



Agenda Date: 11/1/2005
Agenda Placement: 8F
Set Time: 2:30 PM
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NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Susan Ingalls for Robert Westmeyer - County Counsel
County Counsel
REPORT BY: Laura Anderson, Attorney IV , 259-8252
SUBJECT: Findings of Fact and Adoption of Resolution of Decision on Appeal - Houck Appeal

RECOMMENDATION

County Counsel requests the Board consider and adopt a resolution of Findings of Fact and Decision on Appeal regarding the appeal filed by Gary Houck, applicant, to a decision by the Conservation, Development and Planning Commission on May 18, 2005 to deny Viewshed Request #P05-0005 VIEW to construct a new two-story 8,219 square foot main residence and approximately 10,000 square foot separate landscaped yard area located predominantly on a major ridgeline as defined in 18.106.020 of the Napa County Code and a 1,200 square foot second unit and a 1,000 square foot guest cottage located 25-feet below the major ridgeline. (These two units are proposed to be constructed on the property at a later date, under a separate Viewshed Protection Program application; however, they were included in the environmental review of this application as part of the entire project.) The project site is on a 41.35-acre parcel, located off a private driveway approximately 1,300-feet west of Soda Canyon Road and 3.5 miles north of its intersection with Silverado Trail within an AW (Agricultural Watershed) zoning district. (Assessor's Parcel No. 039-640-001) 2275 Soda Canyon Road, Napa.

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration Prepared. According to the Mitigated Negative Declaration, the proposed project would have, if mitigation measures are not included, potentially significant environmental impacts in the following areas: Aesthetics and Biological Resources. This project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

(CONTINUED FROM AUGUST 23, SEPTEMBER 13, AND OCTOBER 25, 2005)

EXECUTIVE SUMMARY

At the appeal hearing of August 2, 2005, the Board heard and considered evidence submitted from the Applicant, the Appellant and Staff regarding the Project. After considering all evidence presented, the Board closed the public hearing and adopted a motion of intent to: (1) reject each of the grounds and deny the Appeal in so far as they relate to the Project as presented to the Planning Commission; (2) uphold the Planning Commission's denial of the original Project; (3) accept the modifications to the Project proposed by Appellant; (4) adopt the Mitigated Negative Declaration and Mitigation, Monitoring and Reporting Program for the Revised Project; and (5) approve the Revised Project and Conditions of Approval as modified at the hearing on the Appeal.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration Prepared. According to the Mitigated Negative Declaration, the proposed project would have, if mitigation measures are not included, potentially significant environmental impacts in the following areas: Aesthetics and Biological Resources.

This project site is not on any of the lists of hazardous waste sites enumerated under Government Code section 65962.5

BACKGROUND AND DISCUSSION

A Mitigated Negative Declaration was prepared for the Project and circulated for public review and comment for twenty days in accordance with CEQA requirements. A public hearing before the Conservation, Development and Planning Commission (the Planning Commission) on Viewshed Application No. P05-0005 VIEW was held on May 4, 2005 and continued to May 18, 2005 at which time the Planning Commission read, received, reviewed and considered the application for the Project, the entire administrative record, and public comments. Following conclusion of the public hearing on May 18, 2005, and in reliance upon the entire record and evidence submitted, the Planning Commission denied the Project.

On June 2, 2005, a timely appeal was received from Bruce Ahnfeldt, attorney for the Applicant.

At the appeal hearing on August 2, 2005, the Board heard and considered all evidence presented relating to the Appeal, including the administrative record, testimony and documentation of County staff, testimony and documentation submitted on behalf of Appellant and the public, and all oral and written testimony presented during the hearing. After considering all evidence presented, the Board closed the public hearing and adopted a motion of intent to: (1) reject each of the grounds and deny the Appeal in so far as they relate to the Project as presented to the Planning Commission; (2) uphold the Planning Commission's denial of the original Project; (3) accept the modifications to the Project proposed by Appellant; (4) adopt the Mitigated Negative Declaration and Mitigation, Monitoring and Reporting Program for the Revised Project; and (5) approve the Revised Project and Conditions of Approval as modified at the hearing on the Appeal.

At the Board's meeting on August 23, 2005, various objections were raised to the proposed resolution and the Board continued the matter to September 13, 2005, to allow County Counsel an opportunity to consider the objections raised and to revise the Resolution, if necessary. On September 8, 2005, the Planning Department received an email from the State Department of Fish and Game raising concerns about whether they had received adequate notice of the project and whether impacts to the peregrine falcon, an endangered species, had been adequately addressed.

On September 13, 2005, the Board continued the matter to October 25, 2005, to give the Planning Department an opportunity to formally consult with the Department of Fish and Game on the project. The Planning Department did not receive information from Fish and Game prior to the agenda packets being distributed for the October 25th meeting and therefore the matter was continued to November 1, 2005. Since the Board's September meeting, a representative from Fish and Game conducted a site visit and met with Planning staff. On October 19, 2005, Fish and Game submitted a letter to the Planning Department recommending that additional mitigation be imposed on

the project to protect the peregrine falcon. The additional measures recommended by Fish and Game have been incorporated into the proposed conditions of approval on the project.

The proposed resolution (which has been revised since August 23, 2005 and September 13, 2005) reflects the Board's intent as expressed on August 2, 2005.

SUPPORTING DOCUMENTS

- A . Resolution
- B . Conditions of Approval (tracked)
- C . Conditions of Approval (clean)
- D . Memorandum
- E . Fish and Game correspondence

CEO Recommendation: Approve

Reviewed By: Lynn Perez