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## **DETERMINATION OF GOOD CAUSE TO AUGMENT THE DOCUMENTARY RECORD FOR THE WALT RANCH APPEAL HEARINGS**

October 20, 2016

To: Thomas N. Lippe  
Rachel Mansfield-Howlett  
Thomas Adams  
Whit Manley  
Mark Wolfe  
Aruna Prabhala

From: Chairman Pedroza

Re: Walt Ranch Appeal Hearing – Good Cause Determination

As Chairman of the Board of Supervisors, I have received and reviewed the requests to supplement the record and/or requests for the hearing to be held on a de novo basis as described below and decide as follows:

**A. Requesting Party – Living Rivers Council (LRC) – Thomas N. Lippe**

1. **Nature of the Request** – Request for a de novo review of the appeal, pursuant to Napa County Code (NCC) Section 2.88.090(A). Appellant claims that notices of the public hearings in this matter were not given in the manner set forth in Section 18.136.040, since that section provides for matters decided by the Planning Commission, rather than matters decided by the Planning Director. Appellant claims the notice that was sent for the hearing did not contain the language “the hearing will be held before the planning commission” as required by NCC Section 18.136.040. Appellant also argues that the new and additional evidence that LRC is presenting is enough to require a de novo review by the Board of Supervisors.

**Decision and Rationale** – Deny. While the approval of an Erosion Control Plan application does not require a public hearing, two public hearings were held. The hearings were recorded electronically and noticed in accordance with NCC Section 18.136.040. Pursuant to NCC 2.88.090(A), “the decision of the board on appeal shall be based on a review of the documentary record..., and such additional



evidence as may be presented which could not have been presented at the time the decision appealed was made.” Consistent with the Board’s long standing practice, the appeal will be based on the documentary record plus the additional evidence that has been granted herein based on a showing of good cause to augment the record.

**2. Nature of the Request** – New information regarding increased runoff. Request to include August 26, 2016 Letter from Greg Kamman, Principal Hydrologist for Kamman Hydrology & Engineering, Inc., which addresses statements made in a memorandum from the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) relating to alleged increases in precipitation runoff. The NRCS Memorandum was issued on June 2, 2016, after the close of the public hearing on April 4, 2016. Appellant contends that as a result of this informational deficiency, “the EIR’s assessment of the significance of project-caused increases in runoff...does not comply with CEQA.” (LRC Appeal Package, Letter from Tom Lippe, August 29, 2016, p. 6.)

**Decision and Rationale** – Grant. The additional evidence presented by LRC could not have been presented at the time the decision by the Planning Director was made. The evidence resulted from new information put forth in a memorandum from NRCS dated June 2, 2016. The public hearing on this matter was closed on April 4, 2016.

**3. Nature of the Request** – New information regarding a recent landslide. Request to include August 26, 2016 Letter from Greg Kamman, Principal Hydrologist for Kamman Hydrology & Engineering, Inc., which provides additional data relating to the project’s potential effects on landslide risk in the vicinity of the project. Mr. Kamman provides new analysis of the alleged risk of landslides caused by runoff quantities that are not properly captured by detention basins or berms. Appellant claims it could not have produced the results of these studies prior to the close of the public hearing on April 4, 2016, because there was not sufficient time after the March 13, 2016 landslide event, which prompted the study. (LRC Appeal Package, Letter from Tom Lippe, August 29, 2016, p. 8.)

**Decision and Rationale** - Grant. The additional evidence, in the form of further analysis of the risk of landslides caused by the project, was produced as a result of a landslide event in the vicinity, which occurred on March 13, 2016. While this occurred prior to the April 4, 2016 date on which the administrative record was closed, less than a month is not a reasonable time to study and prepare the results for consideration.

**4. Nature of the Request** – New information regarding modeling of runoff increases and drainage facilities. Request to include August 26, 2016 Letter from Greg Kamman, Principal Hydrologist for Kamman Hydrology & Engineering, Inc., which provides additional information and modeling of potential increases in runoff caused by the drainage facilities incorporated into the Erosion Control Plan. Appellant claims this new modeling information was developed as a result of and in response to the Director’s Responses to Comments on the FEIR, issued on August 1, 2016. Therefore, it was not available prior to the close of the public comment period. (LRC Appeal Package, Letter from Tom Lippe, August 29, 2016, p. 8.)

**Decision and Rationale** – Grant. The additional evidence presented by the appellant is based on the same information as Item #2, above: information that could not have been presented at the time the decision by the Planning Director was made. The evidence resulted from new information put forth in a memorandum from NRCS dated June 2, 2016. The public hearing on this matter was closed on April 4, 2016.



5. **Nature of the Request** – New information regarding the voluntary streamflow monitoring agreed to by the applicant. Request to include August 26, 2016 Letter from Greg Kamman, Principal Hydrologist for Kamman Hydrology & Engineering, Inc., which provides additional information regarding the streamflow monitoring described in the August 2016 Walt Ranch Water Quality Monitoring Program with the City of Napa. Appellant argues that there is good cause for inclusion of these additional comments because the final Water Quality Monitoring Program was not available for comment during the public hearing. (LRC Appeal Package, Letter from Tom Lippe, August 29, 2016, p. 8.)

**Decision and Rationale** – Grant. This additional information resulted from a condition of approval that was voluntarily agreed to by the applicant after the close of the public hearing on April 4, 2016.

6. **Nature of the Request** – New information regarding groundwater recharge rates. Request to include August 26, 2016 Letter from Greg Kamman, Principal Hydrologist for Kamman Hydrology & Engineering, Inc., which provides information relating to groundwater recharge rates in the Sonoma Volcanics groundwater aquifer. Appellant claims this new information was developed as a result of and in response to the Director's Responses to Comments on the FEIR, issued on August 1, 2016. Therefore, it was not available prior to the close of the public comment period. (LRC Appeal Package, Letter from Tom Lippe, August 29, 2016, p. 8.)

**Decision and Rationale** – Deny. The information contained in Mr. Kamman's letter is not new information, but rather is the same information presented by Mr. Kamman and the appellants in letters submitted during the comment periods on the DEIR and FEIR. Appellant does not provide any basis for the claim that there is good cause to consider the information in Mr. Kamman's letter, to the extent that it is not already contained in the administrative record.

7. **Nature of the Request** – New information regarding biological impacts. Request to include August 25, 2016 Letter from Gretchen E. Padgett-Flohr, Herpetologist and Certified Wildlife Biologist for Californian Environmental Services, Inc., which discusses information regarding the identification of amphibian species in connection with Mitigation Measures contained in the EIR. Appellant claims this new information was developed as a result of and in response to the Director's Responses to Comments on the FEIR, issued on August 1, 2016. Therefore, it was not available prior to the close of the public comment period. (LRC Appeal Package, Letter from Tom Lippe, August 29, 2016, p. 8.)

**Decision and Rationale** – Deny. The information contained in Ms. Padgett-Flohr's letter is not new information, but rather is the same information presented by Ms. Padgett-Flohr and the appellants in letters submitted during the comment period on the DEIR and FEIR. Appellant does not provide any basis for the claim that there is good cause to consider the information in Ms. Padgett-Flohr's letter, to the extent that it is not already contained in the administrative record.

B. **Requesting Party** – Circle Oaks Homeowners Association (COHA)/Circle Oaks County Water District (COCWD) – Rachel Mansfield-Howlett

1. **Nature of Request** – Request for a de novo review of this appeal, pursuant to NCC Section 2.88.090(A). Appellant claims that notices of the public hearings in this matter were not given in the manner set forth in Section 18.136.040, since that section provides for matters decided by the Planning Commission, rather than matters decided by the Planning Director. Appellant claims the notice



that was sent for the hearing did not contain the language "the hearing will be held before the planning commission" as required by NCC Section 18.136.040. Appellant also argues that the new and additional evidence that COHA/COCWD are presenting is enough to require a de novo review by the Board of Supervisors.

**Decision and Rationale** – Deny. While the approval of an Erosion Control Plan application does not require a public hearing, two public hearings were held. The hearings were recorded electronically and noticed in accordance with NCC Section 18.136.040. Pursuant to NCC 2.88.090(A), "the decision of the board on appeal shall be based on a review of the documentary record..., and such additional evidence as may be presented which could not have been presented at the time the decision appealed was made." Consistent with the Board's long standing practice, the appeal will be based on the documentary record plus the additional evidence that has been granted herein based on a showing of good cause to augment the record.

2. **Nature of Request** – New information regarding road conditions and access. Request to include October 17, 2016 Report by David V. Cymanski, G.E., KC Engineering Co., regarding road conditions and failure of Circle Oaks Drive. Appellant claims the new information could not have been produced before April 4, 2016 because it was produced as a direct result of, and response to, the Planning Director's Responses to Comments on the FEIR, issued on August 1, 2016. Appellant argues that the Planning Director's Responses to Comments refused to include the analysis requested by Appellant's comments in the EIR. (Letter from Rachel Mansfield-Howlett, October 17, 2016, p. 3.)

**Decision and Rationale** – Deny. The information is not new evidence which could not have been presented at the time of the decision of the Planning Director. Analyses of the conditions and failure of Circle Oaks Drive were presented during public comment and Appellant does not provide any basis for the claim that there is good cause to consider the information in the geotechnical report, to the extent that it is not already contained in the administrative record.

C. **Requesting Party** – Hall-Brambletree Associates, L.P. – Thomas S. Adams

1. **Nature of Request** – New information regarding soil grouping and characterization. Request to include additional data and information resulting from hydrological field testing as described in the Field Determination of Hydrologic Soil Group for the Walt Ranch Vineyard Development. The Field Determination is being performed as a result of a letter from the U.S. Department of Agriculture National Resources Conservation Services ("NRCS"), which was dated June 2, 2016, after the close of the public hearing on the Project. Applicant claims it was not aware of the June 2016 NRCS letter until the Living River Council included the letter in its Appeal package, filed August 29, 2016. (Letter from Thomas S. Adams, October 17, 2016, p. 2.)

**Decision and Rationale** – Grant. The additional evidence presented by the applicant could not have been presented at the time the decision by the Planning Director was made. The evidence resulted from new information put forth in a memorandum from NRCS dated June 2, 2016. The public hearing on this matter was closed on April 4, 2016.