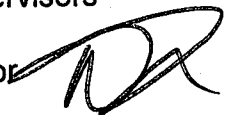




COUNTY OF SAN MATEO
Inter-Departmental Correspondence

Parks Department

DATE: September 10, 2009
BOARD MEETING DATE: September 22, 2009
SPECIAL NOTICE/HEARING: Public Hearing
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors
FROM: David G. Holland, Director 
SUBJECT: Certification of the Final Mitigated Negative Declaration for San Bruno Mountain Habitat Conservation Plan Amendment #5, and Adoption of the Mitigation Monitoring and Reporting Plan, and Approval and Adoption of the San Bruno Mountain Habitat Conservation Plan (SBM HCP) Amendment #5 for the Northeast Ridge Residential Development

RECOMMENDATION:

Adopt a Resolution to:

- 1) Approve and adopt the San Bruno Mountain Habitat Conservation Plan Amendment #5 Revised Operating Program for the Northeast Ridge residential development; and
- 2) Certify that the Final Mitigated Negative Declaration Mitigation Monitoring and Reporting Plan are complete, correct, adequate and prepared in accordance with the California Environmental Quality Act, by approving findings, and adopting a Mitigation Monitoring and Reporting Plan.

BACKGROUND:

San Bruno Mountain is located in the northern San Francisco Peninsula, located just south of the San Mateo/San Francisco County boundary. The Mountain is surrounded on all sides by the cities of Colma to the west, Daly City to the north, Brisbane to the east, and South San Francisco to the south. San Bruno Mountain is managed as a State and County Park, and California Department of Fish and Game owns land as well. The San Bruno Mountain Habitat Conservation Plan (SBM HCP) was developed in 1982 and the US Fish and Wildlife Service (USFWS) issued a 30-year Incidental Take Permit on March 4, 1983 to allow for privately owned lands to



be developed, surrounding the park would impact the "take" of Federally listed endangered species habitat including that of the Mission blue butterfly, San Bruno elfin butterfly, and San Francisco garter snake. The permit expires on March 4, 2013 unless it is renewed.

Since adoption of the SBM HCP, approximately 308 acres of the Mountain have been developed. Additionally, 40 acres are planned for development under the 1989 Northeast Ridge Vesting Tentative Map (VTM), and another 276 acres remain unplanned (most in the Quarry and Brisbane Acres). Approximately 2,828 acres have been dedicated as Conserved Habitat. The Conserved Habitat includes both undisturbed and restored lands that have been dedicated as State and County Park lands (2,378 acres) as well as CA Department of Fish and Game lands that are managed through the SBM HCP under cooperative agreements.

The Northeast Ridge development is one of the last remaining developments anticipated in the SBM HCP that has not yet been fully constructed. Plans for development were reduced in size in 1989, and the City of Brisbane applied for a "Northeast Ridge Project Equivalent Exchange Amendment" on February 2, 1990. In response to the application, the SBM HCP was last amended on August 27, 1990 to reconfigure conservation and development areas within Administrative Parcel 1-07. The approved application included a 1989 Addendum to the Final Environmental Impact Report (EIR) by City of Brisbane, and 1989 Supplement to the Environmental Assessment (EA) by USFWS.

In 1997, prior to the build out of Unit II Neighborhood 1 ("Hillcrest"/108 townhomes) and Neighborhood II ("Landmark"/60 single family homes) in Brisbane, the Callippe silverspot butterfly was listed as endangered by the USFWS pursuant to the Endangered Species Act (ESA). The SBM HCP's implementing agreement includes provisions to address such circumstances ("... a new species being listed under the (ESA) whose conservation necessitates additional emphasis in the HCP..."), and requires that the affected parties confer to determine if there is further opportunity to minimize impacts on the newly listed species (per Section IXa.4 of the HCP Agreement). Shortly after the listing of the Callippe, the USFWS requested to meet and confer with the property owner, Brookfield Homes, the City of Brisbane, the County of San Mateo and the SBM HCP Trust regarding specific proposals for further minimization of the impacts on the Callippe from development of Unit II. At that time, the USFWS, City of Brisbane and Brookfield Homes (Northeast Ridge Developer) agreed to separate the processing for development of the Landmark single family homes in Neighborhood II and delayed consideration of the Hillcrest townhomes in Neighborhood I until a later time.

The developer prepared and submitted a modification to the project on this basis in 2003. The proposed modification would have allowed the construction of the 60 single family homes previously approved in Landmark in a modified configuration. In early 2004, the matter came before the Brisbane City Council. The City Council determined that it did not want to consider development proposals for Neighborhood I and Neighborhood II separately. There was considerable discussion by the Council and much public comment about a number of issues the Council felt should be addressed before action could be taken on an application. The Council concurred on these objectives:

- 1) The entire area in Unit II remaining to receive final maps should be considered in its entirety, in one application covering both Landmark and Hillcrest units.
- 2) Design of the proposal should conserve high-quality habitat to the greatest extent possible.
- 3) Increased funding should be secured to expand habitat management activities.

It was agreed that if a reduction in the total number of units was necessary to achieve the above goals then that should occur. The Council had no objection to considering the transfer of units from one location to another, if high quality habitat was preserved. This was also suggested in the public comments.

DISCUSSION:

A. HCP Amendment #5 for the North East Ridge Development

The HCP Amendment #5 would replace three components of requirements for the Northeast Ridge development: 1) an amendment to section V.B of the SBM HCP regarding the funding program, 2) an amendment to section V.G. of the SBM HCP regarding the Incidental Take Permit, and 3) the revised operating program for the Northeast Ridge residential development, which is in Chapter 7 of the SBM HCP.

1. Funding Program

The amended text clarifies how funds are raised through fees charged to developers for monitoring of development and consultation provided to developers by the Plan Operator (County), as well funding per dwelling unit, and details on the \$4,000,000 endowment to be created for habitat maintenance. Funds for habitat maintenance would be deposited in four distinct but overlapping phases: initial funding, service contract funding, permanent funding, and supplemental funding. The proposed endowment will be secured through a separate Memorandum of Agreement following Brisbane's final approval of the Northeast Ridge SBM HCP Amendment #5.

2. Incidental Take Permit

The Incidental Take Permit issued by USFWS in May 2009 sets provisions for following procedural and substantive requirements regarding potential impacts to

endangered species habitat (Mission blue, Callippe silverspot, and Bay checkerspot butterflies) impacted by the proposed development. It also amends the existing permit to provide for the take of Callippe silverspot and Bay checkerspot butterfly habitat under Section 10(a) of the Endangered Species Act within the SBM HCP boundary (see Attachment J). This addition would allow the use of more effective vegetation management techniques to protect butterfly habitat, and cover the revised operating program on the Northeast Ridge.

3. Revised Operating Program

The Revised Operating Program (1-07) for the Northeast Ridge residential development would replace the 1989 SBM HCP Amendment Operating Program to reflect the current proposed development. The Operating Program clarifies specific requirements for conservation needs, obligations, dedication of Conserved Habitat, the SBM HCP funding program, salvage provisions, reclamation provisions, pesticide control, buffer areas, and inspections.

B. Approvals of the Northeast Ridge Residential Development

The proposed modifications to the vested tentative map (VTM) and land use approvals for Unit II, Neighborhood II, commonly referred to as the "2007 Modified Project VTM," represent the last phase and completion of this development. Approval of the 2007 Modified Project would allow 71 single family homes to be developed on 20 acres, a reduction of 80 single family residential units and 20 acres compared to the 1989 VTM, and the 20 acres preserved would be set aside in Conserved Habitat. In March 2008, the Brisbane City Council adopted Resolutions 2008-05 and 2008-06 respectively giving tentative approval of: 1) certification of the Addendum to the 1983 Final Environmental Impact Report for the Northeast Ridge Development and 2) issuance of land use entitlements.

On May 28, 2009, the USFWS completed their review and approval of the Northeast Ridge SBM HCP Amendment by: 1) adopting a Finding of No Significant Impact certifying the Environmental Assessment to satisfy requirements of the National Environmental Protection Act (NEPA), 2) issuing a Biological Opinion, 3) approving an amendment to the Section 10(a) permit, and 4) approving a Revised Operating Program.

C. Environmental Review

Before the City of Brisbane can consider final approval of the project, the County as lead agency implementing the SBM HCP must review the SBM HCP Amendment #5 Revised Operating Program by evaluating it in comparison to the 1989 project. A Mitigated Negative Declaration has been prepared and was circulated for a 20 day period from August 12, 2009 until August 31, 2009. The review period was subsequently extended to September 7, 2009. Notices of the circulation of the availability of the Mitigated Negative Declaration were sent to known SBM HCP stakeholders in addition to the mailing list used by the City of Brisbane for interested parties following this proposed development. A second notice was sent regarding the extension of the comment period to September 7, 2009. A legal ad notifying the

public of the public hearing was placed in the San Mateo County times August 15, 2009. Written comments received will be responded to by staff, and the September 22, 2009 hearing will also provide an opportunity to receive and consider additional public comments. By taking these actions the County will ensure that the proposed development is consistent with the California Environmental Quality Act and the goals and objectives of the SBM HCP. Subsequent to the Board's action the City of Brisbane, as lead local jurisdiction, will consider certifying another Addendum to the 1983 Final Environmental Impact Report, and consider the final approval of land use entitlements on this project.

C. Shared Vision 2025

Approval and adoption of the SBM HCP Amendment #5 Revised Operating Program for the Northeast Ridge residential development contributes to the Shared Vision 2025 outcome of an environmentally conscious community as the amount of acres preserved as open space in Conserved Habitat will be increased.

Performance Measure(s):

Measure	FY 2008-09 Actual	FY 2009-10 Projected
Preservation of Natural Resources		
Our natural resources are preserved through environmental stewardship.	Addition of 20 acres to Conserved Habitat	2,848 acres of Conserved Habitat on San Bruno Mountain

County Counsel has reviewed and approved the Resolution and SBM HCP Amendment #5 Revised Operating Program for the Northeast Ridge residential development as to form.

The Mitigated Negative Declaration prepared for the SBM HCP Amendment #5 Revised Operating Program for the Northeast Ridge residential development can be found on the Parks Department's website, under Planning, www.sanmateocountyparks.org.

FISCAL IMPACT:

As part of approval of the Northeast Ridge Development amendment a Habitat Management Plan was prepared by the SBM HCP Technical Advisory Committee to guide future management activities on the mountain. This document is an appendix of the Environmental Assessment certified by the USFWS. As a result of management needs identified in that document, a \$4,000,000 endowment has been required of the developer by the City of Brisbane and USFWS for the County's future habitat management on San Bruno Mountain. The proposed endowment will be secured through a separate Memorandum of Agreement following Brisbane's final approval of the Northeast Ridge SBM HCP Amendment. There will be no impact to the General Fund.

Attachments:

- A. Vicinity and Location Maps**
- B. SBM HCP Amendment #5 for the Northeast Ridge Residential Development including details on the Funding Program, Incidental Take Permit, and Revised Operating Program.**
- C. Mitigated Negative Declaration for SBM HCP Amendment #5**
- D. Response to Comments received regarding Mitigated Negative Declaration**
- E. Mitigation Monitoring and Reporting Plan**
- F. USFWS approved Environmental Assessment**
- G. Summary of Public Comments on Environmental Assessment and USFWS's Response to Comments**
- H. Notice of Federal Register of Environmental Assessment**
- I. USFWS approved Finding of No Significant Impact Certifying the Environmental Assessment to satisfy requirements of the National Environmental Protection Act**
- J. USFWS Amended Section 10(a) Permit**