

**THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA**  
**and for Special Districts, Agencies and Authorities Governed by the Board**

Adopted this Resolution on 02/03/2009 by the following vote:

**AYES:** ☐  
**NOES:** ☐  
**ABSENT:** ☐  
**ABSTAIN:** ☐  
**RECUSE:** ☐



**Resolution No. 2009/38**

**MADDEN-PAULUS RESIDENTIAL PROJECT APPLICATIONS FOR GENERAL PLAN AMENDMENT (COUNTY FILE GP#07-0004), REZONING TO P-1 PLANNED UNIT DISTRICT (COUNTY FILE: RZ#07-3194), FINAL DEVELOPMENT PLAN (COUNTY FILE: DP#07-3062), AND RELATED SUBDIVISION APPLICATIONS (SUB 9210 AND #MS04-0008) IN THE ALAMO AREA, DISTRICT III**

WHEREAS, Palmer Madden & Susan Paulus (Applicants & Owners) have proposed development of a 5-lot residential project and related improvements, referred to as the Madden Paulus Residential Project (the "Project"), on a 15.8-acre site in the unincorporated Alamo area of Contra Costa County comprised of three Assessor Parcel Number 198-220-052, 198-220-053 and 198-220-054 (together the "Subject Property") for which applications were received by the Community Development Department on August 8, 2007; and

WHEREAS, the Project includes an application for an amendment to the Land Use Element of the Contra Costa County General Plan (2005-2020) to re-designate the Subject Property from Agricultural Lands (AL) designation to the Single Family Residential Very Low Density (SV) in support of the 5-lot residential project (County File: GP#07-0004); and

WHEREAS, the Project includes an application to rezone the subject Property from the General Agricultural District (A-2) to a Planned Unit District (P-1) (County File RZ#07-3194); and

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

**Contact:**

**ATTESTED: February 3, 2009**

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

**cc:** Bob Drake, Palmer Madden, Monish Sen, Michael Henn, Gus Kramer, Chris Howard

WHEREAS, the Project includes an application for a Preliminary and Final Development Plan to subdivide and develop 5 lots on the Subject Property with an internal private street system (County File: DP#07-3062); and

WHEREAS, for purposes of compliance with the provisions of the California Environmental Quality Act (CEQA) and the State and County CEQA guidelines, a report dated August 21, 2008 titled "Madden-Paulus Initial Study and Mitigated Negative Declaration" (the "Initial Study") was prepared to determine whether an environmental impact report would be prepared for the Project; and

WHEREAS, the Initial Study identified potentially significant impacts related to aesthetics, geology and biology, and the Initial Study recommended mitigation measures which would reduce each identified impact to a less than significant level; and

WHEREAS, on August 21, 2008 the County published a Notice of Public Review and Intent to Adopt a Proposed Mitigated Negative Declaration, which Notice recited the foregoing facts, indicated that the Applicant had agreed to accept each mitigation measure recommended by the Initial Study, started a period for public comments on adequacy of the environmental documents related to the Project that extended to September 22, 2008; and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the San Ramon Valley Regional Planning commission on Wednesday, January 7, 2009, whereat all persons interested therein might appear and be heard; and

WHEREAS, on Wednesday, January 7, 2009, the San Ramon Valley Regional Planning Commission fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter, and forwarded a recommendation to the Board of Supervisors to approve the project, and approved the proposed subdivision applications, as described in its Resolution No. 8-2009; and

WHEREAS, on January 13, 2009, Palmer Madden and Susan Paulus filed an appeal of the San Ramon Valley Regional Planning Commission's approval of the two subdivision applications;

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the Board of Supervisors on Tuesday, February 3, 2009, whereat all persons interested therein might appear and be heard; and

*That the Board of Supervisors of Contra Costa County, State of California (this "Board") takes the following actions: 1. In accordance with the requirements of the California Environmental Quality Act, the State CEQA Guidelines (14 Cal. Code Regs. § 1500 et seq.), and the County's own CEQA Guidelines (together, "CEQA"), this Board FINDS that the proposed Mitigated Negative Declaration (MND), California State Clearinghouse Number #20080821000, is adequate for the purposes of compliance with CEQA and ADOPTS the MND for the Project. In support of these actions and conclusions, this Board ADOPTS the CEQA Findings. This Board adopts these findings specifically for each of the Approvals and Entitlements it approves for the Project. This Board CERTIFIES that it has been presented with the Initial Study and that it has reviewed and considered the information contained in the Initial Study and the other information in the record prior to making the following certifications and findings. This board further CERTIFIES that the Initial Study reflects the County's independent judgment and analysis, and that the Initial Study has been completed in compliance with the CEQA requirements. 2. ADOPTS the proposed General Plan Amendment (County File: #GP07-0004 amending the General Plan to re-designated approximately 5.23 acres of the 10.23 acres designated Agricultural Lands as modified by the recommendation of the San Ramon Valley Regional Planning Commission from the Agricultural Lands (AL) designation to the Single Family Very Low Density (SV) designation), but that the General Plan designate the proposed Remainder Agricultural Lands, as the First Consolidated General Plan Amendment for Calendar Year 2009, and this Board ADOPTS the findings contained herein supporting this action. 3. ADOPTS the proposed Rezoning #RZ07-3194: 10.8 acres of the property, containing 15.8 acres, is rezoned from the A-2 (General Agricultural) zone to the P-1, Planned Unit District as modified by the recommendation of the San Ramon Valley Regional Planning Commission, changing the zoning district of the Subject Property from the General Agricultural (A-2) District to a Planned Unit (P-1) District, but the proposed Remainder shall remain zoned General Agricultural, A-2, and this Board ADOPTS the findings contained herein supporting this action. 4. APPROVES the proposed Final Development Plan (County File: #DP07-3062DP subject to the conditions of approval as recommended by the San Ramon Valley Regional Planning Commission under their Resolution No. 8-2009 and subject to the mitigation measures contained in the Mitigated Negative Declaration for this project and the Board ADOPTS the findings contained herein supporting this action. 5. GRANTS the appeal of Palmer Madden and Susan Paulus to allow the conditions of approval of the subdivision to be modified to clarify ramifications of possible follow-on action of federal and State resource agencies on the project. 6. APPROVES the Vesting Tentative Map for Subdivision 9210 subject to the terms and conditions of approval adopted by the San Ramon Valley Regional Planning Commission in its Resolution 8-2009, incorporated herein by reference, and the modifications to the conditions approved on appeal and the addition to Condition #1 proposed by staff in response to the request of East Bay Regional Park District. BE IT FURTHER RESOLVED that the reasons for these recommendations are as follows:*

#### **FINDINGS**

#### **A. Growth Management Performance Standards**

1. Traffic - To improve regional traffic circulation and safety, the applicant shall construct an on-site roadway system to current County, private, rural road and driveway standards. Applicant shall construct a paved turnaround at the end of the proposed private road. Because the project will not generate more than 100 peak-period trips, no special traffic congestion analysis is required.

2. Water - The County pursuant to its police power and as the proper governmental entity responsible for directly regulating land use density or intensity, property development and the subdivision of property within the unincorporated areas of the County, shall require new development to demonstrate that adequate water quantity and quality can be provided. The site lies within the service area of the East Bay Municipal Utility District. The District has stated that it can adequately serve the project once the necessary improvements are made. The applicant shall bear all expenses associated with constructing a water system capable of meeting the fire flow and water demand requirements of the water district and of the fire district.

3. Sanitary Sewer - The County pursuant to its police power and as the proper governmental entity responsible for directly regulating land use density or intensity, property development and the subdivision of property within the unincorporated areas of the County, shall require new development to demonstrate that adequate sanitary sewer quantity and quality can be provided. The site lies within the service area of Central Contra Costa Sanitary District. The District has responded that they can serve the project subject to their standard fees, specifications, and conditions.

4. Fire Protection - Fire stations shall be located within one and one-half miles of developments in urban, suburban and central business district areas. The site is located within a designated suburban level of service designation. Automatic fire sprinkler systems may be used to satisfy this standard. The site is more than one and one-half miles from a fire station and the new homes are required to be sprinklered. The applicant's engineer has designed the project to meet the requirements of the San Ramon Valley Fire Protection District.

5. Public Protection - The project will not result in a population increase of 1000 people, therefore there are no special capital improvements contributions required of this project.

6. Parks and Recreation - No neighborhood parks or playfields are proposed in the project, therefore, the applicant will be required to pay the in-lieu park dedication fee of \$7238 per dwelling unit. This fee is subject to adjustments based on formulas referenced in the County Code (Ord. Code §§ 920-2.002, et seq.)

7. Flood Control and Drainage - The new development will finance the full costs of drainage improvements necessary to accommodate peak flows due to the project. The drainage improvements requested by the Flood Control District and by the Public Works Department are incorporated into the conditions of approval. No part of the development falls within the 100-year flood plain as designated by the Federal Emergency Management Agency. (Ref: the Growth Management Element of the General Plan)

#### **B. General Plan Amendment**

1. The proposed General Plan Amendment would be consistent with the goals and policies of the General Plan and each element of it.

2. The proposed General Plan Amendment will be in the public interest because it promotes orderly residential development within this area of the Alamo community consistent with the development and density pattern of the neighboring lands along Las Trampas Road and it provides a reasonable balance between growth and preservation of agricultural/open space lands.

#### **C. Rezoning**

1. Required Finding - The change proposed will substantially comply with the general plan.

Project Finding - The project as conditioned is consistent with the goals and policies of the General Plan as it pertains to this site.

2. Required Finding - The uses authorized or proposed in the land use district are compatible within the district and to uses authorized in adjacent districts.

Project Finding - The project's single-family residential use is consistent with the General Plan designation of this site. The proposed use as conditioned will also be compatible with the future residential development to the south and north and to the existing single family housing to the east.

3. Required Finding - Community need has been demonstrated for the use proposed, but this does not require demonstration of future financial success.

Project Finding - The proposed housing will assist in meeting the housing development targets identified in the Housing Element of the General Plan.

(Ref § 26-2.1806 of the County Code)

#### **D. Findings for Approval of a P-1 Zoning and a Final Development Plan**

1. Required Finding - The applicant intends to start construction within two and one-half years from the effective date of the zoning change and plan approval;

Project Finding - The applicant has indicated that they intend to commence construction within 2 ½ years of the

effective date of the zoning change and plan approval.

2. **Required Finding-** The proposed planned unit development is consistent with the county general plan;

*Project Finding - The project as conditioned is consistent with the Land Use Element designation as amended and with the goals and policies of the General Plan as it pertains to this site.*

3. **Required Finding-** In the case of residential development, it will constitute a residential environment of sustained desirability and stability, and will be in harmony with the character of the surrounding neighborhood and community;

*Project Finding - The planned custom homes will constitute a residential environment of sustained desirability and stability. The five new dwellings will be in harmony with the large-lot residential homes in the general area and with the planned Alamo Summit project to the north. The yards and setbacks will provide adequate separation between residences and there is adequate separation between subject development and existing developments. Exceptional biotic mitigations are being incorporated into the project to protect endangered and listed species because of which there will be an unusual percentage of the site retained in its natural environment.*

4. **Required Finding-** The development of a harmonious integrated plan justifies exceptions from the normal application of this code.

*Project Finding - The project generally conforms to the R-65 zoning district regulations. Because the site is located on a ridgeline that is subject to General Plan policies for retention of its scenic qualities, the project will be subject to an unusual level of design restrictions to protect the scenic ridgeline qualities of the site.*

*(Ref. § 84-66.1406 of the County Code)*

#### **E. Findings for Approval of a Vesting Tentative Map**

**Required Finding -** The Planning Commission shall not approve a tentative map unless it shall find that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general and specific plans required by law.

*Project Finding - The proposed project provides for single family residential development in accord with the allowable density designated by the General Plan for this site. As a P-1 Planned District, the project would limit the development on the most level and stable portions of the site and dedicate the development rights to the County for the open space area. The project will be required to install road and drainage improvements in accord with the Subdivision Ordinance standards prior to construction of any residences. There is no specific plan in place for the area of the subject property.*

*(Ref. § 94-2.806 of the Ordinance Code)*

#### **F. Allowing a Cul-De-Sac Longer Than 700 Feet per CCC Ord. Code Section 92-6.002**

1. **Required Finding-** That there are unusual circumstances or conditions affecting the property.

*Project Finding - The new private lane serving the subject property is cut off by steep topography and by development having occurred in other directions without providing access through to the area.*

2. **Required Finding -** That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant.

*Project Finding - If the 700 foot maximum were strictly enforced the property which extends over 2000 feet in from Las Trampas Road would be deprived of substantial property rights. This result would be inconsistent with General Plan policies promoting infill development and with the land use designation for the subject property.*

3. **Required Finding-** That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

*Project Finding - A principal purpose of a cul-de-sac maximum length is to promote improved emergency vehicle access. This purpose is being achieved by the provision of additional fire protection being built into the development such as an automatic residential fire sprinkler system, fire hydrants and turnout, and by the availability of a second access, an emergency vehicle access out to the north.*

*(Ref §§ 92-6.002 and 94-2.608 of the County Code)*

#### **G. Findings Required to Allow Encroachments into the Creek Structure Setback Area**

1. **Required Finding-** That there are unusual circumstances or conditions affecting the property.

*Project Finding - The small unnamed tributary to San Ramon Creek has been modified by prior modifications to its creek bank including road construction and flow restrictions created by the culvert opening upstream from the subject property so that the downcutting and erosion potential have been reduced from that normally associated with a free-flowing creek, and there are proposed to be provided unusual geotechnical creek bank improvements to further reduce the impact of improvements located close to the top of the bank of the creek.*

2. **Required Finding-** That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant.

*Project Finding - If the 100 +/- foot wide creek structure setback restriction were strictly enforced there would not be a feasible area for new single family residences as proposed to meet the low end of the density range of the General Plan as amended.*

3. Required Finding - That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

*Project Finding – A principal purpose of a creek bank structure setback requirement is to reduce the potential for loss of private property and resulting damage claims. A Hold Harmless agreement will be required as a condition of approval which will protect the public from such potential claims. Furthermore, geotechnical creek bank improvements will be required to protect the creek bank and possible improvements from damage.*