



Napa County

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Legislation Text

File #: 22-448, Version: 1

TO: Board of Supervisors
FROM: Thomas Zeleny - Interim County Counsel
REPORT BY: Jason Dooley - Deputy County Counsel
SUBJECT: Walt Ranch Mitigation Appeal

RECOMMENDATION

SET MATTER 2:00 PM (Walt Ranch)

County Counsel recommends reconsideration of the tentative action on the appeal filed by Center for Biological Diversity (Appellant) of a decision by the Director of the Napa County Department of Planning, Building and Environmental Services on October 6, 2021, relating to revision of 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). Staff also recommends setting a new hearing date for the appeal on March 22, 2022. (CONTINUED FROM FEBRUARY 8, 2022)

EXECUTIVE SUMMARY

At the appeal hearing on December 14, 2021, the Board heard and considered evidence submitted from Appellant, the Applicant, Staff and members of the public regarding the appeal. After considering all of the evidence presented, the Board closed the public hearing and adopted a motion of intent to deny the Appeal in its entirety and uphold the Director's approval of the revised Mitigation Measure 6-1, with modifications as recommended by staff and as directed by the Board and agreed to by the Applicant. The Board directed Staff to return on February 8, 2022, with a Resolution of Findings of Fact and Decision on Appeal that reflects the Board's intent as expressed on December 14, 2021. Staff has prepared a proposed Resolution that accurately reflects the Board's intent as expressed on December 14, 2021.

After the tentative action, and before the adoption of the Resolution, the County became aware of allegations that Supervisor Pedroza, who was Chair of the Board during the appeal process, may have had a disqualifying

conflict of interest. Out of an abundance of caution, Supervisor Pedroza recused himself from consideration of the item on February 8, 2022, and the Board continued the matter to allow time for an inquiry into the allegations. While that inquiry is ongoing and no conclusions have been reached, staff believes the most prudent approach to this matter would be to conduct a new prehearing conference and a new public hearing to reconsider the tentative action.

PROCEDURAL REQUIREMENTS:

1. Staff Report.
2. Chair invites public comment limited to the Board's reconsideration.
3. Motion, second, discussion, and vote on reconsideration of the appeal with direction to staff to conduct prehearing procedures in accordance with the Napa County Code; and set the new hearing date on March 22, 2022.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No
County Strategic Plan pillar addressed: Effective and Open Government

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.

BACKGROUND AND DISCUSSION

On November 5, 2021, Appellant Center for Biological Diversity filed a timely appeal challenging the PBES Director's approval of revisions to Mitigation Measure 6-1 applicable to the Project. Pursuant to the County's appeals ordinance, the County held a prehearing conference to clarify procedural requirements and expectations, which was attended by all parties on November 23, 2021, and over which Supervisor Pedroza presided in his role as Chair. At the conference, the County established presentation lengths, deadlines for submittal of PowerPoint presentations and witness lists, and the process for addressing the submittal of additional evidence into the record on appeal. The Board held the public hearing on the appeal on December 14, 2021.

At the appeal hearing on December 14, 2021, the Board heard and considered evidence submitted from Appellant, the Applicant, Staff and members of the public regarding the appeal. After considering all of the evidence presented, the Board closed the public hearing and adopted a motion of intent, with a 3-2 vote to deny

the Appeal in its entirety and uphold the Director's approval of the revised Mitigation Measure 6-1, with modifications as recommended by staff and as directed by the Board and agreed to by the Applicant. The Board directed Staff to return on February 8, 2022, with a Resolution of Findings of Fact and Decision on Appeal that reflects the Board's intent as expressed on December 14, 2021.

After the tentative action, and before the adoption of the Resolution, the County became aware of allegations that Supervisor Pedroza may have had a disqualifying conflict of interest. Out of an abundance of caution, Supervisor Pedroza recused himself from consideration of the item on February 8, 2022, and the Board continued the matter. As of writing this report, the Fair Political Practice Commission has not issued a formal advice on the matter. In light of Supervisor Pedroza's recusal, staff believes the most prudent approach to this matter would be to conduct a new public hearing to reconsider the December 14, 2021 Board action. Staff recommends setting a new hearing date for the appeal for March 22, 2022.