

Mount Veeder Stewardship Council

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October 9, 2014

Donald Barrella, Planner
Napa County Planning Department
County Administration Building
1195 Third Street, Suite 201
Napa, CA 94559

Re: Napa County's Notice of Intent to Adopt a Mitigated Negative Declaration
Vino Farms, Huichica Hills Vineyard Conversion Plan
No Hearing Currently Scheduled

Dear Mr. Barrella:

The Mount Veeder Stewardship Council submits the following letter in Opposition to the Vino Farms, Huichica Hills Vineyard Conversion Plan currently pending before the Napa County Planning Department, and urges the Planning Department to reconsider its intent to adopt a Mitigated Negative Declaration for the Vineyard Conversion Plan.

The goal of the Mount Veeder Stewardship Council is to encourage sustainability of our natural resources and to ensure that the rich biodiversity and rural quality of life in the private and public lands of our pristine watershed are respected, conserved and protected for future generations through education, local community involvement and outreach to government and business stakeholders. At this time, the Mount Veeder Stewardship Council is concerned about the approval of new uses for water, during this serious drought.

Based upon our review of the Vino Farms, Huichica Hills Vineyard Conversion Plan and subsequent submittals, it is our opinion that the Planning Department should not adopt the proposed Mitigated Negative Declaration, due to the fact that an adequate analysis of actual water available for the project was not performed, nor did the Planning Department take into consideration, while reviewing this application, the fact that Northern California is currently in a serious drought.

Notice to Neighbors

In Napa County, which has a large percentage of large properties located in the County and not in the metropolitan areas The notice which was provided to neighboring properties was limited to those neighbors who own a property within 300 feet of the project property. Given the fact that the impact of the project extends well beyond 300 feet of the subject parcel, the notice by the County should really be extended to a distance of at least 1,000 feet of the subject parcel, to alert neighbors to the proposed project and allow them to contact the applicant directly or contact the County regarding their concerns for the proposed project impacts.

No Hearing is Scheduled for this Vineyard Conversion Plan

The County of Napa has a policy of not having public hearings scheduled prior to the approval of Vineyard Conversion Plans. Instead, the entire process for Vineyard Conversion Plans is surrounded in secrecy. Only neighbors within 300 feet of the property boundaries receive notice. The neighbors and any other project opponents are only given approximately 30 days to provide written comments to the Planning Department. There is no hearing scheduled for vineyard conversion plans, thereby making it almost impossible for opponents to even find out how the Planning Department responds to written comments.

After the Planning Department closes the comment period, opponents of the project are not provided any response to their concerns. All of what the Planning Department does during this process is not provided to the opponents. However, the Planning Department does communicate with the applicant. Eventually the Planning Department makes a determination either to grant the Vineyard Conversion Plan or deny the request.

Opponents are not provided notice of when the final decision is made, thereby depriving the opponents of the project due process and equal protection. In addition, since they do not know what the final determination is or when it is made, it is very unlikely that they will have sufficient time in which to file an appeal of the project when it is granted.

The Planning Department's shroud of secrecy surrounding the vineyard conversion plan approval process almost guarantees an opponent will not have enough information to file a timely appeal, thereby depriving any opponents of their right to due process and equal protection.

A hearing before the Director of Planning, Building and Environmental Services should occur and should receive public notice to allow those opposing the project to attend the hearing.

The Project Fails to Consider the Drought

Currently, the State of California is experiencing one of the most significant droughts in the

State's recorded history. This is the third year of the drought in California. Yet, the Planning Department, in its evaluation of the Vino Farms, Huichica Hills Vineyard Conversion Plan application, fails to take the drought into consideration. In fact, the proposed Mitigated Negative Declaration does not even mention the word drought in the document, nor is there any discussion as to how the drought might impact the surface water to which the applicant claims to have access. Furthermore, given the fact that the applicant has used groundwater in two separate years to irrigate the existing vineyard, there should also be a discussion as to how the removal of groundwater impacts the water table as well as neighboring parcels.

The Applicant and County Fail to Address Actual Water Available for the Project

While the applicant does say that it has a permit to withdraw water from an existing surface water source, at a rate of up to 150 acre feet per year, there has been no evaluation that there is such a volume of surface water available from the source of water for the project. There is no data to determine if there is really any such amount of water available for the applicant to use. A permit, on a piece of paper, does not equate to actual water available for the project, but rather, only the right to use water, if in fact, there is water available.

In fact, in two separate years, the applicant had to rely on groundwater to irrigate its vineyards. In the years 2010 and 2013 the applicant withdrew 37.8 acre feet and 35.6 acre feet of groundwater to irrigate its vineyards. This equates to 12,317,184 gallons of groundwater in 2010, and 11,600,311 gallons of groundwater in 2013.

Furthermore, the amount of water used by the existing vineyard, appears to be based upon numbers provided by the County, by one of the County's infamous formulas, rather than based upon actual records showing what the actual amount of water is which is being used by the existing 270 acre vineyard.

The lack of analysis of the water availability for the site, by the applicant and the Planning Department, as well of the lack of consideration of the current drought, and how the drought has and will impact the water availability from the surface water at the site, the lack of required controls for water usage on the project, to deal with what could be a prolonged drought, all suggest that the Planning Department failed to perform a thorough review of the actual water available for this project. Instead, the Planning Department appears to have just accepted the information which the applicant decided to provide in their application, without verification, and whether the information is correct or not, does not seem to have been considered.

If the applicant is incorrect about the amount of water which is available from the surface water source during this drought, the applicant may be in a position where it does not have enough water for the existing and proposed vineyard on the property. If the applicant runs out of water for the proposed vineyard, where will that water come from? Has the Planning Department even

considered this scenario?

In this application, the applicant relies on an obsolete Water Availability Analysis for Napa County which presumes that there is 1.0 acre feet of water per year available under each acre of land on the Valley Floor, presumes that there is 0.5 acre feet of water per year available under each acre of land on the Hillsides, and presumes that there is 0.3 acre feet of water per year available under each acre of land in the M-S-T.

These presumptions were formed years ago, when California was not experiencing a drought, and these presumptions are flawed. In the midst of the drought, to assume that the same amount of water is available, as during a year with normal or higher than normal rainfall, after two winters with less than normal rainfall is not supported by any evidence. Followed by the current winter, which is clearly a drought year.

The applicant's property is located in the Carneros region, which is not located in either the Valley or the M-S-T. Earlier this year, given the fact that there is really not much available data regarding groundwater in the County, other than the Valley Floor and the M-S-T, the County began to require applicants in other areas of the County to perform an actual water availability analysis. Given the fact that the applicant is located outside the Valley Floor and the M-S-T and does use some groundwater for the irrigation of its vineyards, the Planning Department should require the applicant to perform a Phase II water availability analysis, and not rely the faulty presumption, that there is 1.0 acre feet of water available per year per acre (referred to the in Mitigated Negative Declaration as the "fair share" standard) in the Carneros, given the fact that there are very few wells in the Carneros region which have been monitored by the County's consultant.

Based upon the information submitted by the applicant, it is allegedly using 64.5 acre feet of water per year for the existing 270 acre vineyard; however, this is based upon the County's formula and not actual metered use. The 64.5 acre feet of water equates to 21,017,417.1 gallons of water per year for the 270 acre vineyard. Based upon the County's formula and no actual usage data, the proposed 9.5 acre vineyard would use an additional 1.8 acre feet of water per year for the proposed 9.5 acre vineyard which is 586,532.6 gallons of water per year for the proposed section of new vineyard. The total amount of water which would be used, after the installation of the proposed vineyard is 66.3 acre feet of water per year or 21,603,949.7 gallons per year, according to the County's formula.

The proposed Mitigated Negative Declaration, on page 23 of 33 states that "the proposed project is anticipated to result in less than significant impacts to groundwater supplies, groundwater recharge, local groundwater aquifer levels, and well interference or drawdown effects on nearby wells." It also goes on to say that it would not have an adverse impact on water quality.

To say that the increased water usage of 586,532.6 gallons of water per year, for the proposed 9.5 acre vineyard will result in less than significant impacts to groundwater or water quality during this drought is hard to believe.

The adoption of a mitigated negative declaration for this project is not appropriate. At the very minimum, the applicant should be required to provide an in-depth water availability analysis and comply with CEQA and be required to perform an Environmental Impact Report addressing water availability, water conservation measures, as well as water availability for fire protection.

The County Fails to Consider, the Cumulative Impact of the Project on Napa County

The cumulative impact of withdrawing an additional 586,532.6 gallons of water per year from surface water sources and on occasion, groundwater, will have a cumulative impact on water quality, water volume and the habitat upon which fish and wildlife rely in the Huichica Creek Drainage which drains into the Napa River via the Napa Slough. Yet, the increased removal of water, in the amount of 586,532.6 gallons of water per year, and how it will impact the habitat for fish and wildlife has not been discussed in the Mitigated Negative Declaration.

There should be a thorough analysis in the Mitigated Negative Declaration of how the removal of the additional 586,532.6 gallons of water per year from the Huichica Creek Drainage will impact the habitat for fish and other wildlife which rely upon these surface waters.

In addition, given the fact that applicant also uses groundwater during some years, there must be a discussion as to how that groundwater removal will impact other neighboring properties, groundwater levels, and the applicant's surface water sources.

Before any issuance of a Mitigated Negative Declaration for the Vino Farms, Huichica Hills Vineyard Conversion Plan application, the applicant and the County must consider how the addition of yet another vineyard, will impact the County as a whole. There has been no such consideration or discussion of how the continued approval of vineyard after vineyard will impact the County of Napa. At what point does the County reach a level of saturation of vineyards? This analysis should consider all predictable and cumulative impacts such as traffic, noise, waste water, water, air, carbon and quality of life for those of us who call Napa County our home.

Adoption of a Negative Declaration for the Vino Farms, Huichica Hills Vineyard Conversion Plan Would Set a Bad Precedent in the County

In the County of Napa, any approval of a use permit application must comply with California law, including the California Environmental Quality Act, and the California Water Code, as well as County policy. As set forth above, the Vino Farms, Huichica Hills Vineyard Conversion Plan application fails to comply with CEQA.

There has been no discussion by the Planning Department addressing this drought and how the drought impacts water availability on the applicant's parcel, or neighboring parcels and any domestic water supply.

The adoption of a Negative Declaration for the Vino Farms, Huichica Hills Vineyard Conversion application, at this time, without an adequate study of the actual amount of water available for the project, would set the stage for a whole class of applications, whose cumulative impacts would severely harm the County, its resources, and their neighbors.

Accordingly, this vineyard conversion application any upcoming applications should be seriously weighed by the Planning Director, and should contain a complete and thorough analysis of actual water availability, during this, California's worst drought, in the history of the State, instead of resting upon the faulty assumption upon which the County currently relies for water calculations.

The County should also have a requirement in every Negative Declaration or Mitigated Negative Declaration issued in Napa County that the applicant be required to install and maintain a system to monitor the actual amount of water used to both existing and new vineyards on an annual basis.

Greenhouse Gas Checklist

The County of Napa uses a Greenhouse Gas Checklist for Use Permit Applications; however, upon inquiry, Mr. Barrella, the Planner on this particular application, advised Ms. James that the County of Napa does not require applicants for Vineyard Conversion Plans to complete the Greenhouse Gas Checklist. The Mount Veeder Stewardship Council believes that the Greenhouse Gas Checklist is a useful document, it provides information to the County and the public about what measures the applicant is willing to undertake to reduce their green house gas emissions on the particular project. In addition, the Checklist educates the applicant of measures which they can implement to reduce greenhouse gas emissions.

Furthermore, the applicant on this project has decided not to have the new portion of the vineyard certified as Napa Green. Any new vineyard project in the County should be obtaining some type of certification for new vineyards, whether it be Napa Green or another type of certification.

Conclusion

The Mount Veeder Stewardship Council objects to the adoption of a Mitigated Negative Declaration for the Vino Farms, Huichica Hills Vineyard Conversion Plan application on the basis that there has been no consideration of the current drought, no consideration of the actual amount of water available for the proposed vineyard, other than reliance on a permit to withdraw water from a surface water source, without even evaluating whether or not there is actually

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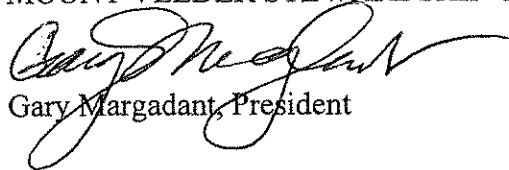
enough water for the proposed 9.5 acres of new vineyard.

The Mount Veeder Stewardship Council respectfully requests that the Planning Director not adopt the Mitigated Negative Declaration for the Vino Farms, Huichica Hills Vineyard Conversion Plan application, and instead have the applicant conduct an Environmental Impact Report, addressing water availability in the midst of the current drought.

The Mount Veeder Stewardship Council also requests that it receive written notification of the Director of Planning, Building and Environmental Services decision, as soon as the decision has been made. The written determination may be submitted to Mr. Margadant and Ms. James via email at gsmargadant@gmail.com and ejames@pollockandjames.com.

Respectfully Submitted.

MOUNT VEEDER STEWARDSHIP COUNCIL



Gary Margadant, President