



Agenda Date: 6/21/2005
Agenda Placement: 8L
Set Time: 2:30 PM PUBLIC HEARING
Estimated Report Time: 5 minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Cathy Gruenhagen for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: Mary M Doyle, Principal Planner , 299-1350
SUBJECT: Appeal of Erosion Control Plan #99323 & Certification of the EIR for the Robert Mondavi
Properties Vineyard Project

RECOMMENDATION

Consideration and possible action regarding an appeal filed by the Law Offices of Thomas N. Lippe representing Earth Defense for the Environment Now (EDEN) of decisions by the Director of Conservation, Development and Planning to certify an Environmental Impact Report (EIR) and to approve an Erosion Control Plan (ECP) for the Robert Mondavi Properties Vineyard Project (Assessor's Parcel No. 046-400-034).

ENVIRONMENTAL DETERMINATION: The Board has been provided with an Environmental Impact Report (EIR), which has been prepared and certified pursuant to CEQA, the State CEQA Guidelines, and the County's local procedures. The adequacy of the EIR is the subject of the appeal. If the Board upholds the appeal, the EIR will be remanded back to the Department of Conservation, Development, and Planning for revision. If the Board denies the appeal it will re-certify the EIR pursuant to State CEQA Guidelines Section 15090.

(APPLICANT AND APPELLANT REQUEST CONTINUANCE TO JULY 26, 2005 AT 9:00 A.M.)

EXECUTIVE SUMMARY

On March 28, 2005, the Director of Conservation, Development, and Planning certified an Environmental Impact Report (EIR) concerning an 85-acre vineyard project proposed by Robert Mondavi Properties, Inc. for a property located south east of the City of Napa, on the east side of State Route 221 and north of its intersection with Kaiser Road (Assessor Parcel No. 046-400-034). On the same day, the Director of Conservation, Development, and Planning approved an Erosion Control Plan (ECP) proposed for the property and analyzed in the EIR as the Resource Conservation Alternative.

Pursuant to Napa County Code Section 2.88 and Chapter 10 of Napa County's Local Procedures for Implementing the California Environmental Quality Act (CEQA), certification of an EIR and approval of an ECP may be appealed to the Board of Supervisors, and on April 15, a timely appeal was received from the Law Offices of Thomas N. Lippe representing Earth Defense for the Environment Now (EDEN).

The appellant has argued that the Director acted improperly in certifying the EIR and approving the ECP, and

presents a variety of arguments in support of this position. This hearing is to consider these arguments, the overall adequacy of the EIR, and the appropriateness of the Director's decisions to certify the EIR and approve the ECP.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Conservation, Development & Planning Clerk of the Board County Counsel
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	Yes
Future fiscal impact:	None
Consequences if not approved:	The County is required by State Law to allow for appeals of EIR Certifications.
Additional Information:	None

ENVIRONMENTAL IMPACT

An Environmental Impact Report (EIR) has been prepared and certified pursuant to CEQA, the State CEQA Guidelines, and the County's local procedures. The adequacy of this document is the subject of the appeal. If the Board upholds the appeal, the EIR will be remanded back to the Department of Conservation, Development, and Planning for revision. If the Board denies the appeal it will re-certify the EIR pursuant to State CEQA Guidelines Section 15090.

BACKGROUND AND DISCUSSION

The item before the Board is the appeal of an action by the Director of Conservation, Development, and Planning regarding a vineyard development proposed by Robert Mondavi Properties, Inc.

Procedural Background:

On March 28, 2005, the Director of Conservation, Development, and Planning certified an Environmental Impact Report (EIR) concerning an 85-acre vineyard project proposed by Robert Mondavi Properties, Inc. for a property located south east of the City of Napa, on the east side of State Route 221 and north of its intersection with Kaiser Road (Assessor Parcel No. 046-400-034). On the same day, the Director of Conservation, Development, and Planning approved an Erosion Control Plan (ECP) proposed for the property and analyzed in the EIR as the Resource Conservation Alternative.

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Current Status & Possible Actions:

Napa County Code Section 2.88.080 (Scheduling & Notice of the Hearing) requires that appeals be scheduled for hearing within 90 days after submittal. Section 2.88.090 (Hearing -- Conduct and Procedures -- Decision) provides for a *de novo* hearing, meaning the hearing is not limited to evidence provided at an earlier in the EIR process, and states that following the close of the hearing, the Board of Supervisors may affirm, reverse, or modify the decisions by the Director of Conservation, Development, and Planning.

Stated Basis for the Appeal & Staff Response:

The appellant has argued that the Director of Conservation, Development, and Planning acted improperly in certifying the EIR and approving the ECP, and presents a variety of arguments in support of this position. The staff will present a summary of issues raised by the appellant and staff's responses, affirming the analysis and conclusions contained in the EIR.

Staff Recommendation:

The Department of Conservation, Development, and Planning recommends that the Board of Supervisors adopt a resolution of intent to deny the appeal and request County Counsel to prepare findings re-certifying the EIR and approving the ECP for consideration and adoption at a future Board meeting.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Andrew Carey