



Whit Manley, Mike Reynolds
Napa County Board of Supervisors
December 14th, 2021

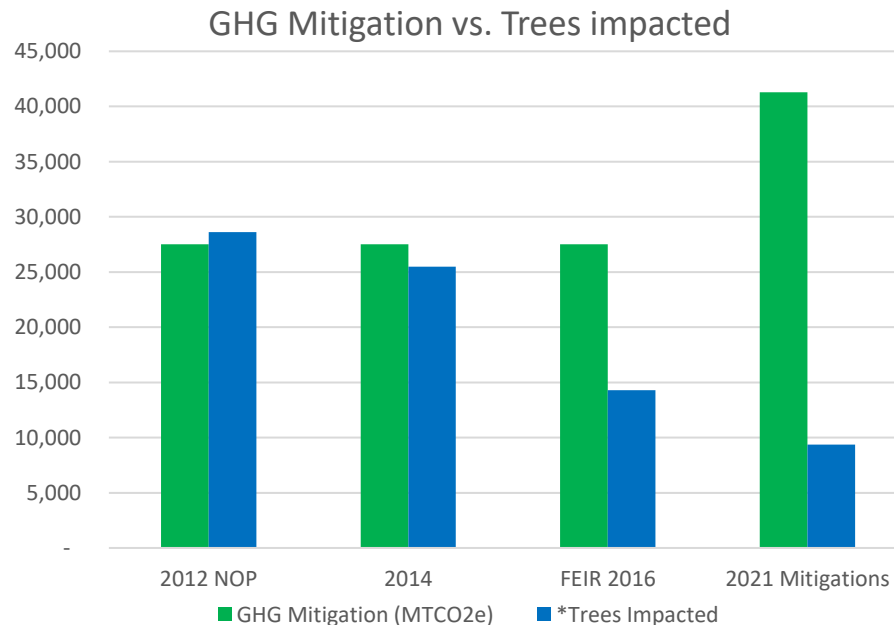


- Introductions
- GHG Mitigation Overview
- Project Overview and Legal Framework
- Impacts of 2017 and 2020 Fires
- 2021: Enhanced GHG Mitigations
including Tree Planting and Woodland
Habitat Conservation
- Responses to Appeal Challenges



GHG Mitigation Overview

- Tree Planting program – 16,790 trees
 - renew oak woodlands damaged in fires
- Identifies location of 124 acres of developable woodlands to be conserved
- Increase GHG mitigations by 50% vs. 2016 EIR



* The 2021 Trees are estimated due to fire damage from the 2017 and 2020 fires.

The Property



- A 2,300-acre property (3.5 square miles)
- Location – between Atlas Peak Road and Highway 121
- Currently has +/- **21 miles of existing roads**
- Zoned AWOS (Ag Watershed)
- Initial studies began in 2006
- MOU with Napa County initiated in 2008
- Draft EIR published in July 2014 with more than 1,500 pages of review and studies
- Final EIR certified in Dec 2016



EIR Timeline and Background

Dec 2016	EIR certified unanimously by Napa County Board of Supervisors <i>(EIR Certification and Board Decision Appealed to Napa Superior Court)</i>
October 2017	Atlas Fire burns through almost the entire Walt Ranch
April 2018	EIR Certification and Board Decision upheld by Napa Superior Court <i>(EIR Certification and Board Decision Appealed to California Court of Appeals)</i>
Sept 2019	California Court of Appeal rejects 19 of 20 claims. Court directs County to reconsider mitigation for Greenhouse Gases ('GHG') emissions. All other claims (biology, water quality, groundwater, traffic, etc.) rejected. Adequacy of EIR not in question.
May 2020	Napa Superior Court returns the case to Napa County to reconsider mitigation for GHG emissions. EIR remains certified, and ECP remains approved. Sole issue is GHG mitigation.
August 2020	LNU/Hennessy fire burns 1,000+ acres at the Walt Ranch



Court of Appeal Decision

Held: There was insufficient evidence that the preservation of 248 acres of woodlands would mitigate the project's GHG emissions because the EIR did not show where the woodlands were located. The Court was concerned that if County policy already precludes conversion of woodland to other uses, and there is no evidence to suggest that the woodland is at risk of conversion, then placing a conservation easement atop that same woodland might not result in additional sequestration of carbon.

The Court of Appeal directed the County to reconsider the adequacy of this mitigation measure. The trial court thereafter entered judgment directing the County to reconsider its finding that the project, as mitigated, would have a less-than-significant impact with respect to GHG emissions.



2020 Fire





2020 Fire



WALT RANCH

2020 Fire





2020 Fire



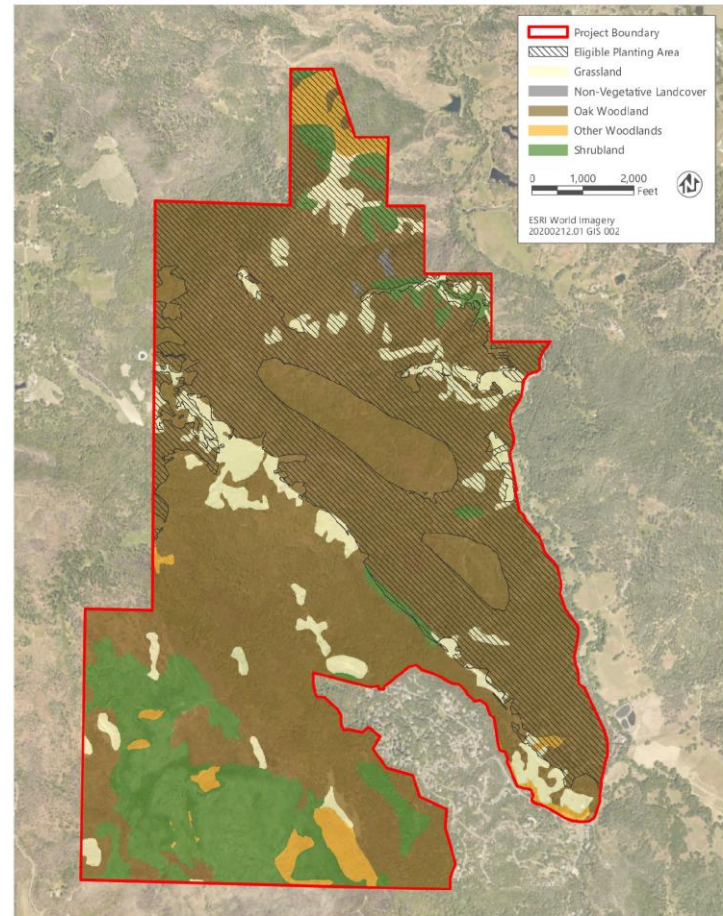
WALT RANCH

2017 and 2020 Fires

Walt Ranch GHG Mitigation Report
April 28, 2021
Page 5

- 1,122 Acres Burned
- 1,023 Acres Available for Planting Trees
 - 901 Acres of Woodlands
 - 122 Acres of other land

Source: Ascent Environmental, April 2021

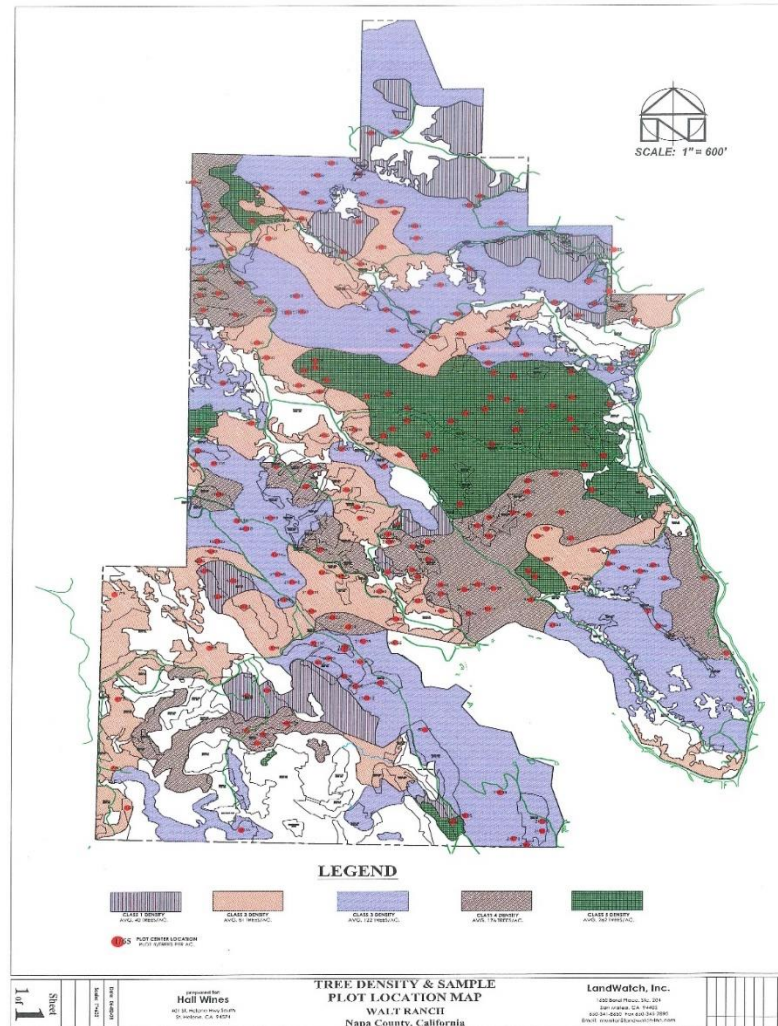


Source: Data received from County of Napa and PPI Engineering in 2020; adapted by Ascent Environmental in 2021

Note: Eligible planting areas exclude conservation areas.

Figure 2 Eligible Planting Areas

WALT RANCH



WALT RANCH





Tree Density Class*	Percentage of property	Acres*	Trees/Acre	Total Trees	% 2017 Fire	% 2020 Fire	2017 Fire Zone Trees	2020 Fire Zone Trees	2017 Trees - unlikely to survive (25%)	2020 trees unlikely to survive (50%)
No trees	24%	549	0	0						
Class 1	7%	158	40	6,320	40%	60%	2,528	3,792	632	1,896
Class 2	17%	397	81	32,157	50%	50%	16,079	16,079	4,020	8,039
Class 3	28%	641	122	78,202	40%	60%	31,281	46,921	7,820	23,461
Class 4	13%	301	176	52,976	50%	50%	26,488	26,488	6,622	13,244
Class 5	11%	254	262	66,548	15%	85%	9,982	56,566	2,496	28,283
	100%	2,300		236,203			86,358	149,846	21,589	74,923
							Total trees unlikely to survive:			96,512
	Actual Tree number from Report:			235,710						
* page 4, Tree inventory Report, Landwatch, June 6th, 2008										
Sources:										
	Tree Inventory Report for Walt Ranch (LandWatch 2008)									
	Ascent Environmental (May 2021)									
	Ascent Environmental (November 2021)									

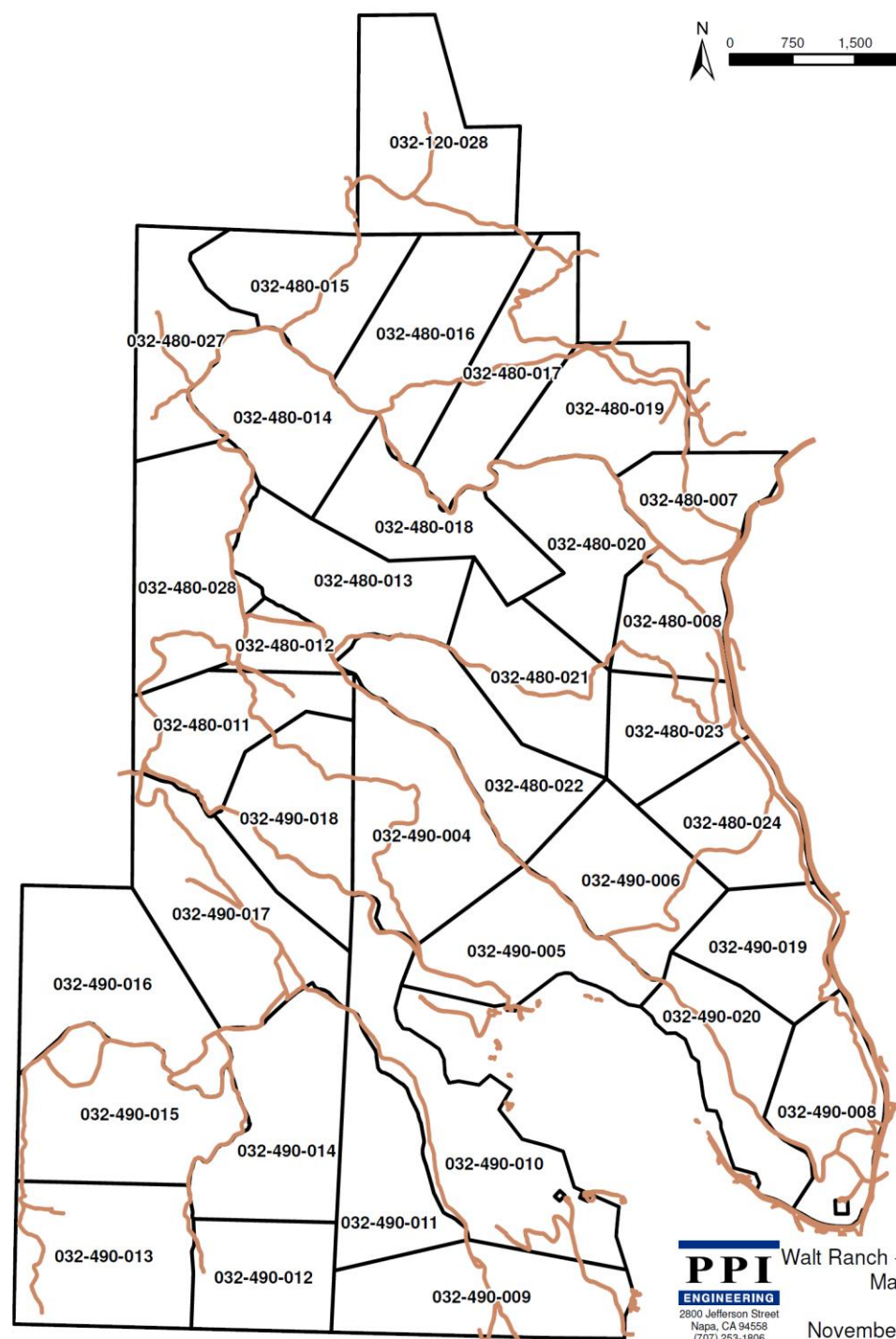


Revised Mitigation Proposal




1. Develop an Oak Woodland tree planting plan to completely mitigate GHG emissions required in EIR (27,528 MTCO₂e) in 2020 burned areas.
 - a. Identify appropriate habitat and availability to do so onsite
 - b. Conservation easements to permanently preserve newly planted trees and habitat
 - c. Other benefits – water quality and soil stability
 - d. Monitor oak trees to ensure survival, replant as necessary
2. Conserve 124 acres of specific, developable woodland above EIR requirement.
3. Create a larger contiguous Conservation Easement including most of ten parcels on the property (+/- 648 acres avail).
4. Increase overall Conservation Easements on the property to 1,000 acres minimum.
 - a. 679 acres required in 2016 EIR (548 acres of Woodland and 131 acres of other habitat)
 - b. An increase of at least 320 acres (inclusive of 124 acres developable)

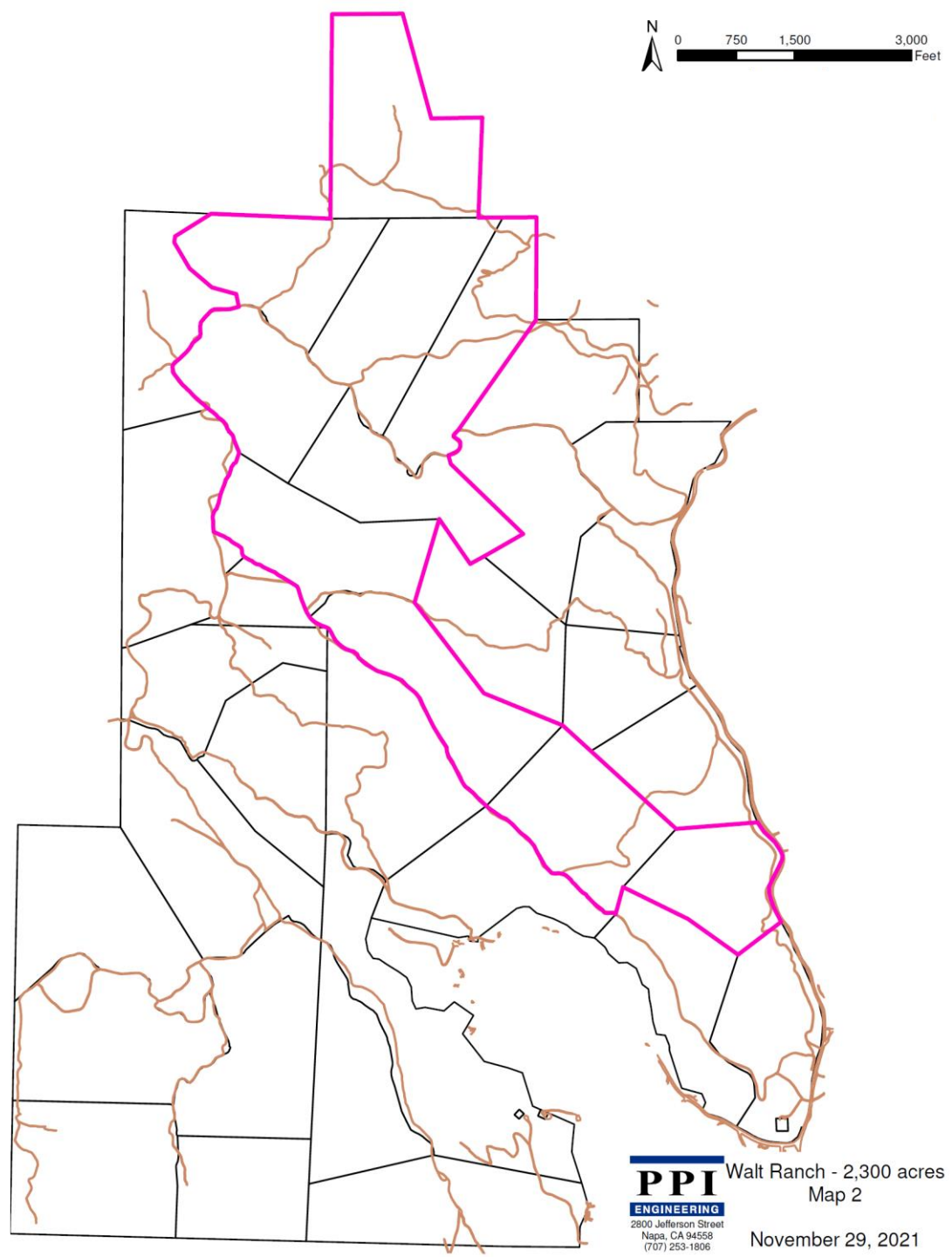
Legend

-  Walt Ranch Parcels
-  Road Network







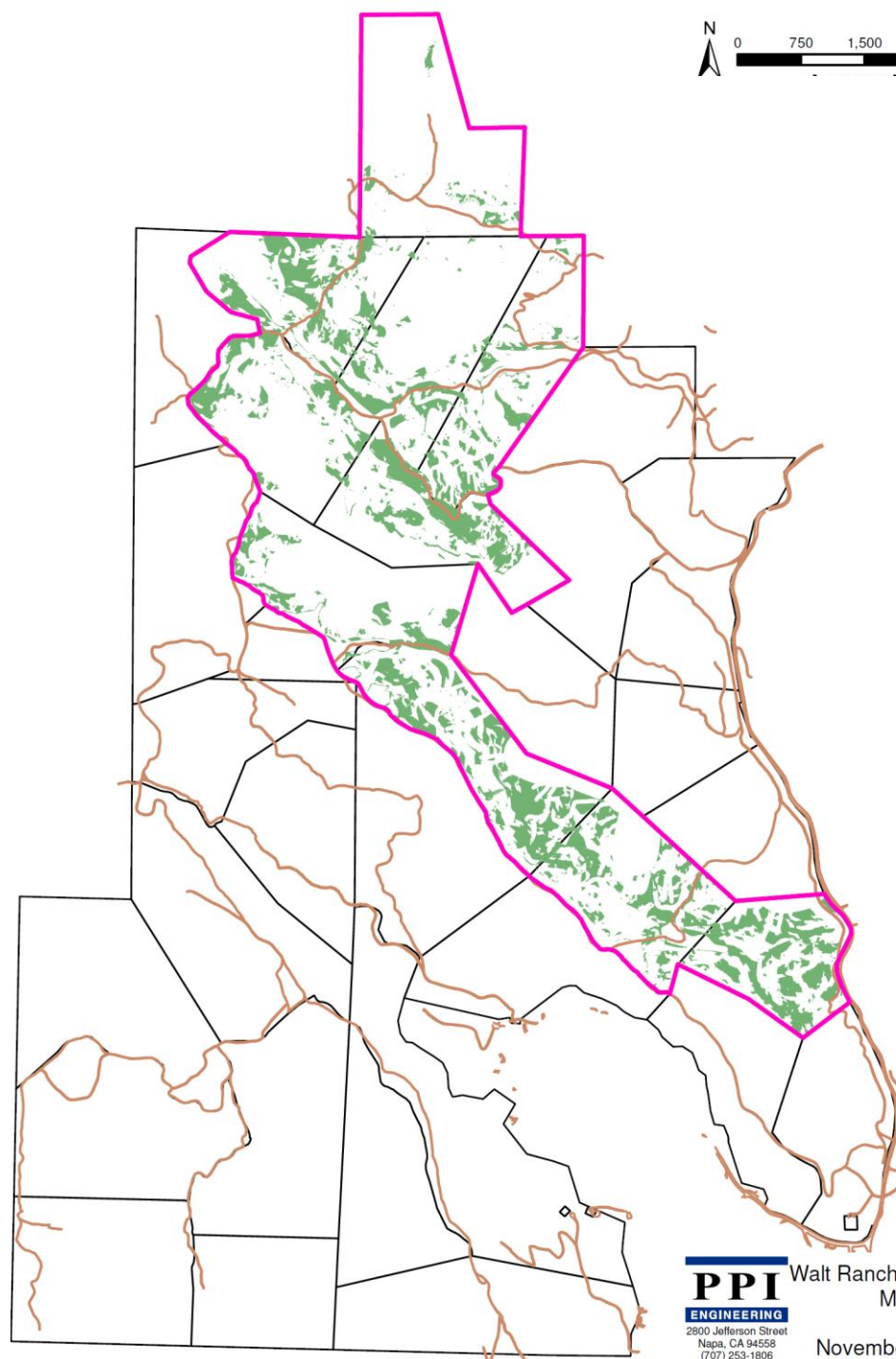
Legend

-  Proposed Contiguous Easement Area (± 648 Acres Available)
-  Walt Ranch Parcels
-  Road Network








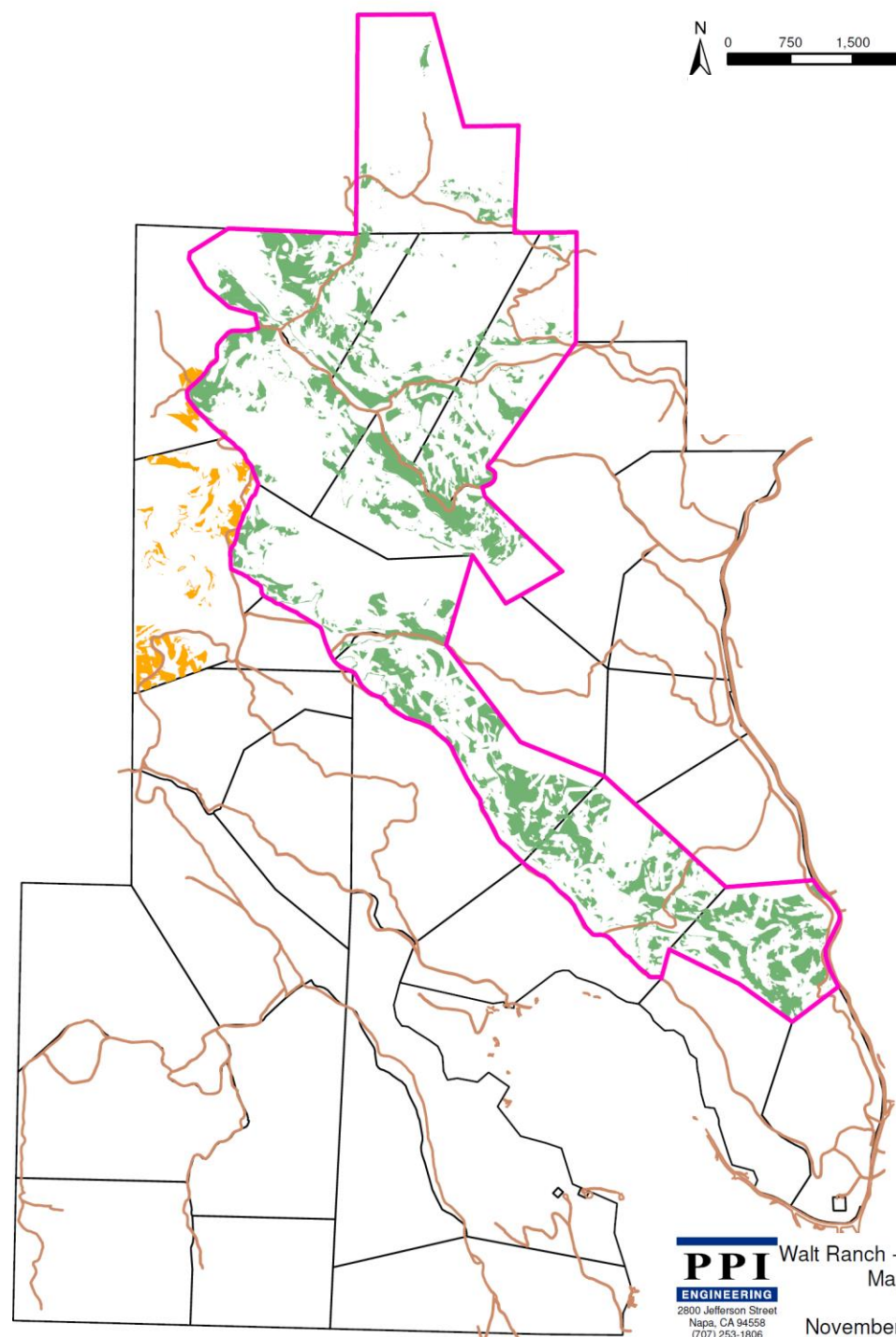
Legend

-  Available Acceptable Woodland in Easement (124 Acres)
-  Proposed Contiguous Easement Area (± 648 Acres Available)
-  Walt Ranch Parcels
-  Road Network



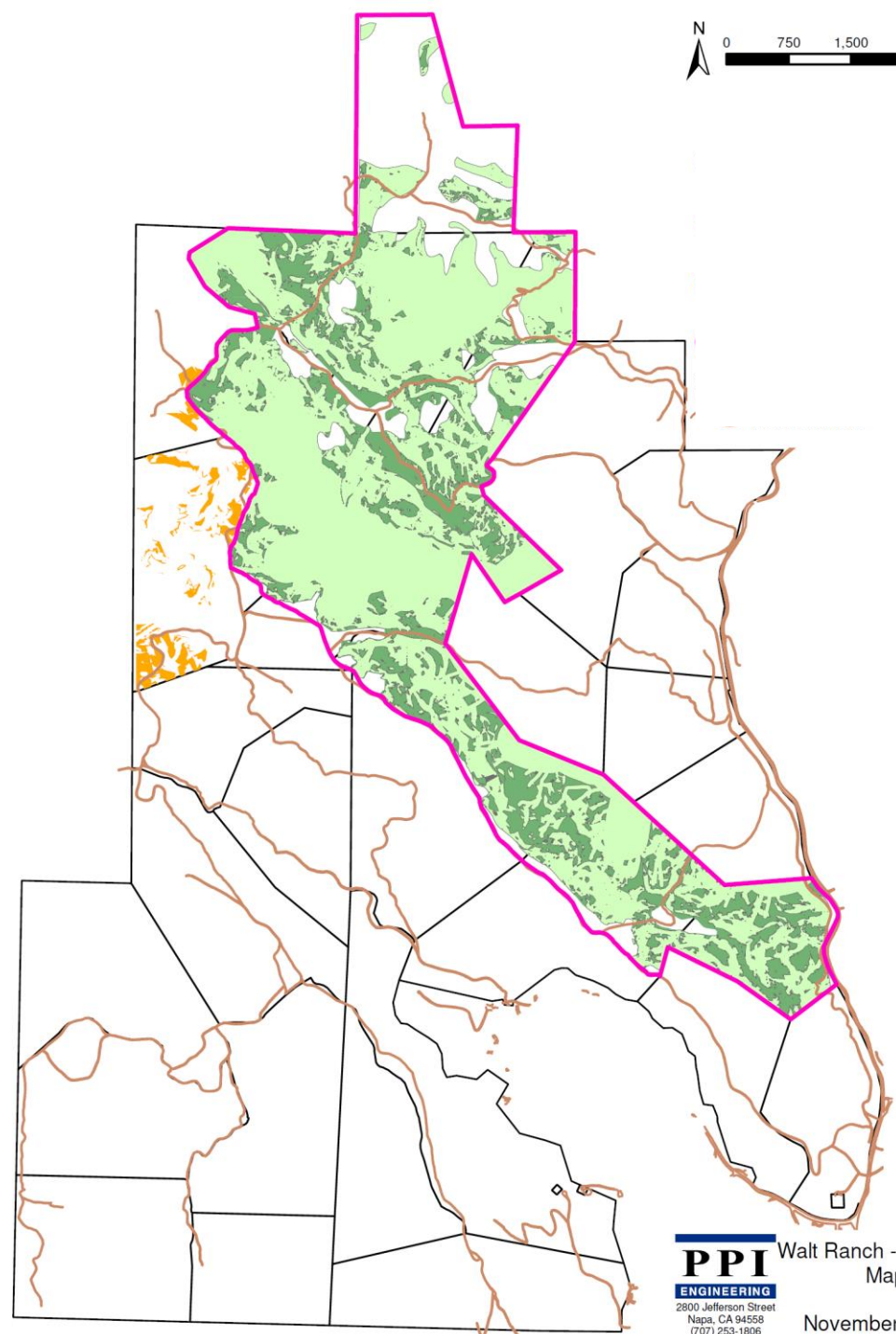
Legend

-  Acceptable Woodland Outside Easement Parcels (At Least 14 Acres)
-  Donated Woodland in Easement (110 of 124 Acres)
-  Proposed Contiguous Easement Area (± 648 Acres Available)
-  Walt Ranch Parcels
-  Road Network



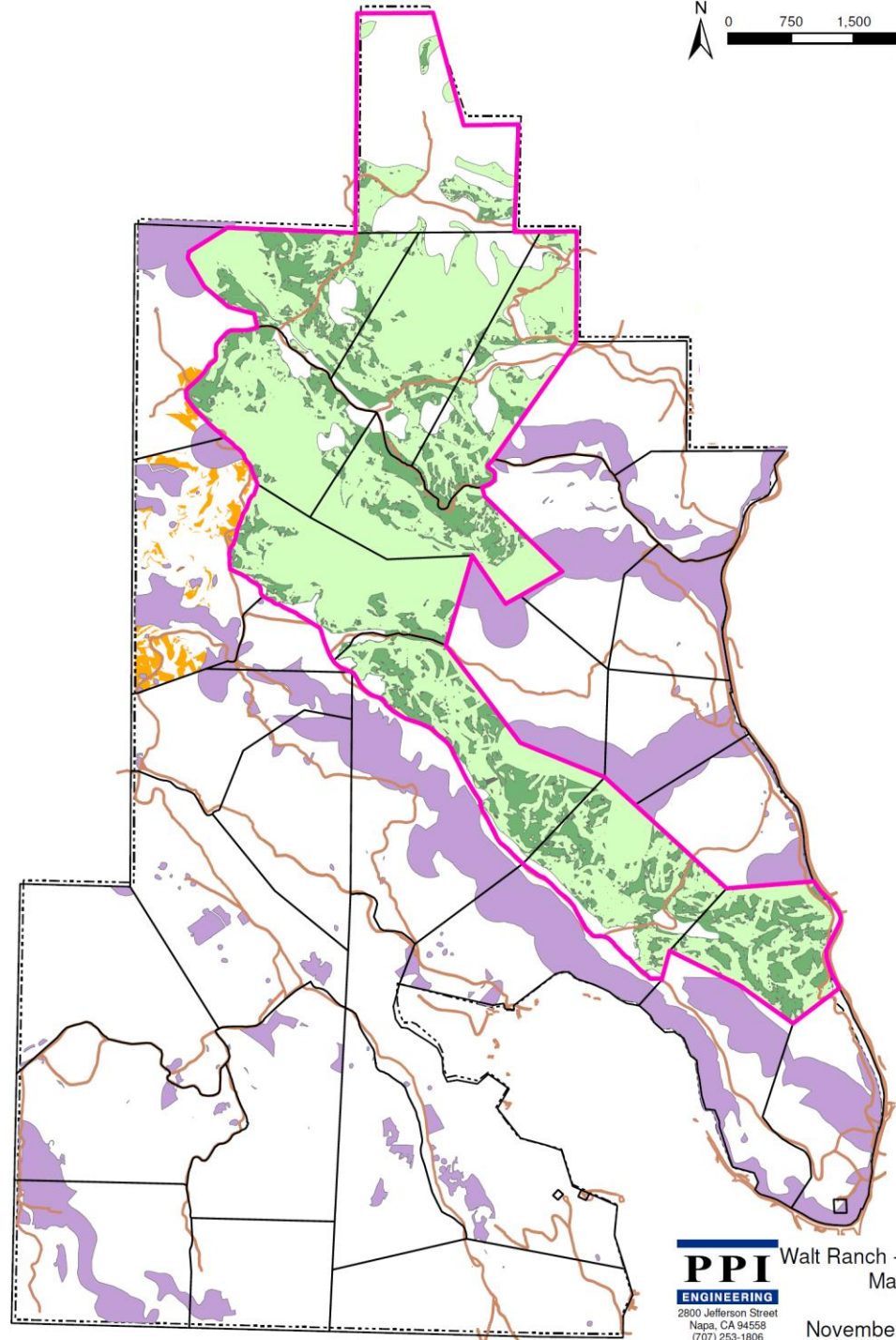
Legend

-  Additional Woodland Inside Contiguous Area (412 Acres Available)
-  Available Acceptable Woodland in Easement (124 Acres)
-  Acceptable Woodland Outside Easement Parcels (At Least 14 Acres)
-  Proposed Contiguous Easement Area (± 648 Acres Available)
-  Walt Ranch Parcels
-  Road Network








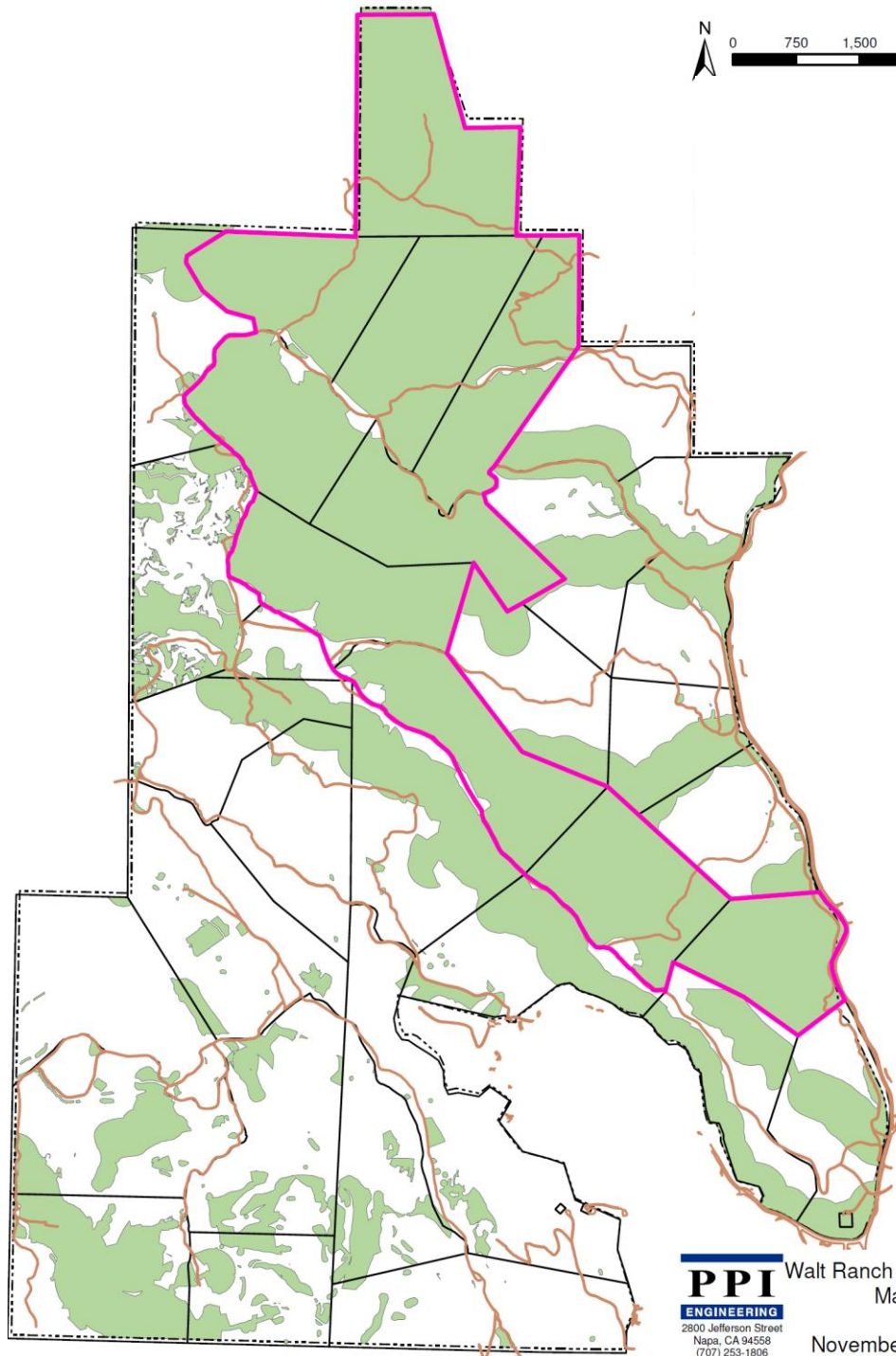
Legend

-  Additional Woodland Conserved on Property (328 Acres)
-  Additional Woodland Inside Contiguous Area (412 Acres Available)
-  Available Acceptable Woodland in Easement (124 Acres)
-  Acceptable Woodland Outside Easement Parcels (At Least 14 Acres)
-  Proposed Contiguous Easement Area (± 648 Acres Available)



Legend

-  Total Area Available in Easement (1,121 Acres)
-  Proposed Contiguous Easement Area (± 648 Acres Available)
-  Walt Ranch Parcels
-  Property Boundary
-  Road Network





2021 Proposal

GHG and Conservation Easement Enhancements

	2021 Proposal	2016 EIR
Greenhouse Gas Mitigations		
Planting Trees	16,790 Trees (27,528 MTCO ₂ e)	
Woodland Conservation (developable)	<u>124 Acres (13,764 MTCO₂e)</u>	<u>248 Acres (27,528 MTCO₂e)</u>
Total CO ₂ mitigation	41,292 MTCO ₂ e	27,528 MTCO ₂ e
Conservation Easements		
Woodland	Minimum of 672	548 Acres
Conservation for other reasons	<u>328 acres</u>	<u>131 Acres</u>
Total	Minimum of 1000 acres	679 Acres



Responses to Appeals

Claim: The County should prioritize preservation of existing woodland habitat over tree planting.

Response:

- *Both tree planting and conservation easements are recognized as appropriate and effective mitigation for GHG emissions.*
- *State law endorses both tree planting and conservation easements to address impacts to oak woodlands and to offset GHG emissions.*
- *Proposal includes both tree planting and conservation easement.*



Responses to Appeals

Claim: Conservation easements protecting woodlands are more effective than planting trees to mitigate GHG emissions.

Response:

- *In the litigation challenging Mitigation Measure 6-1, Appellant took the opposite position:*
 - *“Unlike the planting of new trees, the mere preservation of existing trees does not provide any additional or new reduction in GHG emissions.” (Appellant’s Opening Brief on Appeal, p. 66.)*
 - *“[R]educing a Project’s GHG emissions by planting new trees or through other measures is readily possible.” (Appellant’s Reply Brief on Appeal, p. 60.)*
- *State law, guidance and technical experts all recognizes that both conservation easements and tree planting are effective mitigation.*



Responses to Appeals

Claim: There is insufficient information regarding the suitability of the property for planting trees.

Response: EIR included detailed habitat mapping, based on on-site surveys for trees and other resources. There are extensive woodland habitat areas that are suitable for tree planting.

- Based on on-site inspection, Ascent arborist confirms that, following fires, there is ample acreage that would benefit from tree planting program.*
- Tree planting areas not within vineyard footprint or within areas designated for protecting resources other than oak woodlands.*
- Tree planting will help stabilize soils in areas suitable for woodlands.*



Responses to Appeals

Claim: Ascent's estimate of carbon sequestered by tree planting program is wrong because it does not account for 80% survival rate.

Response: False. Estimate of carbon sequestration includes 80% survival performance standard.



Responses to Appeals

Claim: Ascent overestimated carbon sequestration that will occur in first 30 years of tree's lifespan.

Response:

- *Estimated by acknowledged expert, based on i-Tree software, using industry-standard methods.*
- *Consistent with requirement to permanently protect the trees.*
- *Estimate assumes trees will survive for 100 years but credits only 30% of carbon sequestration that will occur, even though trees will be protected forever.*
- *124-acre easement is in addition to tree planting.*



Responses to Appeals

Claim: 80% seedling survival rate is too high.

Response:

- *80% survival rate is required performance standard.*
- *Monitoring required to confirm that the program achieves this standard.*
- *If program does not achieve this standard, applicant must plant more trees and monitor them.*



Responses to Appeals

Claim: The County should extend the monitoring period from five to seven years.

Response:

- *Proposal revised to require monitoring for seven years.*
- *Oak tree planting program to be incorporated into Biological Resource Management Plan.*



Responses to Appeals

Claim: County should update GHG analysis to reflect conditions after the 2017 and 2020 fires.

Response:

- *Trial and appellate courts upheld EIR's estimates of GHG emissions and of mitigation target of 27,528 MTCO₂e; those issues are settled and EIR remains certified.*
- *If analysis were updated, GHG emissions and corresponding mitigation would be dramatically lower.*



Responses to Appeals

Claim: Following the 2017 and 2020 fires, the property will regenerate naturally, so tree planting is superfluous.

Response:

- *Ascent arborist confirms that, due to severity of 2017 + 2020 fires, approximately 50% of oak trees affected by both fires are dead and will not regenerate.*
- *Areas scarred by fires will benefit from tree planting program.*



Responses to Appeals

Claim: The applicant's proposal to double the number of trees planted if no administrative appeal is filed violates the First Amendment.

Response:

- *Applicant proposed to double the number of planted trees to provide an incentive for an end to unceasing opposition. Continued opposition translates to continued costs and therefore less money for tree planting program.*
- *Current proposal – 16,790 trees – is still much more than required to meet GHG target.*
- *First Amendment is not an issue. Appellants were free to decide how to proceed.*



Responses to Appeals

Claim: The County should not allow the applicant to reduce the conservation easement from 248 acres to 124 acres.

Response:

- *The applicant's revised proposal increases the acreage that will be protected via conservation easements.*
 - *Formerly, Mitigation Measure 6-1 required conserving 248 acres of woodland; cited MM 4.2-16 (525 acres) as more than meeting this requirement.*
 - *As proposed, revised Mitigation Measure 6-1 requires conserving 124 acres of woodland. This acreage is additive, and on top of woodland habitat preserved under other, adopted mitigation such as MM 4.2-16.*



Responses to Appeals

- The amount of conserved woodland has increased:*

	2016 (approved)	2021 (proposed)
MM 6-1	248 acres	124 acres
MM 4.2-16	525 acres (includes 248 acres under MM 6-1)	525 acres (excludes 124 acres under MM 6-1)
Other woodland mitigation	23 acres	23 acres
Total woodland conserved	548 acres	Minimum of 672 acres



Responses to Appeals

Claim: The areas protected by easements should be identified and contiguous.

Response:

- *Proposal identifies the location of the 124 acres to be preserved:*
 - *110 acres within conservation area*
 - *14 acres immediately west of conservation area*
- *Acreage is contiguous to, and enlarges upon, large swath of land to be permanently protected on the site.*
- *Acreage is mapped woodland habitat.*
- *Acreage is not otherwise protected and could be converted absent easement.*
- *Exact boundaries of easements may be adjusted for on-site features (e.g., roads), but acreages shown are minimums.*



Responses to Appeals

Claim: Ascent used inconsistent methodologies to estimate GHG emissions and carbon sequestration.

Response:

- *Appellants already challenged EIR's estimate of GHG emissions; trial and appellate courts upheld EIR; emissions estimate and mitigation target are therefore no longer at issue.*
- *Ascent – a recognized expert – used industry-standard software and protocols to estimate GHG emissions sequestered by tree planting program.*



Responses to Appeals

Claim: County should not acquiesce to applicant's proposal.

Response:

- *Legal issue is whether substantial evidence supports the conclusion that proposed Mitigation Measure 6-1 will provide adequate mitigation for 27,496 MTCO₂e of GHG emissions.*
- *Director Morrison concluded that proposed MM 6-1 was sufficient.*
- *Board has discretion to determine evidence to rely upon in making its determination.*
- *Extensive evidence – analysis by County staff and recognized experts, based on site-specific mapping and data – supports Director Morrison's decision. Contrary evidence lacks evidentiary foundation, is offered by non-experts, or is irrelevant.*



CONCLUSION

- Applicant requests that the Board of Supervisors uphold Director Morrison's decision to approve revised Mitigation Measure 6-1.
- Applicant and consultants are available to answer any questions the Board may have.