

Attachment A

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ATTACHMENT A

DISCUSSION

PROJECT BACKGROUND:

On December 21, 2011, Elkhorn Slough National Estuarine Research Reserve (applicant) filed an application for a Combined Development Permit consisting of: 1) a Coastal Development Permit to allow oak woodland and freshwater habitat restoration within 100 feet of an environmentally sensitive habitat; and 2) a Coastal Development Permit to allow the removal of 1,225 existing Eucalyptus trees (ranging in size from 6 to over 37 inches in diameter).

The Elkhorn Slough National Estuarine Research Reserve (ESNERR) proposes oak woodland and freshwater habitat restoration to occur in four groves within the Reserve: Hummingbird Island, South Marsh, Cattail Swale and the Five Fingers. The outcome of the project will restore four of the 13 remaining eucalyptus groves back to oak woodland which historically dominated the area. Between 1900s-1930s, eucalyptus trees were planted on the property for timber and used as wind breaks in association with agricultural uses. Now, almost 50 acres of the ESNSRR are consumed by eucalyptus trees which the uncontrolled growth of the eucalyptus threatens to displace freshwater ponds known to serve as habitat for listed special status species, including the Santa Cruz long-toed salamander and California red-legged frog.

The restoration project requires a Coastal Development Permit due to the removal of 75 landmark (over 36 inches in diameter) eucalyptus trees. Pursuant to the Forest Resources Chapter of the North County Coastal Implementation Plan, the landmark trees, trees deemed historic or exemplary, are protected. The eucalyptus trees are an invasive species that were planted in the early 1900s for timber and use as a wind break which contributed to the loss of oak woodlands that naturally occurred on the properties. Due to the possibility that protected species may utilize the eucalyptus trees, the timing of tree removal will occur outside of the nesting and roosting season for birds, amphibians and reptiles, and will be monitored by a qualified biologist before, during and after tree removal activities.

Pursuant to the Environmentally Sensitive Habitat Areas (ESHA) Chapter of the North County Coastal Implementation Plan, the removal of 1,225 eucalyptus trees will occur within 100 feet of environmentally sensitive habitat, and therefore, requires a Coastal Development Permit. Approval of this permit must not be permitted to adversely impact the habitat's long-term maintenance, as determined through a biological survey. The biological survey identified that the following special status species or habitats may be affected by the tree removal activities:

- Monarch butterfly (No Federal or State listing)
- Santa Cruz long-toed salamander (Federally listed as endangered, State listed as Endangered, fully protected by the State)
- California red-legged frog (Federally listed as threatened, California species of concern)
- Western pond turtle (California species of concern)
- White-tailed kite (nesting) (Fully protected by the State)
- Double-crested cormorant (rookery site) (CDFW Watch List)
- Salinas harvest mouse (no Federal or State listing)
- Southern sea otter (Federally listed as threatened, protected under the Marine Mammal Protection Act, fully protected by the State)

Mitigation measures contained in the Mitigated Negative Declaration prepared by the California Department of Fish and Wildlife will be implemented by ESNERR to minimize potential impacts to ESHA during tree removal activities (**Attachment G**).

The California Department of Fish and Wildlife (CDFW), as Lead Agency, adopted a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Plan for this project on March 24, 2015. The MND primarily addressed issues relative to Biological Resources, Cultural Resources, Geology/Soil, Hazards/Hazardous Materials, Hydrology/Water Quality, Noise, and Greenhouse Gas Emissions. The County is a Responsible Agency under CEQA. A Responsible Agency is required to confirm that its decision-making body (Board of Supervisors) reviewed and considered the information contained in the MND, adopt feasible mitigation measures for the project under its jurisdiction, and adopt a Mitigation Monitoring and Reporting Plan for those measures. The action before the Board includes adoption of a Mitigation Monitoring and Reporting Plan that requires CDFW to provide evidence that the mitigation measures are implemented and have the intended effect.

Consistent with on the Land Use Advisory Committee (LUAC) Procedure guidelines adopted by the Monterey County Board of Supervisors, the application was reviewed by the North County Coastal LUAC. On February 7, 2012, the LUAC reviewed and unanimously recommended the project for approval.

On July 8, 2015, the Planning Commission considered the Mitigated Negative Declaration adopted by the California Department of Fish and Wildlife, and approved the Combined Development Permit with a vote of 9-1 (**Attachment E**). On July 31, 2015, Nina Beety timely filed an appeal of the Planning Commission's decision.

APPELLANTS' CONTENTIONS AND STAFF RESPONSE:

On July 31, 2015, the appellant, Nina Beety, submitted a Notice of Appeal requesting that the Board of Supervisors overturn the Planning Commission's decision because the findings and decision are not supported by evidence (**Attachment C**). On August 13, 2015, David Feliz at the Elkhorn Slough National Estuarine Research Reserve (ESNERR) responded to the allegations in the Notice of Appeal (**Attachment D**). The Appellant's contentions, as summarized, and staff's response to each is discussed in the Findings and Evidence contained in Attachment B.

CONCLUSION

Based on the information and evidence provided, staff recommends that the Board of Supervisors adopt a resolution to:

- a. Deny the appeal by Nina Beety of the Monterey County Planning Commission's adoption of a Mitigated Negative Declaration and approval of a Combined Development Permit (Elkhorn Slough National Estuarine Research Reserve /PLN100351);
- b. Certify that the Board of Supervisors considered the Mitigated Negative Declaration adopted by the California Department of Fish and Wildlife on March 23, 2015; and
- c. Approve the Combined Development Permit consisting of: 1) a Coastal Development Permit to allow oak woodland and freshwater habitat restoration within 100 feet of an environmentally sensitive habitat; and 2) a Coastal Development Permit to allow the removal of 1,225 existing Eucalyptus trees (ranging in size from 6 to over 37 inches in diameter), subject to Conditions of Approval; and
- d. Adopt a Mitigation Monitoring and Reporting Plan.