origin.
 4. If the remains are determined to be of Native American origin, the NAHC shall immediately contact the Most Likely Descendant (MLD).
 5. The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further development activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted.
 6. The MLD may with the permission of the landowner, or their authorized representative, inspect the site of the discovery of the Native American human remains and may recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The descendants shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.
 7. Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed in the event that human remains are discovered.
- g. Upon conclusion of field work, if archaeological resources were encountered during the earth disturbing activities, the Project Archaeologist shall provide an Archaeological Monitoring Report stating that the field monitoring activities have been completed, and that resources have been encountered. The report shall detail all cultural artifacts and deposits discovered during monitoring and the anticipated time schedule for completion of the curation phase of the monitoring.
- h. A final report shall be prepared that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program. The report shall include the following items:
1. DPR Primary and Archaeological Site forms.
 2. Daily Monitoring Logs

3. Evidence that the disposition of all cultural materials has been completed which may include but is not limited to the following:

- i. Prehistoric archaeological materials collected during the archaeological monitoring program shall be submitted and curated at a San Diego curation facility or a culturally affiliated Native American Tribal curation facility that meets federal standards per 36 CFR Part 79, and, therefore, would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records, including title, shall be transferred to the San Diego curation facility or culturally affiliated Native American Tribal curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the prehistoric archaeological materials have been received and that all fees have been paid.

or

Evidence that all prehistoric materials collected during the grading monitoring program have been repatriated to a Native American group of appropriate tribal affinity. Evidence shall be in the form of a letter from the Native American tribe to whom the cultural resources have been repatriated identifying that the archaeological materials have been received.

- ii. Historic materials shall be curated at a San Diego curation facility, as identified above, and shall not be curated at a Tribal curation facility or repatriated. The collections and associated records, including title, shall be transferred to the San Diego curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the historic materials have been received and that all fees have been paid.

If no cultural resources are discovered, a Negative Monitoring Report must be submitted stating that the grading monitoring activities have been completed.

Grading Monitoring Logs must be submitted with the negative monitoring report.

DOCUMENTATION: The applicant shall provide a copy of the Archaeological Monitoring Contract or letter of acceptance, cost estimate, and MOU to the [PDS, PPD] prior to the start of the Archaeological Monitoring and Evaluation Program. A final report shall be submitted within 180 days upon completion of field work. **TIMING:** Upon establishment of the use, the requirements of this condition shall be complied with for the term of this permit. **MONITORING:** The [PDS, PPD] shall review the contract or letter of acceptance and MOU, and final report for compliance with this condition.

BIO#6—OPEN SPACE FENCING [PDS, FEE]

INTENT: In order to protect the proposed open space easement from entry, or disturbance, permanent fencing shall be installed. **DESCRIPTION OF**

REQUIREMENT: Open space fencing shall be placed along the biological open space boundary as indicated on the approved plot plan. The fencing design shall consist of four-foot tall three strand wire fencing or split rail fencing.

DOCUMENTATION: The applicant shall install the fencing or walls as indicated

above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor that the open space fencing has been installed at the open space easement boundary. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the fencing or walls shall be placed. **MONITORING:** The [PDS, PCC] shall review the photos and statement for compliance with this condition.

2. The payment of the Transportation Impact Fee, which will be required at issuance of building permits, in combination with other components of this program, will mitigate potential cumulative traffic impacts to less than significant.
3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

ONGOING: *(Upon establishment of use The following conditions shall apply during the term of this permit).*

NOISE#2–NOISE REQUIREMENT [PDS, FEE X2]

INTENT: In order to reduce the impacts of the exterior sound levels from the project site on the adjacent parcels and to comply with the [County of San Diego Noise Ordinance 36.404](#) as evaluated in the [County of San Diego Noise Guidelines for Determining Significance](#), the following design measures shall be implemented on the building plans and in the site design. **DESCRIPTION OF REQUIREMENT:** The following design elements and noise attenuation measures shall be implemented and indicated on the building plans and made conditions of its issuance:

- a. “Hours of operations for the wine club/events would be limited to ~~4:00 pm to 4:00 pm~~ 7:00 a.m. – 10:00 p.m., where no music, live or recorded would occur after ~~4:00 pm~~ 10:00 p.m.”.
- b. Noise generated from the winery would not exceed the allowable noise level limit per Noise Ordinance, Section 36.404 of 50 dBA daytime and 45 dBA night time limit.
- c. General Note: If substantial new information and/or major project design changes occur to what was previously assessed, then additional noise review may be necessary to ensure noise ordinance compliance.

DOCUMENTATION: The applicant shall place the design elements, or notes on the building plans and submit the plans to [PDS, BPPR] for review and approval. **TIMING:** Prior to issuance of any building permit, the design elements and noise attenuation measures shall be incorporated into the building plans. **MONITORING:** The [PDS, BPPR] shall verify that the specific note(s), and design elements, and noise attenuation measures have been placed on all sets of the building plans and made conditions of its issuance.

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

on _____

Bronwyn Brown, Planning Manager
Project Planning Division