

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building		(2) MEETING DATE 2/7/2012		(3) CONTACT/PHONE Ryan Hostetter, Planner III \ (805) 788-2351	
(4) SUBJECT Hearing to consider an appeal by Greenspace – The Cambria Land Trust, of the Planning Department Hearing Officer's approval of Minor Use Permit/Coastal Development Permit DRC2011-00035 to allow a shaded fuel break along portions of the CT Ranch property and Kamp KEEP within the community of Cambria.					
(5) RECOMMENDED ACTION Adopt and instruct the chairman to sign the resolution affirming the decision of the Planning Department Hearing Officer and approving Minor Use Permit DRC2011-00035 based on the findings in Exhibit A and the conditions in Exhibit B.					
(6) FUNDING SOURCE(S) Department Budget		(7) CURRENT YEAR FINANCIAL IMPACT \$0.00		(8) ANNUAL FINANCIAL IMPACT \$0.00	
(9) BUDGETED? Yes					
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation (Time Est. _____) <input checked="" type="checkbox"/> Hearing (Time Est. _110 min_) <input type="checkbox"/> Board Business					
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A			(14) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
(15) LOCATION MAP Attached		(16) BUSINESS IMPACT STATEMENT? No		(17) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(18) ADMINISTRATIVE OFFICE REVIEW					
(19) SUPERVISOR DISTRICT(S) District 2 -					

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Ryan Hostetter, Planner III

VIA: Planning and Building / Ellen Carroll, Environmental Coordinator

DATE: 2/7/2012

SUBJECT: Hearing to consider an appeal by Greenspace – The Cambria Land Trust, of the Planning Department Hearing Officer's approval of Minor Use Permit/Coastal Development Permit DRC2011-00035 to allow a shaded fuel break along portions of the CT Ranch property and Kamp KEEP within the community of Cambria.

RECOMMENDATION

Adopt and instruct the chairman to sign the resolution affirming the decision of the Planning Department Hearing Officer and approving Minor Use Permit DRC2011-00035 based on the findings in Exhibit A and the conditions in Exhibit B.

DISCUSSION

The proposed project is a request by Cal Fire for a Minor Use Permit/Coastal Development Permit (DRC2011-00035) to allow for the creation of an approximately 100 foot wide shaded fuel break along the southern, western, and portions of the eastern edges of the CT Ranch property as well as along the southwest side of Bridge Street, and a portion of Kamp KEEP. The project is proposed to remove "ladder fuel" within the fuel break area which consists of down, dead, and diseased trees, along with some hazardous snags. Brush and weed material will be removed above grade (roots will remain). All trees/shrubs larger than 10 inches will remain, and some healthy plant specimens that are smaller than 10 inches will also remain. Cal Fire received a grant to complete this proposed project and will be required to complete the project under the rules of the Forest Practices Act.

The Minor Use Permit was approved on December 16, 2011 by the Planning Department Hearing Officer, that action was appealed on December 30, 2011 by Greenspace – the Cambria Land Trust (representative is Rick Hawley). In the appeal, the appellant asserts the project is inconsistent with applicable regulations and the supporting documents are deficient and fail to satisfy the recommendations and direction suggested by Greenspace and the California Coastal Commission (discussion below).

APPEAL ISSUES

While the appellant has submitted multiple letters from their agency (Greenspace) as well as other agencies, the following issues are the main appeal issues in the letter dated November 14, 2011 from Greenspace which is attached to the appeal form:

Issue 1 – Name of Project should not be “Bridge Street” fuel break project

Staff Response –The name of the application is generally referred to as the applicant on the application form or the land owner (not always the same). Cal Fire occasionally refers to this project as the “Bridge Street” fuel break project as a portion of the project is physically located along Bridge Street. However, the Planning application and staff report refers to this project as the Cal Fire / CT Ranch Minor Use Permit / Coastal Development Permit DRC2011-00035.

Issue 2 – The project is on a property with a conservation easement, and the proposed project is not allowed in the conservation easement. Public access to the property is required under decent supervision one month per year.

Staff Response – The Nature Conservancy holds the easement for which the appellant is referring to, and has submitted a letter in support of the proposed project. There is specific language within the conservation easement that allows the easement holder to conduct fuel reduction projects (specifically Exhibit C of easement language which is attached). The language also allows for vegetation removal, controlled burning, removal of vegetation within waterways, removal of feral and non-native animals and other maintenance activities. This proposed project is not expected to alter the continuing public access of the property that has historically occurred.

Issue 3 – Project is not consistent with California Environmental Quality Act (CEQA)

Staff Response – A Mitigated Negative Declaration (MND) was completed and adopted by Cal Fire as the lead agency on December 8, 2011 after public review. The County acting as “responsible agency” under CEQA commented on the environmental document and Cal Fire made amendments to the document based on the comments by the County. Many other comments by members of the public as well as Greenspace were submitted to Cal Fire, and Cal Fire responded accordingly. Comments and responses to comments are attached to the final MND.

Most of the comments include the following: spread of invasives, air quality with use of the masticator, biological concerns, fuel break width, and the use of the masticator. These comments are attached as well as responses prepared by Cal Fire which have been adopted in the final MND.

Issue 4 – The project is not consistent with the Local Coastal Plan or the California Coastal Act.

Staff Response – The proposed project was reviewed for consistency with the Local Coastal Plan and the California Coastal Act. Vegetation removal is an allowed use within the Coastal Zone Land Use Ordinance, as well as an allowed use within an Environmentally Sensitive Habitat Area such as the CT Ranch property with special consideration and mitigation. The intent of this project is to both balance the environmental and safety needs for the community by allowing a shaded fuel break which will not remove all vegetation, and will be monitored as well as mitigated for any habitat removal. Conditions of approval have been developed which require that a county approved monitor be on the ground during project activities as well as a mitigation program for seed scattering which was excerpted out of the Cambria Forest Management Plan.

Issue 5 – The Mitigated Negative Declaration lacks findings, lacks monitoring, and maintenance, and does not limit the site from becoming an exotic plant and weed infested fire trap.

Staff Response – This proposed project is a one-time fuel reduction project based on grant funding. Long term and future clearing is not a part of this project, however monitoring and weed reduction are a part of this proposal. It is the intent of the property owner and Cal Fire to develop a plan for long term maintenance, and that is yet to be developed and reviewed by the County. Cal Fire has stated that with this project they intend to remove French broom and other invasive species by hand before the use of mechanical equipment. The intent of this is to remove most of the invasive fuel load within the fuel break area. The project is also conditioned to require monitoring during project activities to ensure that the project is conducted as outlined in the conditions of approval and the environmental document.

Issue 6 – A smaller graduated fuel break could be used such as 50-75 feet rather than 100 feet as proposed. Also, entire fuel break proposed on ranch when it could also be proposed onto neighboring lots in the urban area thus not creating an “edge effect”.

Staff Response – This shaded fuel break will not remove the forest canopy, and will not create a bare swath of land between the urban reserve line and the forest which would create an “edge effect”. All trees 10 inches or more in diameter will remain as well as some smaller healthy specimens as determined by Cal Fire and the monitors on the ground. Cal Fire has stated that 100 to 150 feet is the minimum necessary for a shaded break to slow down the fire as it may travel toward the residences in this area. The fuel break is not intended to stop a fire, but will allow for Cal Fire to more easily manage the fire and give residents life saving time to evacuate their areas.

Issue 7 –Based on tree loss in California by fragmentation the carbon sequestration issue in our state is underestimated and the impact of this project with the removal of 50 acres of vegetation is not discussed and no mitigation is included.

Staff Response – The proposed project is not intended to remove a large stand of native habitat, and the project description includes leaving trees and the canopy within the fuel break area. The project is conditioned to include a mitigation program which will allow for tree replacement and forest regeneration, therefore it is not anticipated that this project will have any effect on the statewide carbon sequestration issue.

Issue 8 – The masticator appears to be used as a cost saving application only and little thought has gone into the health issues raised by this equipment. Hand crews should be employing to conduct this work for this project.

Staff Response – Cal Fire has evaluated both the use of hand crews and the masticator for this project, and based on this the project description proposes to use a combination of both of these methods. Health and nuisance impacts associated with hand crews alone are very similar to those of the masticator, and in fact can be more impactful upon the residences due to additional air quality impacts and time necessary for project completion. Multiple chain saws create more noise than the masticator, and the time to complete the project is more than doubled. The use of the masticator allows Cal Fire to complete 2-3 acres of fuel removal per day where the hand crews would take approximately 2-3 days to complete one acre. Additionally, more smoke and air quality impacts are associated with hand crews alone as more burn piles would be proposed. Finally, due to the publically funded grant, cost and time were important factors when Cal Fire proposed this project.

Issue 9 –The width of the Bridge Street asphalt surface must be used as part of the fuel break width.

Staff Response – Cal Fire has stated that the width of the fuel break along Bridge Street has included the width of the paved Bridge Street portion within the design. The fuel break is proposed at 100’ along the road, and where the break veers away from the road it increases to 150 feet wide due to the steeper conditions and higher fire hazards within this specific area as opposed to the areas along the edge of the ranch which are proposed at a maximum of 100 feet.

Issue 10 – The Mitigated Negative Declaration does not discuss the balance of forest ecology versus a timber harvest plan. There are no facts that support the removal of a certain class of trees over another age class of trees, and the conservation easement is to protect the forest as a unit.

Staff Response – Not all vegetation is proposed for removal with this shaded fuel break. Some pines and oaks of all sizes including seedlings, saplings, and pole-size trees will be retained with the objective of retaining the healthiest, best formed trees at an average stem spacing of 12-15 feet according to Cal Fire. Retaining all size classes of trees will ensure replacement trees are available as overstory trees

continue to die. It is anticipated that an increase in pine regeneration is expected after project completion which is discussed in the Mitigated Negative Declaration based on comments from Steve Staub, a professional forester and author of the Forest Management Plan for the Covell Ranch (February 25, 2011, Staub Forestry and Environmental Consulting). Additionally, in some areas shrubs such as toyon and manzanita will also be retained where suitable trees are lacking and where they are not likely to create ladder fuels as determined by Cal Fire.

Issue 11 – There is no long term monitoring or funding for monitoring of the fuel break for invasive plants and forest regeneration.

Staff Response – This statement is correct, and this project is funded with a one-time grant which will not allow for long term maintenance. Cal Fire along with the property owner have yet to develop a plan for long term maintenance which should be reviewed by the County.

Issue 12 – The fuel break will not increase biodiversity and this language should be removed from the project.

Staff Response – This comment (among all of the others in this staff report) was submitted to Cal Fire during the public comment period of the Mitigated Negative Declaration. Cal Fire foresters explain that fuel reduction projects could potentially increase biodiversity, however this is not a basis for this proposed project. The project is proposed to remove ladder fuel which is anticipated to increase the safety of the community during a fire event. Because the project removes vegetation within a sensitive habitat area the project is conditioned to include monitoring as well as tree replacement as outlined in the Cambria Forest Management plan which will act as the mitigation for any vegetation removal within the fuel break area.

Issue 13 – This project is a piece of a larger plan which is not discussed, and because of this does not comply with CEQA. There was also discussion by Cambria Fire of grazing and additional roads on site being constructed but they don't seem to be included in this project or analyzed.

Staff Response – Neither the property owner or Cal Fire have discussed a long term or larger management plan for this area. The County has not received any plans and is unaware of any being created. It is anticipated however, that a management plan will be prepared and it is expected to be submitted to the County for a consistency review with the Local Coastal Program as well as any CEQA requirements as required by law.

Issue 14 – The existing cemetery is a fuel break and another fuel break surrounding the cemetery is not necessary and a needless encroachment on Environmental Sensitive Habitat Area.

Staff Response – Cal Fire has proposed this fuel break knowing the existing uses and structures on the property and surrounding the property. It is for this reason that the fuel break is proposed along the urban reserve line which will allow for Cal Fire staff to assist the residences of Cambria more effectively when fuel breaks such as these slow down the rate of fire movement and intensity of fire along the urban boundary as well as along Bridge Street.

Issue 15 – There is no mitigation for the loss of 10,000 trees, and the Local Coastal Program clearly states that tree replacement is needed.

Staff Response – Condition of approval number 3 requires that a mitigation program be submitted to the County for review and approval. It is anticipated that the mitigation program for seed scattering which is outlined in the forest management plan be conducted on an appropriate site which is to be reviewed and approved by the County. This program is required as mitigation for vegetation removal associated with this project.

Issue 16– This project is larger than 3 acres and requires a Coastal Development Permit per section 23.03.042.

Staff Response – This project is not proposed to remove more than 3 acres of natural ground cover. All work will be conducted above grade and root systems will remain intact. It is the intent of this section of the ordinance to require a Development Plan when 3 acres or more of grading or soil removal or disturbance is proposed with a project. Additionally, this project is considered “tree removal” within Coastal Zone Land Use Ordinance section 23.05.064 which states that a Minor Use Permit be processed when the tree removal occurs within a sensitive resource area (which this project is).

Issue 17 – Fuel reduction in Cambria is being piecemealed and the Cambria Fire Department and Cal Fire are both working on projects which should be linked.

Staff Response – Fuel reduction projects within Cambria should be coordinated with Cal Fire, Cambria Fire, and the County. Currently the only plan that has been prepared (however not yet adopted) is the Cambria Forest Management Plan which was used when preparing the project description, Mitigated Negative Declaration, and conditions of approval for this specific project. The County has yet to review any long term management plans for fuel reduction within the community of Cambria.

OTHER AGENCY INVOLVEMENT/IMPACT

Project referrals were sent to the North Coast Community Advisory Council and California Coastal Commission. County Counsel reviewed the proposed resolutions and findings. Cal Fire involvement is included as the applicant for this proposed project, and lead agency for the CEQA document.

FINANCIAL CONSIDERATIONS

The cost of reviewing this appeal comes from the Department’s general fund.

RESULTS

Denial of the appeal for Minor Use Permit/Coastal Development Permit (DRC2011-00035) would mean the application for the proposed fuel break would be conditionally approved. Upholding the appeal would mean the project is denied and cannot be implemented.

ATTACHMENTS

- Attachment 1 - Board of Supervisors Resolution with Exhibits A and B
Resolution for Adoption
- Attachment 2 - Appeal letter with attachments
Appeal letter
- Attachment 3 - All comments received on Cal Fire's Mitigated Negative Declaration and responses by Cal Fire
Response to comments
- Attachment 4 - December 16, 2011 Planning Department Hearing staff report with attachments
Staff Report