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Agenda Date: 12/20/2016
Agenda Placement: 9C
Set Time: 9:15 AM
Estimated Report Time: 30 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Laura Anderson for Minh Tran - County Counsel
County Counsel
REPORT BY: Laura Anderson, Deputy County Counsel - 259-8252
SUBJECT: Walt Ranch ECP Appeal Findings of Fact

RECOMMENDATION

County Counsel requests consideration and adoption of five resolutions regarding the following:

1. A Resolution of Fact and Decision on Appeal denying the appeal filed by Living Rivers Council (Appellant LRC) to a decision made by the Napa County Director of Planning, Building and Environmental Services Department (the PBES Director) on August 1, 2016 to approve the **Walt Ranch Vineyards Agricultural Erosion Control Plan No. P11-00205-ECPA** (the Walt Ranch ECPA) filed by Hall Brambletree Associates, LP (the Applicant) and to certify the related Environmental Impact Report (EIR) (State Clearinghouse No. 201202046);
2. A Resolution of Fact and Decision on Appeal denying the appeal filed by Circle Oaks County Water District and Circle Oaks Homes Association (Appellant Circle Oaks) to a decision made by the PBES Director on August 1, 2016 to approve the Walt Ranch ECPA and to certify the related EIR;
3. A Resolution of Fact and Decision on Appeal denying the appeal filed by Center for Biological Diversity (Appellant CBD) to a decision made by the PBES Director on August 1, 2016 to approve the Walt Ranch ECPA and to certify the related EIR;
4. A Resolution of Fact and Decision on Appeal denying appeal filed by Napa Sierra Club (Appellant Sierra Club) to a decision made by the PBES Director on August 1, 2016 to approve the Walt Ranch ECPA and to certify the related EIR; and
5. A Resolution adopting Findings pursuant to the California Environmental Quality Act.

The Walt Ranch Project site is located on the west side of Monticello Road, approximately one mile southwest of its intersection with Highway 128, and approximately one-half mile north of its intersection with Waters Road, approximately 6.25 miles east of the Town of Yountville in Napa County located within the Milliken Reservoir Watershed and Capell Creek-Upper Reach Drainage. The project is in an AW (Agricultural Watershed) zoning district and has an AWOS (Agriculture, Watershed and Open Space) General Plan designation. (Assessor parcel #'s: 032-120-028, 032-480-007, -008, -011, -012, -013, -014, -015, -016, -017, -018, -019, -020, -021, -022, -023, -

024, -027, -028, 032-490-004, -005, -006, -008, -009, -010, -011, -012, -013, -014, -015, -016, -017, -018, -019, and -020).

ENVIRONMENTAL DETERMINATION: Consideration and possible recertification of a Final Environmental Impact Report (EIR) certified (State Clearinghouse No. 201202046) on August 1, 2016.

(CONTINUED FROM NOVEMBER 18, 22 AND DECEMBER 6, 2016)

EXECUTIVE SUMMARY

On November 18th, 22nd and December 6th, the Board heard and considered evidence submitted from the Appellants, Applicant, Staff, the EIR consultant team and members of the public regarding the appeals. On December 6th, after considering all of the evidence presented, the Board closed the public hearing and adopted motions of intent to:

1. Deny the appeal filed by Appellant LRC to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR;
2. Deny the appeal filed by Appellant Circle Oaks to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR;
3. Deny the appeal filed by Appellant CBD to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR;
4. Deny the appeal filed Appellant Sierra Club to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR; and
5. Adopt a Resolution adopting Findings pursuant to the California Environmental Quality Act.

The Board directed Staff to return on December 20, 2016, with resolutions reflecting the Board's intent. Staff has prepared five resolutions for the Board's consideration.

PROCEDURAL REQUIREMENT

1. Staff report.
2. Chair invites Appellants, the Applicant and interested parties to comment on the proposed findings.
3. Motion, second, discussion and vote on the findings. *Note: Because of the multiple appeals, Staff requests that the Board act on each of the five resolutions separately and that the Chairman call for a vote on each, as follows:
 - a. A Resolution of Fact and Decision on Appeal denying the appeal filed by Appellant LRC to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR;
 - b. A Resolution of Fact and Decision on Appeal denying the appeal filed by Appellant Circle Oaks to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR;
 - c. A Resolution of Fact and Decision on Appeal denying the appeal filed by Appellant CBD to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR;
 - d. A Resolution of Fact and Decision on Appeal denying the appeal filed by Appellant Sierra Club to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR; and
 - e. A Resolution adopting Findings pursuant to the California Environmental Quality Act.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Consideration and possible recertification of a Final Environmental Impact Report (EIR) certified (State Clearinghouse No. 201202046) on August 1, 2016.

BACKGROUND AND DISCUSSION

On November 18th, 22nd and December 6th, the Board heard and considered evidence submitted from the Appellants, Applicant, Staff, the EIR consultant team and members of the public regarding the appeals. On December 6th, after considering all of the evidence presented, the Board closed the public hearing and adopted motions of intent to: (1) deny the appeal filed by Appellant LRC to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR; (2) deny the appeal filed by Appellant Circle Oaks to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR; (3) deny the appeal filed by Appellant CBD to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR; (4) deny the appeal filed Appellant Sierra Club to a decision made by the PBES Director to approve the Walt Ranch ECPA and to certify the related EIR; and (5) adopt a Resolution adopting Findings pursuant to the California Environmental Quality Act. The Board requested that Staff return on December 20th with documents reflecting the Board's expressed intent. Staff has prepared five resolutions, revised conditions of approval and the Updated MMRP for the Board's consideration and adoption.

Regarding the revised conditions of approval, on December 6th the Board agreed with the following revisions proposed by Staff:

- | COA No. 2 requires the Applicant and any subsequent property owner to fully comply with the Mitigation Measures contained in the Updated MMRP, which includes five conditions of approval. To help reduce any confusion between the conditions of approval in the Updated MMRP and the conditions of approval contained in the PBES Director's approval package, COA No. 2 has been revised to consolidate all of the conditions into a single document.
- | COA No. 2 (a) reduces the weight limit of vehicles on Circle Oaks Drive to 64k pounds and clarifies that all heavy equipment (anything over 64k pounds) for construction and operation shall only access the site from Highway 121 as volunteered by the Applicant.
- | COA No. 8 clarifies that the Road Maintenance Plan shall be implemented in full within three years of commencement of development.
- | COA No. 10 requires the Applicant and subsequent property owners to comply with the Walt Ranch Water Quality Monitoring Program (Monitoring Program) prepared by AES dated July 2016. The Monitoring Program was updated and therefore the date was changed to reflect the August 2016 date.
- | COA No. 15 was added to ensure groundwater monitoring efforts are conducted in a manner consistent with other County approved projects and as required by the Updated MMRP.
- | A new COA No. 16 was added to require pre and post soil testing to identify the natural/undisturbed and modified hydrologic soil group to confirm that the soils have in fact been modified in a manner that increases infiltration on a long term basis. If the testing shows that the soils have not been modified in the manner expected, additional best management practices will be required and a revised ECP and additional CEQA review may also be required.
- | COA No. 17 was added to limit the burning of vegetation resulting from vineyard construction and development from occurring within 2,000 feet of the Circle Oaks neighborhood.
- | COA No. 18 has been added to acknowledge that the project will be developed in three phases over four years which allow groundwater monitoring data to be collected and assessed by the County in consultation

with a qualified hydrogeologist before the next phase of development may occur.

The conditions of approval have been revised accordingly and are attached as Attachment F. The Updated MMRP (December 2016)(Attachment G) was also revised to reflect the following revisions agreed to by the Applicant:

- a) MM 4.6-4 was revised to remove the need for a hearing before remedial measures are implemented. Appendix R (the Groundwater Monitoring and Mitigation Program) already contains a process which provides for implementation of the mitigation measures if there is a decrease in the production rates of the offsite wells. No hearing is needed; the County will simply implement one of the measures recommended by the qualified professional. Staff also recommends the language on page 13 of Appendix R be revised as shown in the attached document to clarify that an independent third party retained by the County will determine based on substantial evidence whether the Walt Ranch wells are the cause of a decrease in the production rate of offsite wells.
- b) MM 4.7-4 has been revised to clarify the credentials of the independent third party conducting the evaluation.

The revised COA and updated MMRP are noted as attachments to the resolutions. Please note that these two documents will be attached when the resolutions are processed by the Clerk of the Board. In order to prevent duplicate attachments (e.g., attaching those documents five times) to this Agenda Report, Staff has attached the revised COA and Updated MMRP as stand alone documents at Attachments F and G, respectively.

On December 12, 2016, Staff provided the proposed Resolutions denying the appeals and Resolution of CEQA Findings to counsel for each of the Appellants and the Applicant and requested comments by December 14, 2016. The short turnaround was requested so that comments, to the extent warranted, could be incorporated into the documents prior to the deadline for release of this Agenda Report. Minor comments were submitted from the Applicant. Comments were submitted from Appellant Sierra Club regarding the GHG analysis and use of the Leff methodology. AES, the EIR and GHG consultant, have reviewed the Sierra Club's comments and stands by the analysis that was performed in the EIR and the further analysis that was done to account for biogenic emissions in response to issues raised as part of the appeal. Staff believes the GHG analysis has been adequately addressed in the resolutions and that no additional revisions are needed. The GHG consultant will be available at the meeting in the event the Board has any questions. Comments were also submitted by Appellant LRC requesting that COA No. 15 (c) regarding the maximum 144.5 af/yr of groundwater use for vineyards be expanded to include all 35 parcels regardless of land use. In Staff's opinion, such an extension is unwarranted and overreaching. Furthermore, future land uses on the property are unknown and speculative at this time. No other comments were submitted by Appellants prior to the deadline for release of this Agenda Report.

The public hearing is closed. Public comment is limited to whether or not the proposed Resolutions accurately reflect the Board's intent as expressed on December 6th. Staff believes that the Resolutions and supporting documents accurately reflect the Board's intent and recommends that the Board adopt each of the five proposed Resolutions.

SUPPORTING DOCUMENTS

- A . Findings Resolution - LRC
- B . Findings Resolution - Circle Oaks
- C . Findings Resolution - CBD
- D . Findings Resolution - Sierra Club
- E . CEQA Findings Resolution

F . Revised COA (December 20, 2016)

G . Updated MMRP

CEO Recommendation: Approve

Reviewed By: Helene Franchi