

RESOLUTION NO. 17-2015

RESOLUTION OF THE COUNTY PLANNING COMMISSION OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, INCORPORATING FINDINGS AND RECOMMENDATIONS FOR THE RECONFIGURED GENERAL PLAN AMENDMENT, REZONING, FINAL DEVELOPMENT PLAN, AND VESTING TENTATIVE MAP FOR THE "PANTAGES BAYS" PROJECT IN THE DISCOVERY BAY AREA OF SAID COUNTY.

WHEREAS, PANTAGES AT DISCOVERY BAY, LLC (Applicant) & C & D DISCOVERY BAY, LLC & EAST CONTRA COSTA IRRIGATION DISTRICT (ECCID owns 9.2 acres of the project site) (Owners) propose development of a water-oriented residential gated community that is comprised of 292 residential lots (116 waterfront lots, 176 non-waterfront lots) the creation of bays and coves with open space, public trail, widening of Kellogg Creek and Sheriff's Marine Patrol Substation on a 171-acre site located in the Discovery Bay area of Contra Costa County (Pantages Bays Project or Project), for which applications were received by the Department of Conservation and Development, Community Development Division in October 1999, on July 4, 2004, and July 28, 2006; and

WHEREAS, for purposes of compliance with the provisions of the California Environmental Quality Act (CEQA) and State and County CEQA Guidelines, a Draft Environmental Impact Report (Draft EIR) date June 2012, titled "Pantages Bays Residential Development Project" was prepared for the Project; and

WHEREAS, the Draft EIR identified potentially significant impacts related to Aesthetics, Air Quality, Biology, Cultural, Geology, Hazardous Materials, Hydrology, Water Quality, Noise, Public Services and Recreation, Public Utilities and Traffic, and the Draft EIR recommended mitigation measures which would reduce each impact to a less-than-significant level, the Draft EIR also identified impacts to Global Climate Change and two Traffic impacts to be Significant and Unavoidable; and

WHEREAS, on June 12, 2012, a Notice of Completion and copies of the Draft EIR were delivered to the State Clearing House (SCH No. 2007-052130) and the Draft EIR was circulated for a duly noticed 45 day public comment period that began on June 12, 2012 and ended on July 26, 2012, and started a period for public comments on the adequacy of the environmental documents related to the Project: and

WHEREAS, on June 12, 2012, the Notice of Availability was mailed to adjacent property owners and occupants pursuant to CEQA Guidelines Section 15087 (a) (3) and the Notice was mailed to neighbors within 300 feet of the project site: and

WHEREAS, on July 16, 2012, the County Zoning Administrator held a public hearing to accept further public comments on the Draft EIR; and

WHEREAS, on July 23, 2012, the public review period for the Draft EIR was extended 15 days to allow additional time for public review with a new ending date of August 10, 2012; and

WHEREAS, following the close of public comment on the Draft EIR, the County prepared written responses to the comments received and in July, 2013, the County as required by CEQA and State and County CEQA Guidelines, published the Response to Comments document known as the Final Environmental Impact Report (Final EIR), which incorporates the Draft EIR and provides reasoned responses (including master responses) to all the comments received during the comment period as well as changes or additions to the Draft EIR; and,

WHEREAS, at a close public meeting on August 12, 2013, and per Resolution No. 9-2013, the Zoning Administrator recommended the County Planning Commission certify the Final EIR finding it to be adequate and complete, and certify the Commission has considered its contents prior to making a decision on the project; and,

WHEREAS, after notice having been fully given, a public hearing was scheduled before the County Planning Commission on October 22, 2013; and,

WHEREAS, on October 22, 2013 the County Planning Commission found the Final EIR to be adequate and in compliance with CEQA and made a finding of overriding consideration then adopted CEQA findings and mitigation measures before approving Vesting Tentative Map (County File No. SD06-9010) subject to conditions of approval and recommending the Board of Supervisors certify the Final EIR with mitigation measures and approve General Plan Amendment (GP99-0008) to re-designate the project site from Agricultural Lands (AL) and Delta Recreation (DR) to Single Family Residential High Density (SH), Single Family Medium Density (SM), Public Semi-Public (PS), Open Space (OS) and Water (WA), approve Rezoning (RZ04-3146) of the site from General Agricultural District (A-2) and Heavy Agricultural District (A-3), approve Preliminary and Final Development Plan (DP-04-3062) to develop a water oriented gated community of 292 single-family homes, 116 of which have docks, the widening of Kellogg Creek, the creation of two Open Space areas totaling 43-acres with a public trail from the project entrance to the water's edge and develop a Sherriff's Marin Patrol Substation on the northern portion of the site; and,

WHEREAS, on December 3, 2013 the Board of Supervisors held a public hearing and certified the EIR and approved General Plan Amendment (GP99-0008), Rezoning (RZ04-3146) and Final Development Plan (DP04-3062); and,

WHEREAS, on March 28, 2014 the applicant applied to the County to reconfigure the approved project because they wished to redesign the project with the following alterations; new type of shoring walls; improve internal street circulation with the elimination of one of the bays; eliminate a section of Emergency Vehicle Access while retaining the Public Trail in the Open Space area. The redesigned project would keep the key design features as follows; 292 single-family homes (except that 11 of the approved waterfront lots would be moved to interior lots so the new lot configuration would be 105 waterfront lots, 187 non-waterfront lots); the widening of Kellogg Creek with a bay and coves; construction of a Sheriff's Marine Patrol Substation on the site; creation of 43-acres of Open Space and a Public Trail from the project entrance through the Open Space to the water's edge; and;

WHEREAS, for the purposes of compliance with CEQA an Addendum to the Pantages EIR (November 2014) determined that the reconfigured project did not constitute substantial changes to the existing EIR and therefore did not require recirculation; and,

WHEREAS, after notice having been fully given, a public hearing was scheduled before the County Planning Commission on July 21, 2015.

NOW, THEREFORE, BE IT RESOLVED that the County Planning Commission ("this Commission") takes the following actions:

- A. FINDS that based on the Pantages Final Environmental Impact Report (EIR) (State Clearinghouse #2007-052130) and related California Environmental Quality Act (CEQA) findings that the Addendum to the Pantages Bays EIR to be adequate and complete, finding that it has been prepared in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines, and finding that it reflects the County's independent judgment and analysis; and specify that the Department of Conservation & Development, Community Development Division (CDD), located at 30 Muir Road, Martinez, CA, is the custodian of the documents and other material which constitute the record of proceedings upon which this decision is based.
- B. CERTIFIES that this Commission has considered the contents of the Addendum to the EIR prior to making a decision on the project.

C. ADOPT a motion to recommend that the Board of Supervisors:

- i. Certify the Addendum to the Pantages EIR as adequate for the modified Pantages Bays Residential Development Project; and
- ii. Adopt the Mitigation Measures contained in the Mitigation Monitoring and Reporting Program for this project; and,
- iii. Adopt findings and Approve a modified amendment to the County General Plan (2005-2020) (County File No. GP99-0008) to re-designate the project site from Single-Family Residential High Density (SH), Single-Family Residential Medium Density (SM), Public/ Semi-Public (PS), Open Space (OS) and Water (WA) to a modified configuration of Single-Family Residential High Density (SH), Single-Family Residential Medium Density (SM), Public/Semi-Public (PS), Open Space (OS) and Water (WA);
- iv. Adopt findings and Approve Rezoning (County File No. RZ04-3146) of the project site from Planned Unit District (P-1) to a modified configuration of Planned Unit District (P-1), and;
- v. Approve Modified Final Development Plan, (County File Number DP14-3017) subject to the attached Conditions of Approval and Mitigation Measures.

D. ADOPT the attached findings and APPROVES the modified vesting tentative map subject to the attached Conditions of Approval and Mitigation Measures. The approval of the modified vesting tentative map is subject to the Board's approval of the modified General Plan Amendment, Rezoning and Development Plan.

BE IT FURTHER RESOLVED that the reasons for these recommendations are as follows and as described in the Planning Commission Staff Report:

FINDINGS

Growth Management Element Performance Standards

1. Traffic:

- Under the Existing Plus Project conditions, the addition of project traffic is not projected to cause any significant impacts. Under Cumulative conditions, the addition of Project traffic is projected to cause potentially significant impacts

at 11 intersections and significant and unavoidable at two roadway sections (Vasco Road and Marsh Creek Road).

- Holoway Drive/Byron Highway – This unsignalized intersection is projected to operate at LOS F during the PM peak hour under Cumulative and Cumulative Plus Project conditions. The addition of project trips would increase intersection delay by more than five seconds, which is considered a potentially significant impact.
- Sellers Avenue/Balfour Road – This unsignalized intersection is projected to operate at LOS F during AM and PM peak hours under Cumulative and Cumulative Plus Project conditions. The addition of project trips would increase intersection delay by more than five seconds, which is considered a potentially significant impact.
- Balfour Road/Byron Highway – This unsignalized intersection is projected to operate at LOS E during the AM peak hour under Cumulative Plus Project conditions. The addition of project trips would degrade intersection operations from acceptable LOS D to LOS E, which is considered a potentially significant impact.
- Point of Timber Road/Byron Highway – This unsignalized intersection is projected to operate at unacceptable LOS D during the PM peak hour under Cumulative Plus Project conditions. The addition of project trips would degrade intersection operations from LOS B to unacceptable LOS D, which is considered a potentially significant impact.
- Point of Timber Road/Bixler Road – This unsignalized intersection is projected to operate at unacceptable LOS E during the PM peak hour under Cumulative Plus Project conditions. The addition of project trips would degrade intersection operations from LOS C to LOS E, which is considered a potentially significant impact.
- Marsh Creek Road/Sellers Avenue – This unsignalized intersection is projected to operate at LOS F during AM and PM peak hours under Cumulative and Cumulative Plus Project conditions. The addition of project trips would increase intersection delay by more than five seconds, which is considered a potentially significant impact.

- Marsh Creek Road/Bixler Road – This unsignalized intersection is projected to operate at LOS F during AM and PM peak hours under Cumulative and Cumulative Plus Project conditions. The addition of project trips would increase intersection delay by more than five seconds, which is considered a potentially significant impact.
- State Route 4/Byron Highway (south intersection) – Based on the HCM method, this signalized intersection is projected to operate at LOS E during the AM peak hour under Cumulative and Cumulative Plus Project Conditions. Based on the CCTALOS method, this intersection is projected to operate at LOS E during the AM peak hour and unacceptable LOS D during the PM peak hour under Cumulative conditions and LOS F during the AM peak hour and LOS E during the AM peak hour under Cumulative Plus Project conditions. The addition of project trips would increase delay by less than five seconds, but would increase the V/C ratio by more than 0.01, which is considered a potentially significant impact.
- State Route 4/Newport Drive – This unsignalized intersection is projected to operate at LOS F during the PM peak hour under Cumulative and Cumulative Plus Project conditions. The addition of project trips would increase intersection delay by more than five seconds, which is considered a potentially significant impact.
- Camino Diablo Road/Vasco Road – Based on the HCM method, this signalized intersection is projected to operate at LOS E during the PM peak hour under Cumulative and Cumulative Plus Project conditions. Based on the CCTALOS method, this intersection is projected to operate at LOS D during the PM peak hour. The addition of project trips would increase delay by more than five seconds and increase the V/C ratio by more than 0.01, which is considered a potentially significant impact.
- Camino Diablo Road/Byron Highway – This unsignalized intersection is projected to operate at LOS F during AM and PM peak hours under Cumulative and Cumulative Plus Project conditions. The addition of project trips would increase intersection delay by more than five seconds during the PM peak hour, which is considered a potentially significant impact.
- All 11 of these impacts can be reduced to less-than-significant levels with implementation of the proposed mitigations.

- Service along Vasco Road, south of Camino Diablo would not meet the Contra Costa County Transportation Authority's Multimodal Transportation Service Objective (MTSO) target LOS D in either the northbound or southbound direction during the AM and PM peak hour under either cumulative condition. Service along Marsh Creek Road, west of SR4, would not meet the MTSO target LOS D in either the eastbound or westbound direction during the AM or PM peak hour under either cumulative condition. The addition of project traffic would worsen the LOS along both these two roadway segments. And, even though the project will pay its fair share of regional roadway fees, since there is no plan to provide additional capacity on this roadway section, the impacts to these two road segments would remain significant and unavoidable, and require adoption of a Statement of Overriding Conditions.

2. Water:

Water would be supplied to the project by the Town of Discovery Bay Community Services District (TDBCSD). The TDBCSD prepared a Water Master Plan (Water MP) in January of 2012, that identifies projected growth, including the Pantages Bays Project, through 2020, and the water supply and service improvements required to serve them. The improvements and programs in the Water MP would be implemented through a Capital Improvement Plan (CIP) funded by financial mechanisms approved by the TDBCSD. The Pantages Bays Project would be required to pay its fair share towards the improvements identified in the Water MP. To assure that the development does not outpace infrastructure the applicant is required to submit a Can & Will Serve letter from TDBCSD to the County prior to filing of the Final Map. Also, prior to issuance of the first occupancy permit, the applicant shall provide documentation to CDD that the necessary improvements to serve the project are constructed and operational.

The Project requires approval from LAFCO for sphere of influence amendments and corresponding annexation into the TDBCSD service for water services.

3. Sanitary Sewer:

Wastewater collection and treatment services would be provided to the project by the TDBCSD. The Discovery Bay Wastewater Treatment Plant is undergoing a phased expansion to provide adequate service and capacity to both existing and proposed developments in the Town of Discovery Bay. The TDBCSD has prepared a Wastewater Master Plan (Wastewater MP) in October, 2011, that identifies projected growth, including the Pantages Bays Project.

Similar to the Water MP, the Wastewater MP includes recommended improvements to meet the District's projected wastewater demands through 2020. The improvements would be implemented through a Capital Improvement Program (CIP) funded by financial mechanisms approved by the TDBCSD. The plan would include new capacity fee to charge new development for its fair share of wastewater treatment upgrades that are necessary to serve both the existing community and new development. The Pantages Bays Project would be required to pay their fair share towards the improvements identified in the Wastewater MP CIP. To assure that the development does not outpace infrastructure the applicant is required to submit a Can & Will Serve letter from TDBCSD to the County prior to filing of the Final Map. Also, prior to issuance of the first occupancy permit, the applicant shall provide documentation to CDD that the necessary improvements to serve the project are constructed and operational.

The Project would require approval from LAFCO for sphere of influence amendments and corresponding annexation into the TDBCSD service boundary for sewer services.

4. Fire Protection:

According to County General Plan, Fire Protection Policies, the Fire Department shall strive to reach a maximum running time of 3 minutes and/or 1.5 miles from the nearest fire station, and new development shall pay its fair share of costs for new fire protection facilities and services. The Project is within 0.5 miles of Fire Station 59 at 1801 Bixler Road and the project will pay its fair share of fire protection services. In addition, all of the proposed homes will be sprinklered.

5. Public Protection:

Police protection services in the project vicinity are provided by the Delta Station of the Contra Costa County Sheriff's Office, located at 220 O'Hara Avenue within the City of Oakley. The Delta Station provides police services to the following three areas (Lt. M. Burton 2010-Pantages Bays DEIR, June 2012):

- Beat 31: Unincorporated areas of Antioch, Brentwood and Oakley
- Beat 32: Discovery Bay
- Beat 33: Bethel Island, Knightsen and Byron

The applicant is conditioned to establish a police services district prior to recording of the Final Map which augments police services by voting to approve a special tax for the parcels created by this subdivision approval. That requirement is typical for new residential development in unincorporated areas of the County. In addition, the

applicant will construct a Sheriff's Marine Patrol Substation on the project site, which will improve marine patrol services in waterways within Discovery Bay and the Delta.

6. Parks and Recreation:

The County General Plan Growth Management Element requires new development to provide 3 acres of neighborhood parkland per 1000 people. Pursuant to the County's dedication requirements, the 292 unit project (population 876) would be required to dedicate 2.6 acres of parkland. The applicant is dedicating approximately 1.7 acres of public trail on the project site and paying a park dedication fee of \$1,350 per dwelling unit.

7. Flood Control and Drainage:

The County Floodplain ordinance requires that a Floodplain Permit be obtained for all planned improvements on lands subject to inundation by the 100-year flood. As noted above, the project lies within the 100-year flood boundary as designated on the Federal Emergency Flood Rate Maps and therefore is required to comply with the County Floodplain Ordinance. Flood control design for this Project will be based on the 100-year base flood event assuming State projections for sea level rise by 2100.

A. Findings to Adopt a Rezoning

1. Required Finding: The change proposed will substantially comply with the General Plan.

Project Finding: The site currently is zoned P-1, Planned Unit Development that was approved by the Board of Supervisors on December 3, 2013. The applicant has slightly modified the configuration of the development necessitating the need to modify the development pattern of the P-1 zoning. The new configuration would be consistent with previously approved General Plan Amendment of Single Family Residential-High Density (SH), Single Family Residential – Medium Density (SM), Open Space (OS), Public/Semi Public (PS) and Water (WA).

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

Project Finding: The proposed modified use is water-oriented residential P-1 planned unit development compatible with and substantially based on the standards contained under the R-6 residential zoning districts, and it includes area within the development set aside for open space with recreational public trail uses. The modified Project is consistent with the adjacent residential developments to the west, east and south which are single family residential neighborhoods of comparable residential densities and are zoned P-1 as well.

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 modified use will provide new housing that assist in meeting the housing supply needs identified in the Housing Element of the General Plan.

B. Findings for Adoption of a Planned Unit District (P-1) and Approval of 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 they intend on starting construction of the modified project within the two and one half years from the effective date of the modified zoning change and plan approval.

2. Required Finding: The proposed planned unit development is consistent with the County General Plan.

Project Finding: The project site currently has General Plan designations of Single-Family Residential High Density (SH), Single Family Residential Medium Density (SM), Public Semi Public (SM), Open Space (OS) and Water (WA). The proposed modified planned unit development is consistent with the General Plan.

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 modified development combines traditional homes and waterfront homes with docks and non-waterfront homes, all in combination with open space, public trails, bays and coves, and as such is in harmony with the surrounding residential neighborhoods to the west, east and south. With waterfront homes with docks adjoining the project waterways, bays and coves, and water views, open space trails for the benefit of all project residents (and the public), the development will provide a residential environment of sustained desirability and stability.

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

Project Finding: The modified project harmoniously integrates residential development of waterfront homes, with docks and deep water access, and non-waterfront homes, along with adjoining waterways, bays and coves, open space and public trails, all of which justifies exceptions from the normal application of this code.

C. Findings to Approve a Tentative Map

1. Required Finding: The County Planning Agency 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 modified Vesting Tentative Map would be consistent with the modified General Plan Amendment for this site. There are no specific plans applicable to the project site.

Based on the entire record and as summarized herein, the Vesting Tentative Map is consistent with the County General Plan, as it is proposed for amendment.

2. Required Finding: The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision fulfills construction requirements.

Project Finding: As required by the Conditions of Approval and the Mitigation Measures, the tentative map shall fulfill all applicable County

imposed construction requirements. Based on the entire record and as summarized herein, the proposed subdivision fulfills construction requirements.

D. General Plan Consistency

On December 3, 2013 the Board of Supervisors approved a General Plan Amendment for this site changing the general plan land use designations from Agricultural Lands (AL) and Delta Recreation (DR) to Single Family Residential High Density (SH), Single Family Residential Medium Density (SM), Public Semi Public (PS), Open Space (OS), and Water (WA). The applicant has applied to the County for a slight modification to the development pattern which necessitates a slight change to the pattern of general plan designations. The project still contains all of the approved general plan designations but in a slightly different pattern and acreage because of the proposed change to the development pattern. The project is consistent with the previously approved General Plan Amendment.

The Commission has fully evaluated the extent to which the modified Project achieves each policy, including those pertaining to compatibility of land uses, compliance with principles of the Urban Limit Line and Measure C-1990 and Measure J-2004, protection of open space, standards regarding geology, soils and earthquake risks, hazardous materials, flood hazards and drainage, protection of water quality, protection of biological resources, transportation standards and goals, regional and local housing needs, jobs/housing balance, noise, protection of air quality, protection of visual resources, standards for public services and utilities, and protection of archeological and historical resources. The Commission has also fully considered the Project's compliance with all performance standards in the General Plan, including the Growth Management Element policies and standards (including those for traffic levels of service), and performance standards for public services and facilities.

The Commission finds that through the development of housing at various economic levels (both production homes and custom homes), the Project will help implement housing-related goals of the General Plan. The project would also provide the following benefits to the community: Widening of Kellogg Creek for improved boater safety; construction of a Sheriff's Marine Patrol Substation on the project site for quicker response times and a Public Trail.

The Commission acknowledges that the modified proposed residential designations and their locations within the project site are consistent with densities in neighboring development to the east, west and south.

E. Measure C-1988, 1999 and Measure J-2004 and Related Resolutions

Measure C-1988 established a Growth Management Program, "to assure that future residential, business and commercial growth pays for the facilities required to meet the demands resulting from that growth." The Growth Management Program requires the

County to adopt Traffic Level of Service (LOS) Standards keyed to types of land use, and to comply with the adopted standards; to "adopt a development mitigation program to ensure that new growth is paying its share of the costs associated with that growth;" to participate in the forum established by the Authority to cooperate in easing cumulative traffic impacts, using the CCTA computer model; and to develop an implementation program that creates housing opportunities for all income levels. Measure J-2004 amended Measure C to continue transportation sales tax to fund Contra Costa's transportation projects.

The County has complied with all these requirements. Most important, the County is achieving Measure C-1988 and Measure J-2004's overarching goal that development pay its own way. The County has identified Project mitigations to ensure that the applicant will defray the cost of those improvements that are proportionately attributable to the development.

WHEREAS, at the July 21, 2015 hearing the County Planning Commission made the following modifications to the Conditions of Approval (COA) and Design Standards:

COA #117: Change the timing for submittal of maintenance agreement for Storm Water Operation and Maintenance Agreement.

Design Standards: Added further clarification to Merging Lots.

NOW BE IT RESOLVED that the secretary of this Commission will sign and attest the certified copy of this resolution and deliver the same to the Board of Supervisors, all in accordance with the Government Code of the State of California.


AYES: Commissioners Snyder, Steele, Wright, Terrell, Clark and Swenson

NOES:

ABSENT: Commissioner Stewart

ABSTENTIONS:

Don Snyder
Chair of the County Planning Commission
Contra Costa County, State of California


Aruna Bhat, Secretary
County of Contra Costa
State of California