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Agenda Date: 7/1/2015

Agenda Placement: 9A

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission  
**FROM:** John McDowell for David Morrison - Director  
Planning, Building and Environmental Services  
**REPORT BY:** SHAVETA SHARMA, PLANNER III - 707-299-1358  
**SUBJECT:** Erickson Residence Use Permit Exception #P13-00348

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### **RECOMMENDATION**

#### **ERICKSON RESIDENCE – S. OSBORN ERICKSON, CONSERVATION REGULATION USE PERMIT EXCEPTION #P13-00348-UP**

**CEQA Status:** Negative Declaration Prepared. According to the Negative Declaration, the proposed project would not have a potentially significant environmental impact. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

**Request:** Approval of an “Exception” to the Conservation Regulations in the form of a Use Permit (P13-00348), Napa County Code 18.108.025(A) to allow the construction of a tennis court within the required stream setback. The following components have been specifically included under this request: a) an exception request to encroach 24 feet to 58 feet respectively within the required stream setback of 105 feet to 125 feet; b) construction of a tennis court approximately 7,200 square feet in size; c) a temporary ten foot wide construction access road; and d) a ten foot tall perimeter fence along the tennis court. The project is located on a 20 acre parcel within the Agriculture Watershed (AW) zoning district and accessed via a private driveway located off St. Helena Highway; 3211 St. Helena Highway North, St. Helena, CA 94574, APN: 022-070-046.

**Staff Recommendation:** Adopt the Negative Declaration and approve the project with attached conditions of approval.

**Staff Contact:** Shaveta Sharma, Planner; (707) 299-1358; [shaveta.sharma@countyofnapa](mailto:shaveta.sharma@countyofnapa)

**Applicant Contact:** S. Osborn Erickson, 3211 St. Helena Highway, St. Helena , CA 94574; (415) 337-0082

### **EXECUTIVE SUMMARY**

**Proposed Actions:**

That the Planning Commission:

1. Adopt the Negative Declaration for the Erickson Residence Use Permit application based on Findings 1-6 of Exhibit A; and
2. Approve an Exception to the Conservation Regulations in the form of a Use Permit (P13-00348) based on Findings 7-18 of Exhibit A and subject to the Conditions of Approval (Exhibit B).

**Discussion:**

The project consists of a request to allow construction of a tennis court within the required stream setbacks. The project also includes the construction of a ten foot wide temporary construction access road. It should be noted that new construction of related accessory structures for an existing single family residence is allowed by right (ministerial permit) on any legal lot in Napa County provided that the applicant can demonstrate provision of adequate water, wastewater and access. However, on highly constrained properties such as this, County regulations often trigger additional discretionary review such as Conservation Regulations Use Permit Exception or a Viewshed Application. Staff has reviewed and determined that the proposed project as designed will minimize any adverse impacts on the site, and, therefore, supports approval of the exception to the Conservation Regulations as conditioned. Staff has further determined that this proposal is not subject to viewshed review.

**FISCAL IMPACT**

Is there a Fiscal Impact?                      No

**ENVIRONMENTAL IMPACT**

Negative Declaration Prepared. According to the Negative Declaration, the proposed project would not have any potentially significant environmental impacts. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

**BACKGROUND AND DISCUSSION**

**Property Owner:** S. Osborn Erickson; 3211 St. Helena Highway; St. Helena, CA, 94574; (415) 337-0082

**Representative:** Joel Dickerson; 1104 Adams Street, St. Helena, CA 94574; (707) 963-8528;  
jdiscerson@deltacivil.com

**Zoning:** Agricultural Watershed (AW) District.

**General Plan Designation:** AWOS - Agriculture, Watershed & Open Space (AWOS).

**Application filed:** November 5, 2013

**Application complete:** May 20, 2015

**Adjacent Land Uses:** (AW Zoning)

North - Single family residences on large hillside lots and vacant land.

South - Single family residences on large hillside lots and vacant land.

East - Single family residences on large hillside lots and vacant land.

West - Single family residences on large hillside lots and vacant land.

**Property History:**

A four bedroom single family residence, including a garage, second dwelling unit, pool, spa, well, fire water storage tanks, leach fields, and septic system currently exist on the property. The original main residence was demolished in 1997 and replaced in 1998. The pool and spa were constructed in 2007.

**Compliance History:**

There are no open or pending code enforcement cases on the property. A previous Code Enforcement case was resolved in October 2013 regarding minor grading on a hillside and removal of tree stumps.

**Discussion Points:**

**Project Setting** - The project site is located in the northwestern portion of Napa Valley. The property is comprised of 20-acres of land which is accessed via a private community driveway. The existing single family residence, including a garage, second dwelling unit, barn, well, water storage tanks, leach fields, and septic system, were constructed at separate times and is tucked within the natural vegetation and landscaping for the property. Topography at the property is generally comprised of a moderate to steep slopes. For the majority of the parcel slopes exceed 30%.

**Design, Layout, & Materials** - The proposed building pad, about a quarter-acre in area, is located east of the existing residence. The proposed site will be located about 150 feet east of the single family residence and has an average slope of 29.9%. The building pad is undeveloped and covered in perennial grasses, bushes, Live Oaks, Black Oaks, Madrones, Bays, and Douglas Firs.

The proposed tennis court will consist of a concrete slab slab 7,200 square feet in size, with fencing along its perimeter up to ten feet in height. The applicant has submitted a Viewshed analysis that demonstrates that no portion of the proposed project would be visible from any Viewshed road, namely State Highway 29 in this instance. The temporary construction access road will be removed upon completion of the tennis court and will be landscaped to match the existing surrounding environment.

**Conservation Regulation Compliance** - Given the steep slopes on the project site there are no better alternative locations for a tennis court absent an exception. To ensure that the project will not create any impacts to the nearby Hirsch Creek, the Engineering Division has reviewed the project and approved the construction, subject to their Conditions of Approval. The Hirsch Creek stream is located downward and to the north of the project location. Any drainage alterations would be included in the grading and improvement plans that are required for project construction. The applicant is required to submit a Notice of Intent (NOI) for a Storm Water Pollution Prevention Plan permit (SWPPP) from the Regional Water Quality Control Board for pre & post construction activities, as well as, a grading permit from the Engineering Services Division to ensure that no excessive run-off occurs during pre/post construction. Review and approval by the Division of Engineering of the grading and improvement plans

will ensure that no there is no potential for significant on- or off-site erosion, impact to siltation, or flooding.

Additionally, 14 Oak trees and 22 other native trees will be removed as part of the project. The applicant submitted a Native Tree Impact report, prepared by Kjeldsen Biological Consulting, dated January 7, 2014 as part of their application. Due to the dense tree cover on the entire parcel, any building site would require the removal of some trees. The proposed removal of Oaks would not create any significant impacts to the Oak Woodlands on the property, as the removal of 14 Oaks represents a small fraction of Oak trees on the property. Furthermore, the 36 trees proposed to be removed all are of six inches in dbh or less. Relative to the number of trees found on the 20-acre parcel, the removal of 36 trees is not a significant number of trees. The applicant will be replacing all trees removed at a 2:1 ratio, and thus will be planting 72 trees on the property. The tree replacement will be done in accordance with Appendix B of the Native Tree Impact report.

The stream setbacks were adopted to minimize any impacts to creeks and the wildlife that depend on them. Due to the physical constraints of the property then applicant will meet the same practical effect of the setback by submitting a Notice of Intent (NOI) for a Storm Water Pollution Prevention Plan permit (SWPPP) from the Regional Water Quality Control Board for pre & post construction activities, as well as, a grading permit from the Engineering Services Division. These actions by the applicant, and required by the Conditions of Approval, will ensure that no excessive run-off occurs during pre/post construction. Furthermore, the final grading plans will be reviews and approved by the Division of Engineering of the grading and improvement plans will ensure that no there is no potential for significant on- or off-site erosion, impact to siltation, or flooding. The applicant has been able to meet all the findings for a Use Permit Exception, including ensuring that the project has been designed to complement the natural landform and to avoid excessive grading, the development minimizes removal of existing vegetation, and that the project does not adversely impact threatened or endangered plant or animal habitats.

**Viewshed Compliance-** Given the location of the tennis court on the property, staff has determined that this application is in compliance with the County's Viewshed provisions such that there is no potential for the fencing to be visible from any Viewshed road, since these improvements will be screened by existing trees on the property. Furthermore, there is no clear line of sight to the property from State Highway 29.

**Greenhouse Gas Considerations -** The construction and operation of the proposed project generally will contribute to overall increases in green house gas emissions. In 2011, the Bay Area Air Quality Management District (BAAQMD) released California Environmental Quality Act (CEQA) Project Screening Criteria and Significance of Thresholds [1,100 metric tons per year (MT) of carbon dioxide and carbon dioxide equivalents (CO<sub>2</sub>e)]. This threshold of significance is appropriate for evaluating projects in Napa County.

During our ongoing planning effort, the County encourages project applicants to consider methods to reduce GHG emissions consistent with Napa County General Plan Policy CON-65(e). The applicant proposes to incorporate GHG reduction methods include: planting 72 native trees on site.

#### **Consistency with Standards:**

**Zoning -** The project has AW - Agricultural Watershed zoning which allows construction of a tennis court by right as an allowed use. Given that the project site is located within the required stream setback, the project requires a use permit exception to the Conservation Regulations (County Code Sections 18.108.025) to allow construction.

**Engineering Division Requirements -** The Department recommends approval with conditions as stated in their Memo dated February 3, 2014.

#### **Decision Making Options**

As noted in the Executive Summary Section above, Staff is recommending approval of the project with conditions of

approvals as described in Option 1 below. Decision making options also include a reduced development alternative and no project alternative.

#### Option 1 – Approve Applicant’s Proposal

Disposition – This option would result in construction of a 7,200 s.f. tennis court, temporary ten foot wide access road, and a ten foot tall perimeter fence along the tennis court.

Action Required – Follow proposed action listed in the Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at time motion is made. This option has been analyzed for its environmental impacts, which were found to be less than significant. The Applicant can accommodate the proposed construction with minimal impact to the site or its surroundings. The proposed construction would not result in any adverse affects and staff supports this option.

#### Option 2 – Reduced Development Alternative

Disposition – This option would include approval of a smaller tennis court design and/or relocated tennis court. A reduced size tennis court would likely not meet applicant objectives but could reduce amounts of grading and vegetation removal. Alternate locations closer to the existing house could reduce grading and vegetation removal associated with the proposed access road, but would result in more grading and vegetation removal in the vicinity of the existing developed area as well as likely conflicting with applicant objectives. Staff does not support a reduced development option because it appears that alternate sites and/or a reduced tennis court size do not appreciably result in any net benefits over the project as proposed.

Action Required - Follow proposed actions listed in the Executive Summary and amend scope and project specific conditions of approval to revise the tennis court size. If major revisions of conditions of approval are required, the item will need to be continued to a future date.

#### Option 3 – Deny Proposed Project

Disposition – In the event the Commission determines that the project does not, or cannot meet the required findings for grant of a use permit exception, Commissioners should articulate what aspect or aspects of the project are in conflict with required findings. State law requires the Commission to adopt findings, based on the General Plan and County Code, setting forth why the proposed use permit exception is not being approved. Based on the administrative record as of the issuance of this staff report, there does not appear to be any evidence supporting denial of the project.

Action Required – Commission would take tentative motion to deny project and remand the matter to staff for preparation of required finding to return to the Commission on specified date.

#### Option 4 –Continuance Option

The Commission may continue an item to a future hearing date at its own discretion.

### **SUPPORTING DOCUMENTS**

- A . Exhibit A- Findings
- B . Exhibit B- Conditions
- C . Draft CEQA document

- D . Division comments
- E . Public comments
- F . Application
- G . Native Tree Impact Report
- H . Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell