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Agenda Date: 12/6/2016
Agenda Placement: 9B
Set Time: 9:00 AM PUBLIC HEARING
Estimated Report Time: 6 Hours

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: Brian Bordona, Supervising Planner - (707) 259-5935
SUBJECT: Walt Ranch ECP Appeal Hearing

RECOMMENDATION

Consideration and possible action regarding the following:

1. An 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 ECP) filed by Hall Brambletree Associates, LP (the Applicant) and to certify the related Environmental Impact Report (EIR) (State Clearinghouse No. 201202046);
2. An 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 ECP and to certify the related EIR;
3. An 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 ECP and to certify the related EIR; and
4. An 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 ECP and to certify the related EIR.

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 City 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 AND 22, 2016)

EXECUTIVE SUMMARY

This matter involves four appeals of the PBES Director's decision to: (1) certify the EIR; (2) approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval; and (3) to approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised). The appeals were filed by environmental organizations, a water district and a homeowners association.

Pursuant to the County's appeals ordinance (Napa County Code Chapter 2.88) a public hearing on the appeal must be scheduled not less than fifteen days nor more than ninety calendar days from submittal of an appeal. Because most of the grounds raised in the four appeals overlap each other, the Chairman consolidated the appeals. Appellants, Applicant and Staff have no objection to consolidation of the appeals and have agreed to the appeal hearing dates. To accommodate all parties' schedules, the appeal hearing commenced on November 18th and proceeded as follows:

- 1 November 18th – Staff and EIR consultant presentation; all Appellants' presentations; open and complete public comment
- 1 November 22nd – Applicant's presentation; rebuttal from each Appellant; Board questions of Staff.

After hearing from the Applicant and all Appellants, Staff informed the Board that based on the testimony presented on November 18th and the 22nd, Staff wanted an opportunity to respond by clarifying certain issues related to greenhouse gas emissions; noise impacts; Circle Oaks Roadway; biology; groundwater impacts; and hydrology. Staff informed the Board that these issues would be addressed by Staff and the EIR team on December 6th. Thereafter the Board continued the hearing to December 6th. It is expected that after hearing from Staff and the EIR team on December 6th, the Board would deliberate and take a tentative action on the project and refer the matter to County Counsel's office for preparation of formal findings consistent with the Board's tentative action.

PROCEDURAL REQUIREMENTS

Because of the multiple appeals, the appeal hearing will be conducted as follows:

1. If requested, Appellants LRC and Circle Oak or Applicant provided opportunity to be heard on Chairman's prior "good cause" determinations. **[Completed on 11/18 and 11/22]**
2. Chairman introduces item and requests Staff report presentation. Staff will present background that is common to all of the appeals. Because four appeals were filed, Staff prepared a consolidated Staff report which addresses all of the grounds of appeal; however the appeal hearing will occur in four parts with Part I addressing Appellant LRC's appeal, Part II addressing Appellant Circle Oaks' appeal, Part III addressing Appellant CBD's appeal; and Part IV addressing Appellant Sierra Club's appeal. **[Completed on 11/18]**
3. Chairman opens public hearing invites testimony from the Appellants and their witnesses as previously disclosed on their witness list and in the following agreed upon order:
 - a. Appellant LRC;
 - b. Appellant Circle Oaks;
 - c. Appellant CBD; and
 - d. Appellant Sierra Club.
4. Chairman invites any other interested parties and the public to testify. **[Completed on 11/18]**
5. Upon hearing all testimony from the public and interested parties, Chairman requests disclosures from the

Board. [Completed on 11/22]

6. Chairman invites the Applicant to testify. **[Completed on 11/22]**
7. Chairman then invites Appellants to have the final rebuttal in the following agreed upon order **[Completed on 11/22]**:
 - a. Appellant Sierra Club;
 - b. Appellant CBD;
 - c. Appellant Circle Oaks; and
 - d. Appellant LRC.
8. After the Board has heard testimony and received all evidence, Chairman closes the public hearing **[Public hearing closed on 11/18]**.
9. A motion of intent is made and seconded to deny or uphold each of the four appeals and/or remand the project to the PBES Department. *Note: Because of the multiple appeals, Staff requests that the Board act on each of the appeals separately and that the Chairman call for a vote on each of the motions, as follows:
 - a. Appellant LRC's appeal;
 - b. Appellant Circle Oaks' appeal;
 - c. Appellant CBD's appeal; and
 - d. Appellant Sierra Club's appeal.
10. Chairman refers the matter to the County Counsel's office for preparation of a Resolution of Findings and Decision on Appeal in connection with the appeals.

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

All documents associated with this project including, but not limited to, the four appeals, the Draft EIR, Final EIR, the Walt Ranch Agricultural Erosion Control Plan, and comments and correspondence received can be accessed at <http://www.countyofnapa.org/PBES/WaltRanch/>. All of the attachments referenced in this Staff report are available online or hardcopies are available for review in the Clerk of the Board's office. Video of the November 18th and 22nd proceedings is available for public review on the County's website. The public hearing was closed on November 18th.

Stated Basis for the Appeals and Staff Response:

Attachment E to the November 18, 2016 Board Agenda Letter outlines the basis of the appeals. It is divided into four parts with Part I addressing the appeal submitted by Appellant Living Rivers, Part II addressing the appeal submitted by Appellant Circle Oaks, Part III addressing the appeal submitted by Appellant CBD, and Part IV addressing the appeal submitted by Appellant Sierra Club. For convenience, Staff has numbered each issue and provided a summary of the appeal and Staff's response, but Staff recommends that the Board review the actual appeals. The Draft EIR and the Final EIR were made available to the Board of Supervisors, are available on the County's website and are on file with the PBES Department.

Status of Proceedings:

On November 18th, the Board heard from Staff, the EIR consultant; all Appellants' presentations; and opened and completed public comment. At the continued hearing on November 22nd, the Board heard the Applicant's presentation and rebuttal from each Appellant. After hearing from the Applicant and all Appellants, Staff informed the Board that based on the testimony presented on November 18th and the 22nd, Staff wanted an opportunity to respond by clarifying certain issues related to greenhouse gas emissions; noise impacts; Circle Oaks Roadway; biology; groundwater impacts; and hydrology. Staff informed the Board that these issues would be addressed by Staff and the EIR team on December 6th. Because of the Thanksgiving holiday and short turn around between the November 22nd hearing and December 6th, Staff and the EIR consultant will either respond verbally to the issues identified or provide written materials to the Board subsequent to the deadline for release of this agenda report.

All Appellants were provided until close of business on Monday November 28th to provide additional written rebuttal. Appellants Living Rivers and Circle Oaks submitted the rebuttal attached as Attachments A and B. To the extent Staff and the EIR consultant deem necessary, they will respond to these submittals at the meeting.

Revisions to Conditions of Approval:

Should the Board deny the appeals and uphold the PBES Director's approval of the ECP, Staff recommends the Board revise the Conditions of Approval (COA) as follows:

- | COA No. 2 requires the Applicant and any subsequent property owner to fully comply with the Mitigation Measures contained in the Updated Mitigation, Monitoring, and Reporting Program (MMRP), which includes 5 (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 needs to be revised to consolidate all of the conditions into a single document.
- | COA No. 2 (a) will be revised to reflect the Applicant's agreement to reduce the weight limit of vehicles on Circle Oaks Drive to less than 80k and to clarify that heavy equipment for construction and operations shall only access the site from Highway 121.
- | 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 will be changed to reflect the August 2016 date.
- | COA No. 15 will require 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 will 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.
- | A new COA No. 17 will limit the burning of vegetation resulting from vineyard construction and development from occurring within 2,000 feet of the Circle Oaks neighborhood boundary. Existing COA No. 17 is retained and will be renumbered to COA No. 18.

In response to a request by Appellant Circle Oaks, the pre and post evaluation of Circle Oaks Drive will be performed by a licensed geotechnical engineer under the County's supervision and control. Mitigation Measure 4.7-4 has been revised to clarify the credentials of the independent third party conducting the evaluation.

The revised COA are in progress. Staff was unable to complete the revisions and discuss them with the Applicant prior to the deadline for release of this agenda report. The revised COA will be distributed to the Board and available to the public through the Clerk of the Board as soon as they are completed.

Board Considerations and Staff Recommendation:

The following options are provided for the Board's consideration regarding possible action on the appeals:

- | Deny the appeals in their entirety and uphold the Reduced Intensity Alternative approved by the PBES Director;
- | Uphold one or more grounds of appeal and either uphold or deny the Reduced Intensity Alternative;
- | Approve an alternative other than the Reduced Intensity Alternative subject to that alternative either having been analyzed in the EIR or subject to further CEQA review;
- | Uphold the Reduced Intensity Alternative and impose additional conditions of approval; or
- | Remand the matter to the PBES Director with direction.

Staff recommends that the Board uphold the PBES Director's approval of the Reduced Intensity Alternative with the revisions to the COA recommended by Staff. Should the Board desire to consider alternatives to the project approved by the PBES Director, the Board may wish to explore additional avoidance areas and direct Staff to work with the Applicant to identify areas that further protect biological resources, provide greater water quality protections, and further reduce GHG impacts.

SUPPORTING DOCUMENTS

- A . LRC Rebuttal
- B . Circle Oaks Rebuttal

CEO Recommendation: Approve

Reviewed By: Helene Franchi