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Conservation Development and Planning

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Hillary Gitelman
Director

To: Napa County Conservation, Development, and Planning Commission

From: Kirsty Shelton, Project Planner

Date: December 1, 2011

Regarding: Response to Comments on the proposed Napa Valley Executive Center Use Permit Application P08-00555; APN 057-200-001SFAP & -009SFAP

This memorandum has been prepared by County staff to respond to comments received by the Napa County Conservation, Development, and Planning Department (Napa County) on the January 19, 2011 Initial Study/Mitigated Negative Declaration (IS/MND) for the Napa Executive Center Use Permit Application P08-00555 (project). The IS/MND was circulated for public review from January 19 – February 16, 2011. Based on comments received during the comment period, the County of Napa determined that revisions to and recirculation of the document were necessary. A revised IS/MND will be circulated for public review from December 22, 2011 – January 17, 2012 and a hearing date is scheduled for January 18, 2012.

CEQA Process

In accordance with Section 15073 of the CEQA Guidelines, Napa County submitted the originally proposed IS/MND for a 20-day public review period beginning on January 19, 2011. In addition, Napa County circulated a Notice of Intent to Adopt the IS/MND and a notice of hearing to interested agencies and individuals. During and directly following the initial public review period, Napa County received one comment letter dated February 8, 2011 from Mr. Richard Drury with Weinberg, Roger, and Rosenfeld on behalf of Carpenters Local 751. The comment letter is attached hereto and has been annotated to identify specific comments that are responded to below.

In accordance with CEQA Guidelines Section 15074(b), Napa County will consider the revised IS/MND, including the comments received and responses to comments, before taking action on the project.

Responses to Comment

Comment A: This comment serves as an introduction to the comment letter and summarizes the commenter's concerns. The commenter states that after reviewing the MND it is clear that the Project's significant environmental impacts have not been adequately mitigated because mitigation is inappropriately "deferred." In addition, the commenter states that the project will have cumulative impacts that are not addressed, and that an Environmental Impact Report (EIR) is therefore necessary. The commenter indicates an interest in the project because union members live, work and recreate in the immediate vicinity of the project and construction workers will suffer because of construction impacts are mitigated to the full extent feasible.

Response to Comment A: As detailed below and in the revised IS/MND, the County believes that the proposed project will not have a significant effect on the environment once required mitigation measures are adopted and an EIR is not necessary for this project. Specific concerns of the commenter are responded to below.

Comment B: The commenter includes a general summary of the legal standard of review for negative declarations, discussing both the term "fair argument" and "substantial evidence."

Response to Comment B: As detailed below and in the revised IS/MND, the County believes that project does not have a significant impact on the environment once proposed mitigations are adopted as part of the project. In addition, the commenter's specific concerns, which have been responded to below, do not constitute "substantial evidence" because they are based on a misunderstanding of the County's traffic fee mitigation program, the nature of regional air pollutants, and the Bay Area Air Quality Management District's (BAAQMD's) CEQA Guidelines.

Comment C: The commenter states that the project will have a significant traffic impact and that payment of impact fees does not fully mitigate the impact.

Response to Comment C: As indicated in the revised IS/MND, there are no significant project level impacts as determined by the submitted traffic study *Focused Traffic Impact Analysis for the Proposed Napa Executive Center Project in the Napa Airport Industrial Area (NAIA)* by George W. Nickelson dated December 19, 2008. The current cul-du-sac, roadway network and access to the Project, proposed parking arrangements and circulation, and turn lane are adequate and do not require project level mitigation. However, the applicant has agreed to include the following sustainable transportation demand management measures in a mitigation measure intended to address Green House Gas (GHG) emissions: reference to installation of bike storage facilities,

reduced parking, depict location and reference to the new transit stop, and reference the alternative transportation educational materials. These measures are included as Mitigation Measures in the IS/MND.

When the airport area specific plan was adopted many years ago, the County determined that cumulative increases in traffic due to anticipated development would result in significant cumulative impacts. This conclusion (that projects in the area contribute to cumulative significant impacts) is still valid today, as evidenced by the General Plan EIR's similar conclusion in June 2008 and the number of individual "reasonably foreseeable" projects in the vicinity. The following table lists approved and proposed development in proximity to the project site which will combine to create a foreseeable future condition consistent with projections utilized at the time the specific plan and the General Plan update were adopted.

Project#	Project Name	APN/Location/ Lot Size	Applicant	Project Description	Status
98-177	Montalcino at Napa Resort Hotel	57-020-006, 017, 018, & 020; 57-210-002 Devlin Rd. 72 acres	Marsha Ramsey HCV Napa Assoc 222 Kearny St, Suite 310 S.F., Ca 94108	408,184 sq. ft. of floor area 379 rooms & suites 1045 parking spaces 494 employees	Approved but unbuilt
P05-0220	Montalcino at Napa Golf Course	57-010-037 Devlin Road 233 acres	Same as above	18-hole golf course Driving range 12 employees	Approved but unbuilt
P05-0434/ 09-00100 P09-00101	Suscol Creek Winery	57-170-018 Soscol Ferry Rd, west of Hwy 29 10.32 acres	Mike Fennel P.O. Box 3274 Napa, Ca 94558	Modify previous approval to increase production from 200,000 gal/yr to 600,000 gal/yr; Increase floor area of previously approved building from 61,281 sq. ft. to 66,338 sq. ft.; Construct 7,500 sq. ft. of new floor area in a detached building; Increase employees from 21 to 35; 55 parking spaces; 25 visitors/day; and Tentative Parcel Map to create airspace condominium units	Approved but unbuilt
P05-0191 P07-00432	Napa Gateway Plaza Phase 2	57-200-004, 005, 014 Gateway Rd East/Devlin/Airport Blvd 9.8 acres	William Maston Architect & Assc 384 Castro Street Mtn View, Ca 94041	66,473 sq. ft. hotel with 100 rooms, conference /meeting rooms, and other amenities; 107,578 square feet of retail, office and restaurant floor area, including 56,048 sq. ft. of retail, 10,348 sq. ft. of restaurant, and 41,182 sq. ft. of office floor area;	Approved Hotel completed

Project#	Project Name	APN/Location/ Lot Size	Applicant	Project Description	Status
				460 on-site parking spaces (Phases I & II); Approx 222 full-time employees	
95643	Napa Gateway Plaza Phase 1	057-200-015 & 016 3.12 acres	Same as above	16,216 sq. ft. bank/office building 4,664 sq. ft. gasoline station/convenience mart/fast food restaurant	Approved (used)only bank /office building has been built
P06-01386	Rinker Batch Plant	57-110-037 Devlin Rd 2.9 acre portion of a 12.6 acre site (the balance of site is developed)	Rick McClish 5510 Skyline Blvd Suite 201 Santa Rosa, Ca 95403	Small concrete batch plant 250 sq. ft. office 18 parking spaces 2 office employees 15 mixer trucks	Approved
P05-0252 P06-0081	Napa Bottling Center	57-240-012 655 Airpark Rd 15.69 acres	James Lunt Foster's/Beringer Blass Wine Estate 655 Airpark Rd Napa, Ca 94558	Convert existing 150,000 sq. ft. warehouse into a bottling bldg.; 12,190 sq. ft. office & bottling addition. 21,197 sq. ft. processing & warehousing addition. 57,635 sq. ft warehouse addition. 131 full-time employees (3 shifts) 99 parking spaces (with a provision for another 226 if needed)	Approved and built
P05-0069	Napa Valley Crossroads	57-190-022 21 Executive Way 15.6 acres	Napa Valley Crossroads PG, LLC 8413 Jackson Rd, #C Sacramento CA 95826	Construct two warehouse/distribution bldgs. (146,113 & 163,537 sq. ft.) Approx. 50 full & 10 part-time employees (3 shifts) Approx. 100 visitors busiest/day, 350 avg/week 320 parking spaces	construction complete.
99-151	Ziedman	58-060-008 & 010 2400 Green Island Rd 9.3 acres	Phil Ziedman Matterhorn P.O. Box 5754 Santa Rosa, CA 95402	Establish concrete block mfg facility 5,300 sq. ft. 6 full-time employees 7 parking spaces	Approved (used); un-built
P06-01532	Gateway Winery	57-250-029 NW/c Technology Wy & Morris Ct 11.1 acres	Gateway Winery LLC c/o Kevin Teague DP&F 809 Coombs St Napa, CA 94559	Construct 261,000 sq. ft. (3 bldgs) for a 600,000 gal/yr winery/distillery Approx 65 employees (2 -3 shifts) 227 parking spaces 30 visitors/day 200 visitors/wk 3 marketing events/month for 250 people max.	Approved

P09-00329 P09-00330	Greenwood Commerce Center	57-210-056 SW/c Airport Blvd/SR 29 34 acres	Napa 34 Holdings c/o Brian Kaufman 2617 Castro St. Sacramento, CA 95818	Construct five (5) office buildings totaling 113,136 sq. ft. and three (3) warehouse buildings totaling 385,335 sq. ft. 616 full/part-time employees 818 parking spaces Parcel map to create 11 lots	Approved, unbuilt
P08-00517	Tower Road Winery Co-Op Expansion	57-110-028 241 Tower Road 9.66 acres	Refrigerated Facility Design Build, Inc. 6630 Hwy 9, Ste 204 Felton, CA 95018	Construct a 12,500 sq. ft building addition connecting two wine warehousing /storage buildings. No new employees or visitors. No other changes.	Approved, unbuilt
P08-00654	Busby Winery	57-250-023 West side of Technology Way, south of Morris Ct. 1.28 acres	David Busby 455 Technology Way Napa, CA 94558	Construct a 18,162 sq. ft. building for a 50,000 gal/yr winery 3 to 11 full/part time employees 26 parking spaces No tours/tasting or marketing activities proposed	Approved, unbuilt
P09-00153	Walkenhorst warehouse/Office Building	57-210-022 SW/c Technology Way/Technology Ct 3.5 acres	Stewart Walkenhorst 1774 Industrial Wy Napa, CA 94558	Construct a 30,158 sq. ft. warehouse/office building 132 parking spaces 60 employees	Approved
P10-00348	Metropolitan Van & Storage	57-220-026 & 029 NE/c Airport Blvd/Airpark Rd 6.2 acres	Dennis Pauley 5400 Industrial Wy Benicia, CA 94510	Construct a 107,424 sq. ft. warehouse 106 parking spaces 2 employees	Approved
P10-00148	Rocca Family Winery	57-170-007 129 Devlin Rd 1.0 acre	Mary Rocca 129 Devlin Rd Napa, CA 94558	Construct 7,110 sq. ft. building for a 20,000 gal/yr winery Construct 2,660 sq. ft. of covered outdoor work area Convert existing 2,000 sq. ft. residence to winery use 5 full & 5 part time employees 11 parking spaces 32 visitors/day 224 visitors/week 4 marketing events/week for 50 people 8 marketing events/year for 50 people	Approved
P07-00864	Rombauer Vineyards	57-250-030 NE/c Morris Ct & Technology Wy 13.2 acres	Rombauer Trust Inv, LLC, et. al c/o Meibeyer Law Group 1236 Spring St. St. Helena, CA 94574	Construct a 130,000 sq. ft. facility for a 1,000,000 gal/yr winery 28 parking spaces (55 spaces could be added if needed) 25 employees No tours/tasting or marketing	Pending

				activities proposed	
P08-00221 P08-00222	Busby Industrial Condo's	57-250-037 SW/c Devlin Rd & Sheehy Ct 2.4 acres	Busby Enterprises 455 Technology Wy Napa, Ca 94558	Construct a 27,677 sq. ft. spec industrial building. Parcel Map to split into 10 industrial condo units. 20 full-time employees 62 parking spaces	Approved
P08-00312 P08-00313/ P09-00123	Greenwood Commerce Center	57-210-055 & 056 SW/c Airport Blvd/Devlin Rd 20.7 acres	Napa Gateway Partners 2841 Sunrise Blvd., Suite200 Gold River, CA 95670	Modify previous approval to construct 371,467 sq. ft. of office/light industrial floor area (3 buildings) 60 full-time employees 278 parking spaces. Parcel Map to create 4 lots.	Approved
P06-01535	Noorzay/Osman Auto Wrecking Yard	58-060-004 2600 Green Island Rd 3.0 acres	Fahim Noorzay Ishaq Osman 1578 Green Island Rd American Canyon, Ca 94503	Establish an auto wrecking yard w/1140 sq. ft. office/storage bldg. 4 employees	Approved
P08-00531	Napa Valley Gateway	57-200-027 & 028 Southwest corner of Gateway Rd West & Devlin Rd 6.87 acres	NVGL I, L.P.1 Charles Slutzkin 499 Devlin Rd Napa, CA 94558	Convert four existing buildings to airspace condominium units. No changes to the site plan, buildings, or permitted uses.	Approved (no construction required)
P08-00557	Turnkey Technologies	57-250-032 North side of Gateway Rd West opposite Technology Wy 2.41 acres	Satish & Surekha Chohan 4650-A East 2nd St Benicia, CA 94510	Construct a 40,000 sq. ft. light industrial/office building. Approx 25 employees 71 parking spaces	Approved – under construction

Since 1990, the County has imposed and collected traffic mitigation fees on all development projects within the Airport Industrial Area. A developer's "fair share" fee goes toward funding roadway improvements within the specific plan area including improvements designed to relieve traffic on State Highways. For this project, a traffic mitigation fee based on PM peak hour vehicle trips will be imposed and collected prior to issuance of the building permit as determined by the Director of Public Works and is included as a mitigation measure below. The Department of Public Works is in the process of completing an update of the Airport Industrial Area traffic mitigation fee program. However, the current fee is \$3,551 per PM peak hour trip. The project's 101 PM peak hour trips would result in a fee of \$358,651.

The Traffic Mitigation Fee program provides funding for road improvements necessitated by cumulative development and projects are identified in Exhibit A of the *Airport Industrial Area Specific Plan Traffic Mitigation Fee Program*. Rick Marshall, Napa County Public Works Deputy Director states that the next project for construction is the completion of Devlin Road to South Kelly Road. This will undoubtedly improve traffic conditions on State Route 29 because interior traffic flow within the industrial park can happen without traveling on the Highway. Also, the most significant network deficiency in the area is the link between State

Route 29 and Interstate 80, and the project to construct four lanes on this link (i.e. Jameson Canyon) is funded and currently out to bid for construction. With the “fair share” payment towards crucial network improvements like the Devlin Road extension identified in the Mitigation Fee Program, and the regional improvements being undertaken by Caltrans, the project’s contribution to significant cumulative traffic impacts is justifiably considered less than “considerable.” The basis of this conclusion has been added to the revised IS/MND.

Comment D: The commenter states that the payment of impact fees will be funding some unspecified measures that have not even been proposed yet and therefore constitute inappropriately “deferred mitigation.”

Response to Comment D: As indicated above, the IS/MND has been revised to describe the fee mitigation program and the projects that will be funded using the mitigation fees collected from the project and others in the area. The County is currently working on an update to the fee mitigation program, however that planning process does not negate the value of the program as currently constructed. Applicants are required to pay their “fair share” towards a suite of specific transportation investments calculated to address the most pressing problems in the vicinity. CEQA Guidelines Section 15130 (a) (3) states that in-lieu fees are an appropriate method of mitigating cumulative traffic impacts. In addition, there are regional transportation projects underway, like the expansion of SR 12 through Jamieson Canyon which will address cumulative congestion in the area whether or not the current project proceeds. The mitigation fee program went through the CEQA process and includes a detailed list of Projects as Exhibit A, which is attached hereto. Staff interprets the payment of the fair share development impact fee as adequate to address the project’s contribution to cumulative impacts, and not as deferred mitigation; thus an EIR is not required.

Comment E: The commenter states that mitigation measures imposed to reduce the project’s greenhouse gas (GHG) emissions are not quantified and have not been adopted pursuant to a binding mitigation monitoring program. For these reasons, the commenter believes the measures are legally inadequate to reduce the impact to less than significant.

Response to Comment E: The revised IS/MND includes a quantitative analysis of specific percentage sector GHG emission reductions based on the BAAQMD’s list of feasible mitigation measures listed on page 4-13 through 4-15 of the BAAQMD’s May 2011 CEQA Guidelines (*URBEMIS Mitigation Measures for Operations Mobile Source Emissions*). The project’s sustainable features combine to create a 21% reduction in emissions and the applicant has agreed to meet the 39% reduction below “business as usual” proposed in the County’s revised Climate Action Plan. Both commitments are reflected in Mitigation Measure **one** of the revised IS/MND. The unmitigated operational emissions rate was 1,163.36 MT/Y CO₂e, a 21% reduction would provide a reduction of 244.31 MT/Y CO₂e, yielding a mitigated operational emission of 919.05 MT/Y CO₂e, well below the BAAQMD’s threshold of 1,100 MT/Y CO₂e.

The revised IS/MND also describes a method for monitoring the mitigation, although finalization and adoption of a mitigation monitoring program is not required until project approval. (See 15074(d) of the State CEQA Guidelines.) The project complies with requirements of the BAAQMD and all applicable authorities.

Comment F: The commenter states that the IS/MND ignores entirely the project's cumulative impacts for construction emissions of NO_x air quality.

Response to Comment F: NO_x is a precursor of smog and is considered a regional pollutant. The Environmental Protection Agency (EPA), California's Air Resources Board (CARB) and the BAAQMD have all adopted measures to curtail emissions of nitrogen oxides. The BAAQMD directly controls power plants, boilers, stationary turbines, and stationary engines that are sources of these pollutants, and indirectly controls vehicular sources of NO_x by working to change people's driving habits.

The construction emissions of the project were compared to the BAAQMD's threshold (Table -4 of the BAAQMD May 2011 Guidelines) and found to be less than significant. Nonetheless, as described in the revised IS/MND, the applicant has agreed to incorporate the basic construction measures included in Table 8-2 of the May 2011 BAAQMD CEQA Guidelines as a Condition of Project approval as follows:

- a. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
- b. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- c. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
- d. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- e. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- f. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
- g. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.
- h. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
- i. Minimizing the idling time of diesel powered construction equipment to two minutes.

- j. The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
- k. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
- l. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
- m. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.

The commenter suggests that construction emissions from the project should be considered together with construction impacts of nearby projects and would be cumulatively considerable. However this suggestion is neither consistent with the BAAQMD's Guidelines nor the nature of NOx as a regional pollutant. As stated on p. 2-6 of the May 2011 BAAQMD Guidelines, a project that exceeds the 54 lbs/day threshold for construction emissions "would result in a significant cumulative impact." In other words, the NOx threshold has been established as a way to assess contributions to air pollutants in the air basin, and already addresses project contributions to a cumulative context that is more appropriate for a regional pollutant than the immediate vicinity of the project site.

Comment G: The commenter provides an expanded discussion regarding the definition of cumulative impacts and references an exhibit suggesting that significant cumulative NOx impacts will occur.

Response to Comment G: The County recognizes the need to consider cumulative impacts and to mitigate project contributions that are 'considerable.' However, as explained above, the project's contribution to regional air emissions is not considered significant based on the BAAQMD's adopted thresholds of significance. Nonetheless, the applicant has agreed to implement the construction practices included in Table 8-2 of the May 2011 BAAQMD CEQA Guidelines.

Comment H: The commenter requests implementation of mitigation measures to reduce construction emissions.

Response to Comment H: As explained above, the project would not have significant impacts due to construction emissions, yet the applicant has agreed to implement measures as a condition of project approval to reduce emissions that are suggested by the BAAQMD.

Comment I: The commenter states that the project will have significant unmitigated environmental impacts, and EIR is required, including evidence to support a statement of overriding considerations.

Response to Comment I: As discussed above in the response to individual comments and in the revised IS/MND, the proposed project would not result in significant impacts once required mitigation measures are adopted. Thus preparation of an EIR and a statement of overriding considerations are not required.

Attachment A: Richard Drury for Carpenters Local 751 letter of February 8, 2011 (with attachments)
Resolutions number 08-146 & 08-147