



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** Planning and Development  
**Department No.:** 053  
**For Agenda Of:** October 10, 2023  
**Placement:** Departmental  
**Estimated Time:** 1 hour  
**Continued Item:** No  
**If Yes, date from:** N/A  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Lisa Plowman, Director, Planning and Development  
(805) 568-2086  
Contact Info: Travis Seawards, Deputy Director, Planning and Development  
(805) 568-2518  
**SUBJECT:** Applicant Appeal, Case No. 23APL-00023, of the County Planning Commission Denial of the North Fork Ranch Frost Ponds Project, Case No. 16CUP-00000-00005, First Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

**Other Concurrence**

N/A

**Auditor-Controller Concurrence**

As to form: N/A

**Recommended Actions:**

Staff recommends that your Board take the following actions to deny the appeal and uphold the County Planning Commission's denial of the Project:

- a) Deny the appeal, Case No. 23APL-00000-00023;
- b) Make the required findings for denial of the Project, Case No. 16CUP-00000-00005, as specified in Attachment 1 of this Board Letter;
- c) Determine that denial of the Project is exempt from CEQA pursuant to CEQA Guidelines Section 15270(a), as specified in Attachment 2 to this Board Letter; and
- d) Deny the Project, Case No. 16CUP-00000-00005.

**Summary Text:**

On May 10, 2023, the County Planning Commission (Planning Commission) considered and denied the North Fork Ranch Frost Ponds Project (Minor Conditional Use Permit No. 16CUP-00000-00005), which proposes to construct and operate three new water storage reservoirs to be used to store frost protection

and irrigation water to serve approximately 840 acres of vineyards in the New Cuyama area. Each of the proposed reservoirs would have a water storage capacity of approximately 44 acre-feet, and the water to be stored would be produced by existing agricultural wells.

As part of their review, the Planning Commission also considered the potential environmental impacts associated with the Project. The environmental impacts of the Project are evaluated in the proposed Final EIR (21EIR-00000-00002), which includes analysis of impacts related to:

- Evaporative losses of groundwater resulting from the storage of water in the reservoirs and the operation of an existing spray irrigation system that would use stored water for frost protection;
- Impacts to biological resources;
- Flooding impacts that could result from the structural failure of a reservoir;
- Potential impacts to cultural and tribal cultural resources; and,
- Potential water quality and geological (i.e., erosion) impacts.

The proposed Final EIR (March, 2023) concludes that proposed mitigation measures would reduce the Project's water use and other potential environmental impacts to a less than significant level. Mitigation measures to reduce water use impacts include the installation and maintenance of covers over the water surface of the reservoirs, and a limit on the amount of stored water that can be used for frost protection purposes. The groundwater use limitation would allow approximately 103 acre-feet of stored water to be used for frost protection each year.

After consideration of the Project staff report dated March 15, 2023, the proposed Final EIR, and information presented at the March 29, 2023 hearing, the Planning Commission continued the hearing to May 10, 2023, and directed staff to return with findings for denial of the Project. On May 10, 2023, the Planning Commission denied the Project because they could not make required findings for approval of the Conditional Use Permit.

A timely appeal of the Planning Commission's denial of the Project was filed by the Applicant on May 19, 2023. The appeal issues are primarily related to the findings for denial adopted by the Planning Commission. The Appellant asserts that the Planning Commission's findings for denial of the Project were contrary to facts in the record that support approval of the Project.

Staff reviewed each of the appeal issues identified by the Appellant and finds they are without merit. The Planning Commission was presented with information regarding the Project; received testimony both in favor and opposed to the Project; and explained the basis for its decision during deliberation. The information included in the administrative record, including this Board Letter, supports denial of the proposed Project.

### **Background:**

The Project would result in the construction and operation of three reservoirs that would store water to be used by an existing spray irrigation system that provides frost control at an existing vineyard that is zoned AG-II. Excess water in the reservoirs at the end of the frost season that was not used for frost control will be used for irrigation of the vineyard. The vineyard is located on a 6,565-acre parcel along the southern side of State Route 166, approximately nine miles west of the community of New Cuyama. The water

wells, water pipelines, and irrigation system that serve the vineyard were installed in 2014 and 2015, and the vineyard that would be served by the proposed reservoirs was planted in 2016.

On September 25, 2017, the Zoning Administrator approved a Minor Conditional Use Permit (16CUP-00000-00005) and Mitigated Negative Declaration (MND) for the North Fork Ranch Frost Ponds Project. The MND includes mitigation measures to reduce Project-related impacts to biological resources, cultural resources, geologic processes, and water resources/flooding to a less than significant level.

On October 2, 2017, the Zoning Administrator's decision was appealed to the Planning Commission by Roberta Jaffe and Stephen Gliessman (Case No. 17APL-00000-00017) citing concerns with the conclusions of the MND and project-related water usage. On September 12, 2018, the Planning Commission directed staff to prepare an EIR. The Planning Commission's decision to require an EIR for the Project was appealed by the Applicant to the Board of Supervisors. On February 5, 2019, the Board affirmed the Planning Commission's decision to require an EIR, and on March 5, 2019, the Board adopted CEQA findings requiring that an EIR be prepared for the Project.

Between October of 2021 and October of 2022, several draft EIRs were circulated for public comment. A Proposed Final EIR (March, 2023) was prepared that includes responses to public review comments submitted on the Draft, Revised Draft, and Second Revised Draft EIRs. On March 29, 2023, the Planning Commission considered the proposed Project and directed staff to return with findings for denial. On May 10, 2023, the Planning Commission: a) upheld Roberta Jaffe and Stephen Gliessman's Appeal (Case No. 17APL-00000-00017) of the Zoning Administrator's approval of the project; b) made required findings for denial of the proposed Project, including CEQA findings; c) determined that denial of the Project was exempt from CEQA; and d) denied the proposed Project.

On May 19, 2023, the Planning Commission's decision to deny the Project was appealed by the Applicant to the Board of Supervisors. The Appellant asserts that information in the Project's administrative record supports an affirmative determination for the required Conditional Use Permit findings, and that the Planning Commission erred in making negative determinations for six of the seven required findings. Staff reviewed each of the appeal issues identified by the Appellant and finds they are without merit.

### **A. Proposed Project**

The North Fork Ranch Frost Ponds Project is a request to construct and operate three frost ponds (reservoirs) that will store water to be used for frost protection at the North Fork Ranch Vineyards. The project also includes the construction of new underground pipelines that will extend between each of the proposed reservoirs and the vineyard's existing frost protection spray irrigation system.

The proposed reservoirs will serve an existing approximately 840-acre vineyard. Reservoir No. 1 will be located on the eastern portion of the project site adjacent to Schoolhouse Canyon Road (a private road). Reservoir No. 2 will be located in the central portion of the project site, and Reservoir No. 3 will be located on the western portion of the project site approximately 0.75 mile east of Cottonwood Canyon Road. Access to the reservoirs will be from existing roads that connect to State Highway 166.

Frost protection will be achieved by using reservoir-stored water and sustained spray irrigation of grape vines when frost damage has the potential to occur. Frost protection may generally be required during the months of February, March and April. The reservoirs would be maintained at a full condition between

February and April. A maximum of three feet of well-supplied water would be maintained in the reservoirs between May 1<sup>st</sup> through January 31<sup>st</sup>. Water above a depth of three feet contained in the reservoirs after May 1, would be distributed for vineyard irrigation.

Each reservoir would have a water storage capacity of approximately 44-acre-feet and would be lined with a high-density polyethylene plastic liner to prevent water seepage. Each reservoir would also have an emergency overflow discharge system to prevent stored water from over-topping the reservoir. Water to be stored in the reservoirs would be supplied by existing agricultural wells located on the north side of State Route 166. Water from the wells would be conveyed to the reservoirs by existing vineyard irrigation pipelines that extend beneath the highway and throughout the vineyard. A six-foot high fence would be installed around the exterior perimeter of each reservoir to prevent unauthorized entry. Life ring stations and floating pool ropes would also be provided for rescue purposes.

A total of approximately 257,945 cubic yards of cut and fill grading would be required to construct the three proposed reservoirs. The reservoirs would have a maximum depth of 27-28 feet, and in total occupy an area of approximately 15.6 acres. Proposed pipelines to convey water from the vineyard's existing irrigation system to each of the reservoirs would have a total length of 1,350 feet. Proposed pipelines to convey water from each of the reservoirs to the vineyard's existing spray irrigation system would have a total length of 976 feet. It is estimated that the construction period for the three proposed reservoirs would be approximately one year.

Surface water drainage from upslope areas adjacent to the reservoirs would be collected by proposed drainage swales. The collected water would be discharged and allowed to sheet flow at downslope locations adjacent to the reservoirs. Rock energy dissipaters would be installed at each discharge location to reduce potential erosion-related impacts. Stormwater discharge from Reservoir No. 1 would be conveyed beneath Schoolhouse Canyon Road by a proposed culvert beneath the road.

## **B. Appeal Issues and Staff Responses**

County Land Use Development Code Subsection 35.82.060.E.1 requires that the decision-making body make affirmative determinations regarding seven specified findings prior to approval or conditional approval of a Conditional Use Permit. At their May 10, 2023 hearing, the Planning Commission voted to not make affirmative determinations regarding six of the seven required Conditional Use Permit findings. The one finding the Planning Commission did support was a determination that local streets and highways are adequate to serve the Project.

The appeal application (Attachment 8) contains a letter, dated May 19, 2023, that identifies the Project Applicant's (Appellant's) appeal issues. The Appellant asserts that information in the Project's administrative record supports an affirmative determination for the required Conditional Use Permit findings, and that the Planning Commission erred in making negative determinations for six of the seven required findings. The appeal issues identified by the Appellant are summarized below, and staff's responses to the appeal issues are also provided.

### **Appeal Issue No. 1: Conditional Use Permit Finding No. 1**

The Appellant asserts that the Planning Commission did not consider the size of the proposed reservoirs relative to the 840 acres of vineyards that would be provided frost protection. The Appellant also indicates that spray irrigation is a "widely accepted" method of frost control throughout the County; and that no

other vineyard reservoir project has been subject to a similar level of “scrutiny,” which may have “profound effects” on the agriculture industry.

**Staff Response:**

The Planning Commission was unable to make the finding that the project site’s location, physical characteristics, shape, and size are adequate to accommodate the proposed development. The Planning Commission found that the project site’s location is not adequate to accommodate the size of the Project because the volume of water exceeds a sustainable amount for the longevity of the basin. The water would be produced from the Cuyama Groundwater Basin, which has been designated as “critically overdrafted” by the California Department of Water Resources, and the Project would allow up to 103 acre-feet to be pumped from the aquifer each year.

Although the proposed Final EIR determined that the Project’s evaporative water loss can be reduced to just below the CEQA threshold with the implementation of proposed mitigation measures/conditions of approval, the Commission found that due to the required volume of water to be pumped from the aquifer, the Project’s water use would contribute to existing declines in groundwater levels in the vicinity of the project site. Additional information regarding existing groundwater levels in the project area is included below in the staff response to Appeal Issue No. 3. Therefore, the Planning Commission’s finding that the Project’s location and physical characteristics (i.e., exiting groundwater conditions) are not adequate to accommodate the Project’s water use necessary to provide frost protection for 840 acres of vineyards is supported by substantial evidence in the record.

Regarding the use of spray irrigation at the project site for frost protection, spray irrigation systems and associated water storage reservoirs are commonly used in vineyards, such as those located in and around the Santa Ynez Valley. Those reservoirs and frost protection systems generally serve vineyards that are smaller than the 840-acre vineyard located on the proposed Project site, and rely on the water storage capacity of a single reservoir that typically has a capacity of approximately 49 acre-feet or less. Water that is stored in frost control reservoirs located in the Santa Ynez Valley is typically produced from the Santa Ynez Uplands basin, which has not been identified as a “critically overdrafted” groundwater basin. In regard to concerns regarding the amount of planning and environmental impact review the Project has undergone, the P&D Department has received extensive public comment regarding the Project, with many of the comments related to the Project’s use of water extracted from the “critically overdrafted” Cuyama Groundwater Basin. Therefore, there is substantial evidence in the record, such as the comment letters included in the proposed Final EIR (Attachment 3), which support the level of review that the proposed Project has received.

**Appeal Issue No. 2: Conditional Use Permit Finding No. 2**

The Appellant asserts that Conditional Use Permit finding No. 2, which requires a determination that the Project’s significant environmental impacts be mitigated to the maximum extent feasible, can be made because the Project would not result in a significant impact to an area containing native grassland, and that reducing environmental impacts to a less than significant level is the “accepted standard” in determining if an impact has been reduced to the maximum extent feasible. Specifically, the Appellant states that the County’s *Environmental Thresholds and Guidelines Manual* considers an impact to native grassland to be significant only if the area of impact is greater than 0.25 acre.

**Staff Response:**

The Planning Commission was unable to make the finding that the Project’s significant environmental impacts would be mitigated to the maximum extent feasible. The Planning Commission found that a reduced Project size (e.g., construct only two reservoirs) would eliminate impacts to native grasslands, and a project that uses alternative methods of frost protection (e.g., wind machines) would further reduce water impacts.

The Appellant’s assertion that the County’s *Environmental Thresholds and Guidelines Manual* considers an impact to native grassland to be significant only if the area of impact is greater than 0.25 acre misinterprets the requirements of the impact significance threshold. The adopted threshold allows the removal or disturbance of “a patch or patches” of native grasses from a grassland that is less than 0.25 acre in size and is clearly isolated and not part of a significant native grassland. As described by the Final EIR, the construction of proposed Reservoir No. 3 would result in the removal of 0.01 acre of native grassland, and reservoir construction activities would have the potential to impact approximately 0.42 acre of native grassland. Therefore, the Project’s impacts to native grassland would be significant because the impacted grassland is more than 0.25 acre in size and up to approximately 0.43 acre of habitat could be impacted.

CEQA Guidelines Section 15370 identifies the types of actions that may mitigate an impact. Those actions include: avoiding the impact, minimizing the impact, rectifying the impact, reducing or eliminating the impact, and compensating for the impact. The proposed mitigation measure to implement a native grassland restoration plan would rectify the impact by restoring the impacted environment and would reduce the impact to a less than significant level under the requirements of CEQA. Conditional Use Permit finding No. 2, however, requires a determination that the Project’s impacts have been mitigated to the maximum extent feasible. Avoiding the Project’s impact on native grassland could be achieved by relocating the proposed reservoir or eliminating it from the Project. Such changes to the Project would reduce its impact on native grassland to the extent feasible. Therefore, reducing an impact to a less than significant level under CEQA is not an “accepted standard” to determine if an impact has been reduced to the extent feasible pursuant to Conditional Use Permit finding No. 2; the County has discretion to determine how best to mitigate an impact; and the Planning Commission determined that a proposed mitigation measure to restore impacted grassland area would not reduce the Project’s impacts to native grassland to the extent feasible.

**Appeal Issue No. 3: Conditional Use Permit Finding No. 3**

The Appellant asserts that Conditional Use Permit finding No. 3 can be made, which requires that there will be adequate public services, including water supply, to serve the Project. The Appellant claims that the Project’s water use that is subject to the County’s adopted threshold of significance would be reduced to below the adopted threshold of significance of 31 acre-feet per year (AFY) with the implementation of proposed mitigation measures/conditions of approval, however, some members of the Planning Commission voiced objections to the adopted threshold and based their determination to deny the Project on testimony provided by “activist public speakers.” The Appellant also asserts that the Planning Commission did not consider information in the Cuyama Basin Groundwater Sustainability Plan that recommends implementation of groundwater pumping restrictions in the Central Management Area portion of the basin, and that the Sustainability Plan did not recommend pumping restrictions in the Northwestern Threshold Region where the proposed Project is located.

**Staff Response:**

The Planning Commission was unable to make the finding that adequate public services exist to serve the Project. The EIR concluded that the Project’s evaporative water loss could be reduced to below the County’s adopted threshold of significance for the Cuyama Groundwater Basin (31 AFY). However, the Planning Commission found the Project’s long-term water demand (up to 103 AFY) would be supplied from a critically overdrafted groundwater basin, which would have the potential to adversely affect the Project area. Therefore, adequate water supply resources are not available to serve the Project.

As indicated above in the response to Appeal Issue No. 1, extensive public concern has been expressed regarding the Project’s use of water extracted from the Cuyama Groundwater Basin. However, in addition to public testimony, the Project’s administrative record also includes information regarding groundwater conditions in the Project area and region. For example, Section 5.2 (Setting) of the Planning Commission staff report dated March 15, 2023, (Attachment 4) describes groundwater conditions in the Northwestern Threshold Region in the vicinity of the proposed Project as follows: *“In 2015, a new vineyard was developed within the eastern portion of this sub-basin on both sides of the Cuyama River. A limited data set of shallow wells indicates that water levels have historically remained fairly stable throughout this region, and remain stable in the western portion of this region. However, deep wells within the eastern portion of this region (i.e., in the vicinity of the proposed project site) have experienced continued declines, with water levels dropping 40 feet on average since pumping began in 2016.”* In addition, recent declines in groundwater levels near the Project site are graphically depicted on the Planning Commission staff report Figure 1 (North Fork Ranch Well Hydrographs). The hydrographs were obtained from the *Cuyama Basin Groundwater Sustainability Plan – Annual Report for the 2020-2021 Water Year*.

In regard to considering information related to pumping reductions recommended by the Cuyama Basin Groundwater Sustainability Plan, Section 4.2 (Sustainable Groundwater Management Act) of the March 15, 2023, staff report states: *“The proposed North Fork Ranch Frost Ponds Project is located approximately eight miles west of the Central Management Area, and wells in the Project area will not be subject to the proposed Central Management Area pumping restrictions at this time. However, based on the results of future groundwater condition monitoring, the Cuyama Basin GSA [Groundwater Sustainability Agency] has the authority to implement groundwater pumping restrictions in other portions of the groundwater basin. Such actions could reduce the amount of groundwater available to the Project and/or the amount of groundwater that may be used to irrigate the vineyard located on the project site property.”* Therefore, the Planning Commission did consider information in the Cuyama Basin Groundwater Sustainability Plan regarding the current lack of pumping restrictions in the Northwestern Threshold Region. The Planning Commission’s finding that water supplies are not adequate to serve the Project are based on a determination that the Project’s long-term water demand will contribute to declining groundwater levels in the project area, and is supported by substantial evidence in the record that shows recent declines in groundwater levels at the project site.

**Appeal Issue No. 4: Conditional Use Permit Finding No. 5**

The Appellant asserts that Conditional Use Permit finding No. 5 can be made, which requires that the Project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will be compatible with the surrounding area. Specifically, the Appellant states that current groundwater conditions in the Northwest Threshold Region, where the project site is located, are “fairly stable” and that members of the Planning Commission were “persuaded by Appellant’s select data that is relevant not to the Northwest Threshold Region but to the most overdrafted portions of the basin.”

The term “Appellant’s select data” refers to information presented by persons that appealed the Zoning Administrator’s original approval of the Project in 2017.

**Staff Response:**

The Planning Commission found that the proposed Project’s water use will contribute to existing declines in groundwater levels, resulting in a long-term water supply impact that will detrimentally affect the general welfare of the Project area. As described in the response to Appeal Issue Nos. 1 and 3 above, a limited data set of shallow wells indicates that levels have historically remained fairly stable throughout the Northwest Threshold Region and remain stable in the western portion of the region. However, deep wells in the eastern portion of the region (i.e., in the vicinity of the proposed project site) have experienced continued decline, with water levels dropping 40 feet on average since pumping began at the project site vineyard in 2016. Based on this information, groundwater conditions in the vicinity of the project site are not “fairly stable” and concerns expressed by the public and the Planning Commission regarding declining groundwater levels in the Project area are supported by information in the Project’s administrative record, such as the water well hydrographs shown on Figure 1 of the Planning Commission staff report dated March 15, 2023 (Attachment 4).

**Appeal Issue No. 5: Conditional Use Permit Finding No. 6**

The Appellant asserts that Conditional Use Permit finding No. 6 can be made, which requires that the Project comply with applicable requirements of the Land Use Development Code and Comprehensive Plan. The Appellant also claims that the Planning Commission misinterpreted the requirements of Agricultural Element Policy 1B because their finding that the scale of the project would impact agricultural viability in the region conflicts with the Policy requirement that “the County does not chose which type or what scale of agriculture is to be cultivated.” The Appellant also asserts that the Planning Commission finding that the Project would result in a seriously overdrafted groundwater basin conflicts with facts in the record, including the fact that the Cuyama Groundwater Sustainability Agency has recommended pumping restrictions in an area referred to the as the “Central Management Area,” which is approximately eight miles east of the proposed Project, and has not recommended the implementation of groundwater pumping restrictions in the project area.

**Staff Response:**

The Planning Commission found that the Project does not comply with the following Comprehensive Plan policies:

Land Use Development Policy No. 4 requires that adequate public or private services and resources (e.g., water) are available to the proposed development. The Planning Commission found the Project’s use of water was inconsistent with this policy because the amount of groundwater removed from the aquifer each year by the Project (up to 103 AFY) would be produced from the Cuyama Valley Groundwater Basin, which has been designated as “critically overdrafted” by the California Department of Water Resources. As such, due to the total volume of water required to serve the Project, coupled with the continued decline in groundwater levels in deep wells in the vicinity of the proposed project site, the Planning Commission was unable to find that the aquifer has sufficient capacity to serve the Project.

Conservation Element Policies 3.5 and 3.6 require the County to not allow a groundwater basin from becoming “seriously overdrafted on the prolonged basis,” and that land use decisions not result in a “substantial overcommitment of any groundwater basin.” The Planning Commission found that the



Project's use of groundwater would contribute to existing declining groundwater levels as described in Appeal Issue No. 4 above, and would be inconsistent with these policy requirements.

Agricultural Element Policy 1B requires the County to recognize "*the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management decisions.*" The Policy also requires that "*these rights and freedoms shall be conducted in a manner which is consistent with: (1) sound agricultural practices that promote the long-term viability of agriculture and (2) applicable resource protection policies.*" The Planning Commission found that the Project's use of groundwater produced from the critically overdrafted Cuyama Groundwater Basin could potentially impact the long-term viability of agriculture in the region. Therefore, the Project would be inconsistent with the requirements of this Policy.

In response to comments regarding the Planning Commission's action to deny the Project due to an inconsistency with Agricultural Element Policy 1B, the Commission's action only pertained to the request for approval of a discretionary Minor Conditional Use Permit to build and operate three water storage reservoirs that would be used to provide frost protection to an existing vineyard. The existing vineyard was not part of the proposed Project and the Commission's action did not address issues such as the type of crop grown on the project site or the acreage of the existing vineyard.

In response to comments that the Planning Commission's finding conflicts with the absence of pumping restrictions in the project area, Section 4.2 (Sustainable Groundwater Management Act) of the Planning Commission staff report dated March 15, 2023, (Attachment 4) acknowledged that wells in the Project area are not subject to pumping restrictions at this time, such as those that have been implemented in the Central Management Area. However, the Planning Commission found that the Project would be allowed to use up to 103 AFY and that water would be produced from the critically overdrafted Cuyama Groundwater Basin.

Therefore, the Planning Commission's determination that the proposed Project would be inconsistent with the specified policies of the Comprehensive Plan is supported by substantial evidence in the record.

#### **Appeal Issue No. 6: Conditional Use Permit Finding No. 7**

The Appellant asserts that Conditional Use Permit finding No. 7 can be made, which requires that projects located in designated "rural" areas be compatible with and subordinate to the rural and scenic character of the area. The Appellant goes on to state that it is in conflict with the Land Use Development Code and the Agricultural Element to find that an agricultural use, such as the proposed Project, is not subordinate to the agricultural character of the project area.

#### **Staff Response:**

The Planning Commission found that the Project's groundwater use will contribute to declining groundwater levels in the project area, which have declined by 40 feet or more since the project site vineyard was planted. Therefore, the Project will detrimentally affect the general welfare and future agricultural operations in the area, which makes the Project incompatible with the rural/agricultural character of the area.

As described in the Staff Response to Appeal Issue No. 1, although the Project’s evaporative water loss can be reduced to a less than significant level under CEQA with the implementation of proposed mitigation measures, the Planning Commission found that due to the Project’s size and necessary volume of water, the project location and physical characteristics were not adequate to accommodate the Project’s water use necessary to provide frost protection for 840 acres of vineyards. Therefore, the Planning Commission found that the Project is incompatible with the area’s rural/agricultural character.

**Appeal Issue No. 7: Fair Review of Project Information**

The Appellant asserts that the Planning Commission’s denial of a continuance request prevented them from providing additional information to be included in a third revised draft EIR, and denied their “right for a fair review of all the pertinent information.”

**Staff Response:**

The hearing before the Board is *de novo* and therefore any claims related to an unfair hearing at the Planning Commission is not relevant to the Board’s decision. At their March 29, 2023, hearing, the Planning Commission described their concerns regarding the proposed Project and directed staff to bring the Project back to them at a later date with findings for Project denial. Issues of concern identified by the Planning Commission included water conditions in the project area and the Project’s use of groundwater; the feasibility of using alternative methods of frost protection at the project site; and the Project’s impacts to native grasslands. At the Project’s continued hearing on May 10, 2023, the Applicant (Appellant) requested that the hearing be continued again to provide additional time to submit information regarding the Planning Commission’s issues of concern. The Planning Commission denied the request for an additional continuance on a 2-2 vote (deemed denial) and determined that they had sufficient evidence to evaluate the merits of the Project without additional information or environmental review.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

Total costs for processing the appeal are approximately \$10,000 (40 hours of staff time). The costs for processing appeals are provided through a fixed appeal fee and funds in P&D’s adopted budget. The costs are partially offset by the appeal fee of \$709.06. This work is funded in the Planning and Development Permitting Budget Program, as shown on page 310 of the County of Santa Barbara Fiscal Year 2023-24 adopted budget.

**Special Instructions:**

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on October 10, 2023. The notice shall appear in the Santa Maria Times. The Clerk of the Board shall forward the minute order of the hearing and, proof of publication to the Planning and Development Department, Hearing Support.

**Attachments:**

1. Board of Supervisors Findings for Denial
2. CEQA Notice of Exemption
3. Proposed Final EIR 21EIR-00000-00002. Available at:  
(<https://www.countyofsb.org/3060/North-Fork-Ranch-Frost-Ponds>)
4. Planning Commission Staff Report dated March 15, 2023
5. Planning Commission Hearing Action Letter dated March 29, 2023
6. Planning Commission Memo dated May 2, 2023
7. Planning Commission Hearing Action Letter dated May 15, 2023
8. Applicant's appeal application and supporting letter dated May 19, 2023
9. March 29, 2023, Planning Commission Hearing Material (public comment letters, applicant presentation, and staff presentation). Available at:  
<https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/folder/199907774445>
10. May 10, 2023, Planning Commission Hearing Material (public comment letters, appellant submittals, staff presentation, and applicant continuance request letter). Available at:  
<https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/folder/205973475471>

**Authored by:**

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