



Napa County

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Legislation Text

File #: 22-1043, **Version:** 1

TO: Board of Supervisors
FROM: David Morrison, Director of Planning, Building and Environmental Services
REPORT BY: Brian Bordona, Assistant Director
SUBJECT: Walt Ranch Vineyard ECP - GHG Mitigation Appeal

RECOMMENDATION

PUBLIC HEARING 1:30 PM - Walt Ranch Appeal

Consideration and possible action regarding an appeal filed by Center for Biological Diversity (Appellant) to a decision by the Director of the Napa County Department of Planning, Building and Environmental Services on October 6, 2021, to approve a revision to Mitigation Measure 6-1 and to incorporate the revised mitigation measure into the Mitigation Monitoring and Reporting Plan applicable to the Walt Ranch Vineyards Agricultural Erosion Control Plan - File No. P11-00205-ECPA submitted by Hall Brambletree Associates, LP (Applicant) to allow earthmoving associated with the development of approximately 209 net acres of vineyard (± 316 gross acres) (the Project) as further described in the Board Agenda Letter for this matter. The Project 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. (Assessor Parcel Numbers: 032-120-028, 032-480-007, -008, -011 through -024, -027, -028, 032-490-004, -005, -006, -008 through -020.)

(CONTINUED FROM APRIL 19, 2022)

EXECUTIVE SUMMARY

The Appeal of the Walt Ranch Vineyard Project GHG Mitigation came before the Board at a public hearing on April 19, 2022. The Walt Ranch Project was previously approved, and the EIR certified, and those approvals remain in place. According to the judgment and writ issued by the Court, the Board must consider the sole issue of whether the GHG mitigation is supported by substantial evidence. After hearing all testimony from the parties and interested members of the public, the Board closed the public hearing and directed the Director of

Napa County Department of Planning, Building, and Environmental Services (the “PBES Director”) to provide an Advisory Report considering concerns with the proposed mitigation.

The PBES Director’s Advisory Report addresses the potential impact of vegetation removal on the edges of the conserved woodland habitat by establishing a buffer that will effectively increase the extent of the conserved area by nearly 20 acres. This, combined with the extensive conservation already required by the EIR to mitigate other potential impacts, as well as the constraints on the Property from state and local laws and policies, provides for largely contiguous areas that are protected from development in the future.

Additionally, the Advisory Report sets forth clear standards for the qualifications required for a biologist responsible for assisting in the identification of the specific easement boundaries. The PBES Director recommends adoption of a new condition of approval that would allow the County to select the expert and would set forth standards based on established County practices.

Lastly, the Advisory Report identifies the methodology required to calculate the monetary security necessary to allow the accredited land trust holding the easement to manage and defend the conservation values in the easement. The PBES Director recommends adoption of a new condition of approval that requires the use of an objective and transparent method for calculating the endowment, in collaboration with the identified land trust.

With these additions, the PBES Director concludes that the revised Mitigation Measure 6-1 is supported fully by substantial evidence on the record and is sufficient to mitigate the potential impacts of the Project on GHG emissions to a less-than-significant level.

PROCEDURAL REQUIREMENTS

1. Chair introduces item.
2. Chair invites disclosures from Board members.
3. Chair invites the Staff presentation regarding the Advisory Report.
4. Chair may reopen the public hearing to allow testimony from the parties and the public, limited to the Advisory Report.
5. Chair closes the public hearing, if reopened.
6. Chair invites Board deliberations.
7. A motion of intent is made and seconded to deny, uphold, and/or remand the appeal.
8. Chair refers the matter to County Counsel’s office for preparation of a Resolution of Findings of Fact and Decision on Appeal. Staff recommends that the Board direct County Counsel’s office to return to the Board on

July 12, 2022, with the proposed Resolution for the Board’s consideration and adoption.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No
County Strategic Plan pillar addressed: Vibrant and Sustainable Environment

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The Final Environmental Impact Report was certified on August 1, 2016 (State Clearinghouse No. 2012-02046); an Addendum was prepared to analyze the impact and effectiveness of the revised Mitigation Measure 6-1. The Applicant’s revised proposal substantiates the mitigation measure described in the EIR.

BACKGROUND AND DISCUSSION

The Walt Ranch Vineyard Conversion Project was approved, with a certified EIR, in December 2016. The approval was challenged in Superior Court and, following a decision of the Court of Appeal, the Court entered judgment and issued a writ of mandate instructing the County to reconsider the method of mitigation for the Greenhouse Gas (“GHG”) emissions from the construction and operation of the vineyard development. The approved mitigation required the conservation of 248 acres of woodland habitat to offset the GHG emissions from the Project. On October 6, 2021, The Director of Planning, Building and Environmental Services (the “Director”) approved a revision to Mitigation Measure 6-1 that combined a conservation easement with a tree-planting program designed to offset more than the required amount needed to meet the threshold of mitigation established in the EIR. The Center for Biological Diversity (the “Appellant”) filed the present appeal challenging the effectiveness of the revised mitigation.

After the appeal was filed, the project applicant, Hall Brambletree LP (the “Applicant”), submitted a revised proposal removing the tree-planting program and increasing the conservation easement back to 248 acres, which would be identified from 292.6 acres of eligible woodland habitat. (Attachment 4.) To be eligible, the habitat had to meet specific criteria to ensure that it was subject to development pressure. County staff confirmed that the 292.6 acres was (1) mapped as woodland habitat; (2) not located on slopes exceeding 30 percent; (3) not within the Milliken Reservoir watershed; (4) not within riparian corridors or associated setbacks; (5) not within the project land-clearing boundaries; and (6) not within conservation areas required for mitigation of other potential impacts. The proposal (Attachment 2) included detailed mapping showing all eligible land available for conservation.

The Appellant responded to the proposal by requesting the implementation of additional requirements to ensure the mitigation was successful. (Attachment 5.) The Appellant requested that the Board require the Applicant to (1) provide more specificity to the conservation easements; (2) prioritize conserving large areas of intact and contiguous habitats; (3) demonstrate how the conserved areas would be buffered from human activity to reduce edge effects; (4) consult with local and regional biologists, agencies, and other stakeholders; and (5) demonstrate adequate resources to protect, monitor, and manage the conservation easement in perpetuity.

After reviewing the Applicant's proposal and Appellant's response, County staff recommended adoption of the revised mitigation.

On April 19, 2022, following a hearing on an appeal of revisions to mitigation for the Walt Ranch Vineyard Conversion Project, the Board closed the public hearing and continued the matter, directing the PBES Director to prepare an Advisory Report addressing three concerns identified by the Board.

First, the Board directed staff to address the issue of contiguity and the minimization of edge effects resulting from proximity of the conservation areas to the clearing limits associated with the Project. Second, the Board directed staff to establish definition and standards for identifying a qualified expert to assist in identifying the conservation areas. Third, the Board directed staff to establish standards for the monetary security required to manage the conservation easement.

On April 29, 2022, in response to the PBES Director's request for additional documentation addressing the Board's concerns, the Applicant submitted additional mapping to address the contiguity concern and proposed language for conditions of approval to address the other issues. The PBES Director and County staff have reviewed the additional materials and have prepared an Advisory Report, which is attached as Attachment 1.

ADVISORY REPORT

The attached Advisory Report provides the detailed explanation for the revisions that the PBES Director recommends in response to the Board's inquiries.

To address the issue of the potential effect of human activity on the edges of conserved areas, the PBES Director asked the Applicant to include a 30-foot buffer from the edges of any areas to be cleared as part of the Project that abutted eligible woodland habitat. This resulted in an additional 19.7 acres of woodland habitat that would be preserved, but for which the Applicant will not receive credit toward GHG mitigation. Essentially, the total acreage to be placed in a conservation easement for GHG mitigation will be increased from 248 acres to approximately 268 acres.

Further, the PBES Director asked for additional maps to show the interplay more clearly between the eligible woodland habitat and the other constraints on the Property, including riparian corridors, steep slopes, and areas set aside for preservation through other mitigation. The resulting maps show that the conservation easements are surrounded by areas that cannot be developed based on state or local law and policy.

The PBES Director also asked the Applicant to respond to the need for clear standards for the selection of a qualified biologist as well as a methodology for establishing the monetary security required to protect and defend the conservation easement. Both of these requirements were implicit in the requirements of previous mitigation, but the Board requested that such standards be made explicit. To that end, the PBES Director recommends the adoption of two additional conditions of approval to incorporate clear definitions and standards for these practices.

Based on these additions, as well as the substantial record before the Board, the PBES Director recommends adoption of the revised Mitigation Measure 6-1 and the additional conditions of approval, as set forth in Attachment 3.

BOARD CONSIDERATIONS AND STAFF RECOMMENDATION

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

- Deny the appeal in its entirety and approve the revised Mitigation Measure 6-1, as contained in Attachment 3, which reflects changes outlined in the Advisory Report.
- Uphold one or more grounds of the appeal, reverse the Director's decision, and reject the revised proposal, describing the basis for such denial.

In Staff's opinion, the revised proposal to substantiate the mitigation set forth in the certified EIR, including the detailed mapping and revisions described in the Advisory Report, is supported by substantial evidence and, notwithstanding the arguments in the appeal, is sufficient to reduce the greenhouse gas emissions from the Walt Ranch project to a less-than-significant level. Therefore, Staff recommends that the Board deny the appeal and approve the revised Mitigation Measure 6-1, as reflected in Attachment 3.