

Attachment ____
__ Resolution with Exhibits A (Findings)

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

9th day of December 2014

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION TO MODIFY TWO PREVIOUSLY APPROVED CONDITIONS OF APPROVAL FOR THE SANTA MARGARITA RANCH AGRICULTURAL SUBDIVISION IN ORDER TO COMPLY WITH THE PEREMPTORY WRIT OF MANDATE ISSUED BY THE SAN LUIS OBISPO COUNTY SUPERIOR COURT

The following resolution is now offered and read:

WHEREAS, on December 23, 2008, the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the ‘Board’) duly considered and conditionally approved the Santa Margarita Ranch Agricultural Subdivision (Tract 2586 and Conditional Use Permit S030115U) and certified the associated Final Environmental Impact Report (SCH200411112); and,

WHEREAS, subsequent to said action, Petitioners North County Watch and the Endangered Habitat League filed suit in the San Luis Obispo Superior Court, *North County Watch, et al. v. County of San Luis Obispo*, Case No. CV 098031; and,

WHEREAS, on June 18, 2013, the trial court entered judgment in said action and issued a Peremptory Writ of Mandate commanding the County to undertake certain tasks before tract map recordation, grading permit, or construction permit issuance and required the County, in relevant part, to “develop a record based upon substantial evidence supporting establishment of off-site air quality impact fee to mitigate the Project’s significant air quality impacts in compliance with CEQA,” and to “recirculate the off-site air quality impact fee and the analysis of said fee and hold any hearings as may be required by law”; and

WHEREAS, in response to the Writ of Mandate, the County prepared an Addendum to the Final Environmental Impact Report that extensively analyzed and documented additional evidence regarding the establishment of off-site mitigation fees for project air quality impacts,

Attachment ____
__ Resolution with Exhibits A (Findings)

which was circulated for a 30-day public review period, beginning July 31, 2014 and concluding September 1, 2014; and,

WHEREAS, based on the analysis and evidence included in the Addendum to the Final Environmental Impact Report, the County determined that Condition of Approval number “92” for the Conditional Use Permit S030115U and Conditions of Approval “27.rrrr.” and “28.rrrr” for Tract 2586 require modification to comply with the Writ of Mandate; and,

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on December 9, 2014, and determination and decision made on December 9, 2014, and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said revised conditions of approval; and

WHEREAS, the Board has duly considered the requirements of the Writ of Mandate and the analysis and evidence contained in the Addendum to the Final Environmental Impact Report for the Santa Margarita Ranch Agricultural Subdivision project, and determined that Condition of Approval number “92” for the Conditional Use Permit S030115U and Conditions of Approval “27.rrrr.” and “28.rrrr” for Tract 2586 shall be revised as set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, in a regular meeting assembled on the ninth day of December, 2014, as follows:

1. That the recitals set forth hereinabove are true, correct, and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as set forth in full.
3. That the Addendum to the Final Environmental Impact Report for this project is hereby approved as adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.
4. That the Addendum to the Final Environmental Impact Report for this project fulfills requirements of the Writ of Mandate as issued by the San Luis Obispo County Superior Court on June 18, 2013.

Attachment _____

___ Resolution with Exhibits A (Findings)

5. That Condition of Approval number “92” for the Conditional Use Permit S030115U and Conditions of Approval “27.rrrr.” and “28.rrrr” for Tract 2586 shall be amended and replaced to read as follows:

Prior to final map recordation for a given phase, the applicant shall pay to the APCD the off-site mitigation fee in accordance with the methodologies and fee schedule contained in November 2014 Addendum to the FEIR. The applicable fee shall be determined based on the year in which the final map is recorded for a given phase. The fee shall be paid proportionate to each phase of the project and the number of homes constructed with a given phase (e.g. Phase I includes 36% of the total number of homes, and as such the fee for Phase I shall be 36% of the total fee for the year in which the final map would be recorded). Off-site emission reduction measures may include, but would not be limited to:

- *Developing or improving park-and-ride lots;*
- *Retrofitting existing homes in the project area with APCD-approved wood combustion devices;*
- *Retrofitting existing homes in the project area with energy-efficient device;*
- *Constructing satellite worksites;*
- *Funding a program to buy and scrap older, higher emission passenger and heavy-duty vehicles;*
- *Replacing/re-powering transit buses;*
- *Replacing/re-powering heavy-duty diesel school vehicles (i.e. bus, passenger or maintenance vehicles);*
- *Funding an electric lawn and garden equipment exchange program;*
- *Retrofitting or re-powering heavy-duty construction equipment, or on-road vehicles;*
- *Re-powering marine vessels;*
- *Re-powering or contributing to funding clean diesel locomotive main or auxiliary engines;*
- *Installing bicycle racks on transit buses;*
- *Purchasing particulate filters or oxidation catalysts for local school buses, transit buses or construction fleets;*
- *Installing or contributing to funding alternative fueling infrastructure (i.e. fueling stations for CNG, LPG, conductive and inductive electric vehicle charging, etc.);*
- *Funding expansion of existing transit services;*
- *Funding public transit bus shelters;*
- *Subsidizing vanpool programs;*
- *Subsidizing transportation alternative incentive programs;*
- *Contributing to funding of new bike lanes;*
- *Installing bicycle storage facilities; and*
- *Providing assistance in the implementation of projects that are identified in City or County Bicycle Master Plans.*

Attachment ____
__ Resolution with Exhibits A (Findings)

6. That revisions to said conditions of approval are valid and reflect the conclusions of the Addendum to the Final Environmental Impact Report as documented by evidence contained therein and that the established off-site air quality impact fee is appropriate and proportionate to the air quality impacts of the project. All other conditions of approval for the project remain in effect and unchanged as approved on December 23, 2008 by the Board of Supervisors, including Tract Map condition 35 and Conditional Use Permit condition 135 pertaining to defense and indemnity of the County.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairman of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: November 25, 2014

Attachment ___
___ Resolution with Exhibits A (Findings)

EXHIBIT A

EXHIBIT A - Findings

1. As described in detail in the November 2014 Addendum to the Final Environmental Impact Report (SCH2004111112), the evaluation of off-site mitigation for project ozone precursor emissions impacts would not result in new significant impacts or identify new mitigation measures that the project proponents decline to adopt. The purpose of the Addendum has been to comply with the Superior Court judgment and provide an updated off-site air quality mitigation fee that will more accurately and appropriately mitigate off-site air quality impacts. Per Section 15162 of the CEQA Guidelines, the County finds:

(1) Substantial changes are not proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes would not occur with respect to the circumstances under which the project is undertaken requiring major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(3) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative;
or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Based on these findings and the information contained in the November 2014 Addendum to the Final Environmental Impact Report for the Santa Margarita Ranch Agricultural Subdivision, substantial evidence has been provided to support the decision not to prepare a subsequent or supplemental EIR pursuant to Section 15162.

2. Revisions to Condition of Approval number "92" for the Conditional Use Permit and Condition of Approval "27.rrrr" and "28.rrrr" for Tract 2586 would not result in any new environmental impacts because the revisions do not alter the mitigation measures identified in the Final EIR for the Project and are intended to improve and refine mitigation for air quality impacts.

3. The analysis and evidence contained in the Addendum to the Final Environmental Impact Report for the Santa Margarita Ranch Agricultural Subdivision project meet the intent and requirements of the Writ of Mandate issued by the San Luis Obispo County Superior Court in North County Watch, et al. v. County of San Luis Obispo, et al.(Case No. CV098031).
4. All other conditions of approval for the Santa Margarita Ranch Agricultural Subdivision project remain in effect and unchanged as approved on December 23, 2008 by the Board of Supervisors, including Tract Map condition 35 and Conditional Use Permit condition 135 pertaining to defense and indemnity of the County.