



CONTRA COSTA COUNTY
Department of Conservation and Development
County Planning Commission Hearing
Date: Tuesday, July 21, 2015
Staff Report **Agenda Item # _____**

Modified Pantages Bays Residential Development Project / Discovery Bay Area

Executive Summary

The applicant has applied to the County to reconfigure the approved project.

What Was Approved

In December of 2013 the Board of Supervisors approved the Pantages project which included the following features; 292 single-family residential lots with bays and coves (116 waterfront lots and 176 non-waterfront lots), widen Kellogg Creek, Sheriff's Marine Patrol Substation, Public Trail through Open Space area to water's edge and associated infrastructure (streets, landscaping, sidewalks, etc.).

What Would Change

The reconfigured project would keep the same number of homes and features, but the new design would allow for improved roadway circulation, lot patterns and waterfront layout, smaller public trail footprint in the open space area, more logical phasing of the project and significantly improve the long term durability of the shoring walls at the rear of waterfront lots. For comparison please refer to Exhibit A on following page and Attachment E, Full Plan Set, at the end of this report.

The following features are updated in the reconfigured plans:

- Replacement of cement shoring wall at the rear of the waterfront lots with sheet pile shoring wall;
- Improved roadway circulation through the addition of interior lots and one less bay;

- 292 residential lots; 105 waterfront and 187 non-waterfront lots with bay, coves and open space. Eleven of the waterfront lots in the approved plan would be moved to interior lots;
- Reduced developmental footprint of the public trail;
- An additional parcel at the entrance for passive recreation;
- Fewer shared docks; 8 waterfront lots have shared docks rather than 16 lots with shared docks;

What Would Remain Unchanged

The reconfigured project would retain the most important design features as follows:

- Widening of Kellogg Creek as desired by RD 800 and the boating community will reduce water velocities during tidal change and thus improve boater and swimmer safety, as well as significantly diminish creek bank erosion buildup of sediment in downstream waterways;
- Sherriff's Marine Patrol Substation at a central location on the project site next to fast water which would improve response time by Sheriff and improve public boating safety;
- Public Trail through the Open Space area to the water's edge with educational kiosks and benches along the way. The trail would comply with the Americans with Disability Act standards;
- Preservation of existing seasonal wetland and marsh areas in the northern portion of the property;
- Preservation of a view corridor from the eastern terminus of Point of Timber Road to the project bay and docks;
- Land uses (low intensity recreation and open space, public/semi-public, single family residential lots, and water);
- 292 detached single family lots; 105 waterfront lots with docks and water access; 187 non-waterfront lots (eleven of the approved waterfront lots would be moved to interior lots).

Reasons for the Proposed Changes

The following are reasons for the changes to the approved Final Development Plan / Vesting Tentative Map (FDP/VTM):

- The applicant is proposing to change the type of shoring walls at the rear of the waterfront lots from cement shoring walls (CDSM) to sheet pile shoring walls. The reason is that after the project was approved and final engineering calculations were performed, it was found that the lifespan of the walls was limited to 25 years. This was due to the additional stresses caused by raising the height of the wall to accommodate for sea level rise. Reclamation District 800 (RD 800), who would be responsible for maintaining the walls, expressed reservations about maintaining the cement shoring walls given their short lifespan.

With technological advancements in construction and materials, the applicant is now proposing sheet pile walls because they have an indefinite lifespan, and RD 800 considers these walls a superior construction method and is prepared to accept responsibility for maintaining them.

The impacts to the surrounding neighborhood caused by installation of sheet pile walls are, like the previously approved cement walls, less than significant as evaluated by a qualified acoustical consultant in the Noise and Vibration Section (Section XI) of Attachment B - Addendum to the Pantages EIR.

- In regard to the smaller footprint for the public trail, as a result of an improved roadway circulation, there is no need for a large portion of the emergency vehicle access (EVA), which would have also contained a public trail. This section would now contain only an eight foot public trail constructed at grade rather than a public trail within a 20-foot wide EVA at an elevation of 12 feet above grade that was approved with the project. This new configuration would be a visual and environmental improvement over the approved trail.
- Additional passive recreational landscaped area with bay views at the entrance to the project benefit the Pantages Bays community;
- Support from the Contra Costa County Fire Protection District for the updated neighborhood layout with improved circulation patterns;
- Flexible phasing opportunities in the construction of the project are available.

In summary, staff believes these modifications to the approved FDP/VTM promote an improved planned community. It includes better roadway circulation, long-term shoring walls, less impact to the Open Space area because of reduced public trail footprint, an improved layout for waterfront lots, docks and boat circulation, and an added passive recreational landscape at the entrance area next to the water, while retaining the essential features and benefits from the previously approved FDP/VTM.

I. GENERAL INFORMATION

County File No. and Summary of Request:

Applicant requests approval of a modified General Plan Amendment, Rezoning, Major Subdivision and Final Development Plan in the Discovery Bay area, as follows:

- A. General Plan Amendment (County File #GP99-0008) (County File Number Remains the Same as Previous Approval): Change the General Plan land use designations 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), Pubic/Semi-Public (PS), Open Space (OS) and Water (WA) (Refer to Attachment C, General Plan Map); and,
- B. Rezoning (County File #RZ04-3146) (County File Number Remains the Same): Rezone the project site from Planned Unit District (P-1) to a modified configuration of Planned Unit District (P-1) (Refer to Attachment C, Zoning Map); and,
- C. Subdivision / Vesting Tentative Map (VTM) (County File #SD06-9010) (County File Number Remains the Same): Subdivide the 171-acre project site into a modified configuration of 292 Single-Family residential lots, Private Streets, Bay and Coves, Open Space and Sheriff's Marine Patrol Substation (Refer to Sheet 7, Attachment E for Modified VTM); and,
- D. Modified Final Development Plan (County File #DP14-3017) (New County File Number for Development Plan): Development of the project site includes:
 - Develop a gated community of 292 residential lots, 105 of which have docks for deep water access;
 - Creation of 38 acres of Bay and Coves with a widening of Kellogg Creek and Old Kellogg Creek to provide deep water access to some of the proposed lots;
 - Create/preserve 43 acres of wetland/emergent marsh/grass land in two Open Space areas on the project site;
 - Develop a Public Trail and Emergency Vehicle Access (EVA) within one of the Open Space areas and provide public access for pedestrians and bicyclists within the project site;

- Develop a Sheriff's Marine Patrol substation on the project site; and
- Develop roadways, sidewalks and landscaping within the development. (Refer to Sheet 5, Attachment E for Modified Development Plan).

Project Address/Location:

The 171-acre project site is at the eastern end of Point of Timber Road and bounded on the east and south by the original Discovery Bay community, to the west by Ravenswood and Lakeshore (Village II) in Discovery Bay West and to the north/northeast by waterways and undeveloped land.

Assessor Parcel Numbers: 011-230-006 & 007, 011-220-010 & 017 & 018, 004-032-005 & 006 & 007 & 062, 004-010-006.

Applicant: Pantages at Discovery Bay, LLC.

Owners: Pantages at Discovery Bay, LLC & East Contra Costa Irrigation District (ECCID) (9.2-acres of the project site is owned by the ECCID, including a portion of Pantages Island and a contiguous strip of land along the ECCID Dredge Cut).

Project Planner: [John Osborne], [674-7793], [john.osborne@dcd.cccounty.us].

II. STAFF RECOMMENDATION

- A. FIND the Addendum to the Pantages Bays Residential Development Project Environmental Impact Report (EIR) (State Clearinghouse #2007-052130) (Attachment B) 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. CERTIFY that the 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. 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.
- C. ADOPT the attached findings and APPROVE 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.

IV. AGENCY COMMENTS

- Town of Discovery Bay: In a memo dated May 8, 2014 the Town of Discovery Bay indicated support of the modified project as proposed by the applicant.
- Reclamation District 800 (RD 800): The RD 800 indicated support of the modified project, including the use of sheet pile and vibratory method of installation, as it is proposed by the applicant. Jeff Conway, manager of RD 800, stated they currently install sheet pile by vibratory method to "fix" existing shoring abutments that are failing in Discovery Bay. (phone conversations with Jeff Conway, Manager of RD 800, 12/15/14 and 6/11/15)

- Contra Costa County Fire Protection District: In a memo dated May 15, 2014 the Fire District indicated the modified roadways appear to comply with Fire District Requirements.

V. CEQA REVIEW

As stated in the attached Addendum to the Pantages EIR there are no substantial changes proposed by the revised project or in the circumstances in which the project will be undertaken that require major revisions to the existing EIR, or preparation of a new subsequent or supplemental EIR, due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. As illustrated in the Addendum, the project is consistent with the findings of the 2013 EIR and would have similar construction-related and operational effects (Section 15162, subdivision (a), State CEQA Guidelines).

VI. STAFF ANALYSIS & DISCUSSION

A. APPROPRIATENESS OF USE:

As with the previously approve development, the modified project proposes to construct a water oriented residential community with a significant number of waterfront homes (105 lots) with deep-water access and docks. There would also be a gated entrance with vehicular/public pedestrian access as described below. The waterfront element of the development is consistent with the character of existing neighborhoods to the east (predominance of waterfront homes in original Discovery Bay). Its non-waterfront homes will be consistent with the character of existing neighborhoods to the west (predominance of non-waterfront smaller lots in Discovery Bay West).

The wetland/open space element, along with the public trail to the waters' edge and Sheriff's Substation would be the same as the previously approved project. The Emergency Vehicle Access (EVA) that was approved would be reduced in length since the improved roadway system in the interior lots allows for a shorter EVA. The Fire District has reviewed and approved the new EVA. Seating areas and kiosks with educational and historical signage will be included along the public trail, as well as tables, benches and a water fountain at the end of the trail past the marine patrol substation near the water's edge. Public pedestrians and bicyclists will be permitted on the

trails, sidewalks and streets of the project from dawn to dusk, while public vehicular access will be limited to invited guests and public agencies.

Project long term costs (which include long-term maintenance of public open space parcels, plus the EVA/public trails within the open space, and water/creek banks/sheet pile walls parcel) will be paid for by assessments of project homeowners, not by public agencies.

B. PROJECT COMPONENTS

Widen Kellogg Creek

As with the previously approved project the RD 800 is co-sponsoring the proposed widening of Kellogg Creek. The narrow portion of Kellogg Creek immediately east of the project site will be widened from its current width of approximately 90 feet to 300 feet. That widening will reduce water velocities through that narrow section of Kellogg Creek, thereby improving public boating safety. It will also reduce bank erosion and sedimentation in the Kellogg Creek side of Discovery Bay water, and limit the need for dredging there. Kellogg Creek elsewhere along the project frontage will also be widened to accommodate the project homes and docks on that frontage, and still maintain the minimum creek channel width of 300 feet recommended by RD 800.

[See Conditions 23 and 73 regarding minimum depth of bays and coves, widening of Kellogg Creek, and RD 800.]

Acquisition by Applicant of a Portion of Pantages Island and Other Strip of Land Owned by ECCID; Securing Off-Site Conservation Covenants/Easements

As previously approved the applicant is working with ECCID to acquire land for the project. Effective December 12, 2006, Pantages at Discovery Bay, LLC and East Contra Costa Irrigation District (ECCID) entered into a Property Transfer Agreement whereby the applicant will acquire approximately 9 acres of land owned by ECCID. The land is comprised of a portion of what is referred to here as Pantages Island and a strip along the ECCID Dredge Cut adjoining the Pantages property, both located at the northern end of the project site. This acreage is included as part of the 171-acre project site.

The agreement also gives the applicant the option to secure from ECCID a

conservation easement on an adjoining strip of land along the Dredge Cut from the northwesterly end of the Pantages property to the bridge connecting Lakeshore and the Lakes. The applicant intends to secure that easement.

The applicant is also working with RD 800 to arrange for conservation covenants, to be finalized as part of the project, along creek banks RD 800 controls in the vicinity. Specifically, RD 800 is prepared to place conservation covenants on the west and east banks of Kellogg Creek between Newport Drive and State Route 4 (SR4).

The objective in including all of these creek bank locations as part of the project site and/or the project description is to enhance the banks to mostly high quality shaded riverine aquatic habitat and shallow water habitat, as mitigation for creek bank loss as a result of the project. The creek bank that will be lost is presently comprised almost entirely of low and moderate quality.

The conveyance of the ECCID property by lot line adjustment and securing the conservation easement from ECCID and conservation covenants in cooperation with RD 800 will be completed prior to filing the final map. The project will preserve the majority of Pantages Island, with the exception of a small portion of the northeasterly tip which will be removed as part of the widening of Kellogg Creek. All of the foregoing arrangements with ECCID and Rec 800 are the same as the previously approved project.

[See Conditions 23 and 72 regarding creek bank mitigation and ECCID.]

Creation of Bay and Coves/ Construction method

As with the previously approved project there would be a bay and coves created, but at a slightly less acreage; 38 acres instead of 47 acres. This is due to increasing the number of interior lots. As previously noted, at the rear of the waterfront lots the applicant is proposing to change to the type of shoring wall from cement shoring walls (CDSM) to sheet pile shoring walls. The CDSM wall involves drilling linear holes at the rear of the waterfront lots and backfilling in with a mix of cement, soil, and reinforcing steel I-beams. Upon further evaluation of the CDSM, after the project was approved and the height of the wall was increased to accommodate for sea level rise, it was determined unfeasible due to the short life span of this type of shoring wall. As a result, this construction method is no longer preferred.

The preferred type of wall is now sheet pile shoring wall which would improve longevity and structural stability. The method of installation would be with a variable moment hammer, which is a vibratory method of installation. This method is less intrusive than a piston driven pile driver and works well with the soils that are present on the project site. The underlying project site is made up of a soil type which is clay like and responds well to the variable moment hammer because the soil is softer and has little shear strength which allows the sheet pile to pass through easily. This method would improve structural stability and longevity of the shoring wall. And, the RD 800, who would be responsible for maintaining the walls, considers this type of shoring wall to be superior construction method.

[Refer to Attachment E, Plates 1 and 2 for the sequence of construction and how the bays would be built]

Open Space and Creek Bank Habitat Enhancement and Preservation

As noted above, the open space element of the project, for the most part, remains the same as what was approved, with the exception of the EVA as noted. It includes two open space parcels, 37-acre Parcel "C" and 6-acre Parcel "D," at the north end of the 171-acre project site. Parcel "C" includes the large preserved emergent marsh (16.05 acres) and a small acreage enhancement of it to mitigate the loss associated with the EVA/trails bridge crossing, along with created seasonal wetlands (minimum 5.29 acres) to replace existing seasonal wetlands that will be filled. Parcel "D" is Pantages Island minus the northerly portion that will be excavated to widen Kellogg Creek. The island includes emergent marsh that will be preserved. The applicant has added an additional two acres of open space (Parcels "G" and "J") at the entrance of the development for landscaping and passive recreation.

As before, in order to construct the project with its Kellogg Creek and Old Kellogg Creek widening, bays and coves, 9,720 lineal feet of creek bank habitat will be lost. As mitigation for that loss the applicant proposes to create 11,060 linear feet of new and enhanced creek bank habitat which will be maintained and preserved in perpetuity. It includes 9,157 lineal feet of high quality aquatic creek bank habitat and shallow water habitat in the following locations: (i) on the project site, (ii) on the ECCID property strip adjoining the Dredge Cut between the northeasterly end of the project site and the Lakeshore/Lakes bridge, (iii) on the southeasterly end of the project

site adjoining the "B" Street cul-de-sac and Lots 263 and 264, and (iv) on the banks on both sides of Kellogg Creek between Newport Drive and State Route 4 owned by RD 800. The mitigation also includes 1,903 lineal feet of moderate quality creek bank habitat on the project site where the bank is subject to wave action. The moderate quality bank includes rip rap between mean high and low tide to protect against that wave action (or another suitable product to reinforce this elevation on the bank that will otherwise be vulnerable to erosion but still provide for improved habitat vegetation there).

A five-year monitoring program will be established to monitor the progress of the seasonal wetland, emergent marsh and creek bank habitat mitigation toward the established goal. The applicant is required to pay all costs of the monitoring by condition of approval number 23. At the end of each monitoring year, an annual report will be submitted to the Corps, RWQCB and CDD. This report will document the hydrological and vegetative condition of the mitigation wetlands, and will recommend remedial measures as necessary to correct deficiencies.

Ownership of the open space parcels would likely be Town of Discovery Bay Community Services District (TDBCSD). Within Parcel "C" the EVA/public trails will be included as public easements through offers of dedication. Maintenance responsibility will be TDBCSD, with the exception for the first five years as to the recreated jurisdictional wetlands. Funding for that maintenance will come from project homeowners likely through landscape and lighting assessments, such that TDBCSD will not be responsible for the cost of maintenance. On the adjoining Ravenswood project, ownership subject to a conservation covenant/ easement has been conveyed to the TDBCSD for the same purpose. TDBCSD will therefore be able to ensure consistent and coordinated management of the two conservation areas. This funding and monitoring is separate from the compensatory mitigation monitoring for the created wetlands that is outlined in the Conceptual Wetland and Emergent Marsh Preservation and Mitigation Plan for Pantages Bays by Gibson & Skordal, LLC (dated November 15, 2006). Alternative long-term mitigation monitoring acceptable to permitting agencies may also be considered. One alternative would be RD 800.

Ownership of the water, creek banks and sheet pile walls will be with RD 800 (Parcel "F" as modified in the final map). It will be responsible for maintenance, except for the first five years as to new and enhanced creek bank habitat. RD 800 is experienced in maintenance of waterway and creek banks (natural and reinforced) as part of its current responsibilities. Funding will likely come from Proposition 218 assessments of project homeowners.

Conservation covenants/easements will be recorded on these parcels requiring their preservation and maintenance in perpetuity.

[See Conditions 23 and 69 regarding open space and creek bank mitigation and preservation, ownership, maintenance and financial responsibility.]

Emergency Vehicle Access (EVA) and Public Access to the Public Trail in Open Space Area

As in the previously approved project public pedestrian and bicyclist access are included in the project from the gated entrance to Pantages Bays (at Point of Timber Road) along sidewalks, streets and a public trail through the Open Space area to the edge of Kellogg Creek at the northeast end of the project site.

The EVA has been reconfigured from the approved plan. It now runs from the end of 'A' Court to the Sheriff's marine patrol substation, about 1/3 of the length of the previously approved project. This revised design meets with the Fire District standards and this shortened EVA is beneficial because it would require substantially less of a developmental footprint in the wetland/open space area than previously approved.

While the public trail still runs through the open space area to the water's edge, the modified project includes an 8' trail from the end of 'B' Street to the end of 'A' Court. From there, the public trail right of way would be within the EVA that runs from the end of 'A' Court to the water's edge. The public trails would include interpretive signage and kiosks (concerning both the environment and its protection and the historical significance of this end of Point of Timber location in the Delta) and seating areas to enhance the public's use and enjoyment. For public safety and the protection of the open space wetlands the public must stay on the EVA/ public trail and dogs are not permitted on the public trail. In addition, and also for the protection of the environment (bank habitat), there will be no fishing, swimming, or launching of boats from the open space parcels (prohibition does not include boat mooring or launchings associated with the Sheriff's marine patrol substation).

The EVA/public trails and passive recreation location (seating area with tables and a drinking fountain beyond the Sheriff's marine patrol substation) would be maintained by TDBCSD and paid for by Pantages Bay homeowners

as part of landscaping and lighting district assessments. The EVA would serve as ingress and egress for the Sheriff's marine patrol substation, and be available for use by other public agencies use (e.g., Fire District, TDBCSD, RD 800, and Mosquito Abatement District). Public parking for trail use will be on Point of Timber Road, a public road with ample room for parking on both sides. Two parking spaces would be provided at the end of 'B' Street and at the end of 'A' Court for trail use by people with disabilities.

Public pedestrian and bicyclist access to the project will also be available through the Wilde Drive EVA. They will have the recorded right to use the project sidewalks and roads, in addition to the trails. Public access to pedestrians and bicyclists will be restricted to from dawn to dusk.

[See Conditions 46 and 75 regarding EVA/trails, public access for pedestrians and bicyclists, Sheriff, Fire District, EMTs, TDBCSD, RD 800 and other public agencies, recorded rights of access, and disclosures to homeowners.]

Sheriff's Marine Patrol Substation

Also consistent with the previously approved project, the applicant proposes to construct a Sheriff's marine patrol substation on the project site. The proposed Sheriff's marine patrol substation is located on the northeast portion of the project site along Kellogg Creek and would be accessed by the EVA at the end of 'A' Court.

[See Conditions 7A, 7B, 66 and 69F regarding the Sheriff's Marine Patrol Substation]

Pantages Bays Access Points and Roadways

As previously approved, the entrance to the site will be located at end of Point of Timber Road where a public turnaround will be constructed along with a landscaped gated entry, with separated access for pedestrians and bicyclists. The project streets, cul-de-sacs, sidewalks, storm drain facilities, and adjoining bioswales will be privately owned and maintained by the homeowners association. In addition, there will also be an Emergency Vehicle Access (EVA) located at the end of Wilde Drive in Ravenswood that will allow for emergency vehicles and pedestrians/bicyclists only.

[See Conditions 46, 66, 67 and 74 regarding gated access with specific

public ingress, egress and use, homeowners association responsibilities, and CC&Rs.]

Residential Development Plan

The number of lots remains the same as what was approved except that, with the reconfigured interior lot layout, eleven of the waterfront lots are moved to the interior lots.

The average lot sizes range from 8,400 square feet to 15,400 square feet. The waterfront lots extend to the sheet pile walls, which will be owned and maintained by RD 800. Each waterfront lot will have a mooring easement for its dock.

Also consistent with the approved plan, staff has recommended special consideration in the Design Standards for Lots 262, 263, 266, 267, 270 and 271. These proposed lots are directly across from the proposed homes on each of the 3 larger, pie-shaped lots on Shakespeare, Slifer, and Seuss Courts in Ravenswood. The Design Standards permit only one-story homes (maximum 25 feet in height) on those lots or the home, at the option of the applicant, may include a two-story element in its front half (maximum 33 feet in the height). In addition, the setback on both side yards for those 6 lots is 10 feet (instead of the standard 5 feet on one side and 10 feet on the other). The staff objective is to reasonably provide more open views between those homes as a visual benefit for the residents in the 3 larger, pie-shaped lots in the Ravenswood development. These design standards shall be deed disclosures by conditions of approval numbers 76 A and 76 B. The Design Standards are attached in Attachment D, Plate 5.

Also, as approved, Design Standards on lots adjoining Ravenswood that the 5-foot setback always be combined with an adjoining lot's 10-foot setback so the space between homes is always 15 feet. The maximum building height is 33 feet. The staff objective is to reasonably provide more open views for the adjoining Ravenswood homes and still provide for a comparable level of development on adjoining Pantages Bays lots. All of the adjoining Ravenswood homes are two story and 35 feet in height.

It is not feasible to match exactly the elevations of the Ravenswood lots with adjoining Pantages Bays lots, and provide for gravity flow for sewers and for storm water runoff in the streets and take into account projected sea level rise in designing finished lot and floor elevations. The final grading plan will

need to be modified to limit that grade difference between Pantages Bays and Ravenswood lots to a reasonable footage. Staff has required in the Design Standards that the maximum height of a rear yard retaining wall is 2 feet. Staff has also required that homes on lots adjoining Ravenswood be limited to 33 feet in height (instead of the typical zoning standard of 35' like in Ravenswood). This 2-foot reduction in maximum height takes into account the circumstance where the Pantages Bays lot pad elevation is higher than an adjoining Ravenswood lot by the maximum of 2 feet.

As before, the Design Standards require up to an 8-foot fence at the rear property line of lots adjoining Ravenswood. For example, where a retaining wall of 2 feet is required at the rear of the Pantages Bays lot, the fence would include the retaining wall on the bottom, 4 feet of solid wood in the middle and 2 feet of lattice on the top. From the Pantages Bays lot side the fence would appear 6 feet in height. From the Ravenswood side it would appear 8 feet in height. That will make the fence more effective in providing privacy for the lower lot, consistent with what would be afforded with a typical 6-foot fence, and with lattice on top it will not seem too tall in appearance from the higher lot. See Figure 5 in the Design Standards on page 9 for fence illustrations and the text on page 8. The fence line along all of the lots will always appear to be a uniform height.

Applicant has agreed to work in good faith with adjoining homeowners in Ravenswood to replace their existing rear yard fence with a new common fence consistent with the specifications above. Subject to the approval of the Ravenswood adjoining homeowner(s), applicant at its cost will remove the existing fence and construct the new common fence. If that approval is not secured, then the Pantages Bays lot fence above any retaining wall will be constructed by applicant on that Pantages Bays lot inside the property line, and the adjoining Ravenswood homeowner fence will remain in place. In either circumstance the new fence will have a uniform height along all of the adjoining Ravenswood and Pantages Bays lots.

As to Lakeshore, its closest residential lots are separated from the Pantages Bays lots by the strip of land owned by the Lakeshore HOA, which ranges from 26 to 37 feet in width. Given the distance between the Pantages Bays and Lakeshore lots, staff does not see a need to make restrictions like those placed on lots adjoining Ravenswood.

[See Conditions 65, 76 and 77, and 79 regarding Design Standards, architectural elevations for production homes, special standards for lots

adjoining Ravenswood.]

Landscaping, View Fencing and Entry Way

Also, as previously approved, the project proposes common area landscaping, including trees to be planted along project roadways and at the project entrance. Additional trees would be planted along enhanced and created creek banks to provide high and moderate quality creek bank habitat. The applicant has added, at the entrance area, a two acre area for landscaping and passive recreation (See Attachment E, Sheet 13 for Landscape Plan).

The project would generally include 6-foot-high side and rear yard fencing for residential lots, typically associated with single-family development. Lots adjoining Ravenswood are an exception with respect to the rear fences up to 8 feet in height when counting the retaining wall at the end of the rear yard of up to 2 feet, as discussed above and provided for in the Design Standards. As an exception to enhance enjoyment and maintenance of the emergent marsh area, the rear fence for lots that back up to open space near the emergent marsh will be open view, consistent with the recommendation of the applicant's wetland consultant. The requirement for lots that back up to open space shall be a deed disclosure by condition of approval number 76C.

The Entry Gate to the development remains the same as what was approved (See Attachment D, Plate 6 for Entry Gate). Modifications to that design would be subject to review and approval of CDD at the time when the final landscape plan is completed. The final design must include public pedestrian/bicyclist access that includes an improved path of at least 8 feet wide on the north end of the entry feature and a 5-foot sidewalk entry on the south end, both clearly identified with signage.

The waterfront lots would generally have open fencing (5 feet in height) from the side of the house to the side yard common wood privacy fence. Any fence across the back yard at the retaining wall must be open and limited to 5 feet in height. Solid side yard common privacy fences will extend to within 10 feet of the rear retaining wall. The side yard fence beyond that must be open. Visibility to the water must be maintained by the homeowner with respect to one of the side yards, as will be confirmed in the CC&Rs. The open fencing design standard shall be a deed disclosure by condition of approval number 76C. [Refer to Plate 5 - Design Standards]

Tree Removal: The applicant was previously approved to remove 80 trees from the project site. This approval remains in effect and no new trees are being requested for removal.

[See Conditions 23 and 67 regarding open fencing for views of the emergent marsh, preservation of unobstructed views from streets to the water through side yards on waterfront lots, and Design Standards]

Ownership, Maintenance and Funding for Non-Residential Parcels

As previously approved the ownership, maintenance and funding remain the same as follows; the parcel that includes the private roads, sidewalks, bioswales, storm drain facilities (includes pipes, inlets, flap gate outlets, and overland flow structures/rip-rap), street trees, primary entry gate features at Point of Timber, and the EVA at Wilde Drive would be owned and maintained by the homeowners association (HOA). The landscape parcels at the Point of Timber entry and next to that side of the North Cove will also be owned and maintained by the HOA. The public turnaround parcel in front of that entry will be owned by the County.

The open space parcels (EVA and public trail are included within one of them) would likely be owned and maintained by TDBCSD, and be subject to conservation easements/ covenants. Funding for that maintenance would come from homeowners through landscape and lighting district assessments, put in place by the project owner vote prior to filing the final map. The objective is that TDBCSD expenses in undertaking ownership and maintenance of the open space parcels, including the EVA/trails, will be fully funded by those assessments, and that the public use of the maintained trail will be assured by its control through a public agency. At a TDBCSD Board meeting, ownership and maintenance of the open space parcels as proposed by the applicant was presented for consideration. The Board expressed its support for doing so.

The parcel containing the water, creek banks (subject to conservation covenants) and shoring walls will be owned and maintained by RD 800. The District would also maintain the off-site mitigation creek banks. Funding for maintenance of this parcel and the off-site mitigation creek banks would be from homeowners through Proposition 218 tax bill assessments put in place by vote of the project owner prior to filing the final map. RD 800 may also

have an easement to control and enforce maintenance by homeowners of the integrity of the slope between the shoring wall and the back retaining wall (and that back wall itself), as well as maintenance by the HOA of the intermittent storm drain facilities on the retaining wall and slope.

The Sheriff's marine patrol substation and its parcel would be owned by the County. It would be maintained by the County through the Office of the Sheriff following acceptance of the improved parcel by the County.

[See Condition 69 regarding ownership, maintenance and funding for non-residential lot.]

RD 800 and TDBSCD Annexations

Annexation to RD 800 and TDBSCD through Local Agency Formation Commission (LAFCO) boundary reorganization will be required prior to filing the final map for the project. The applicant intends to complete a pre-annexation agreement with each agency to address issues associated with the project. For example, the RD 800 agreement would address ownership of the Water/Creek Banks/Shoring Walls Parcel, its maintenance and funding source for that maintenance. The TDBSCD agreement would do the same with respect to the Open Space Parcels and the EVA/public trails located within the open space.

[See Condition 70 regarding annexations and boundary reorganization.]

Conditions to Address Construction Noise and Vibration and Air Quality

The EIR identifies mitigation measures to reduce construction air quality impacts and noise impacts from grading and new construction activities. The measures follow the recommendations of the Bay Area Air Quality Management District (BAAQMD) for reduction of particulate matters (PM) from diesel engines and grading. The measures have been included in the Conditions of Approval. The Addendum to the EIR does not change any of these assumptions.

Construction noise impacts at adjacent residences will be reduced by the detailed EIR noise mitigation measures also included in the Conditions of Approval. The measures include the requirements to limit noise producing activities to between 7:30 a.m. and 5:30 p.m. during week days, to follow a noise mitigation plan approved by the County (using the California Model

Community Noise Ordinance limits as the primary noise mitigation goals), and to construct temporary noise barriers near the western property lines with Ravenswood and Lakeshore.

In regard to the sheet pile shoring walls that are proposed, as was previously noted, it was determined that no new mitigation measures are required since, with the mitigation measures that are now in place, it remains a less than significant impact.

[See Conditions 8 and 44 regarding air quality, construction noise and required design and methods to construct shoring walls]

Plan Design for Sea Level Rise and Flooding Avoidance

As was considered with the previous approval the proposed project would account for Sea Level Rise to the year 2100 in the construction of the new homes in accordance with the Governor's Executive Order in 2008. (See Attachment D, Plate 7).

[See Conditions 42 and 43 regarding finished floor elevations for homes, streets/EVAs, and modular unit.]

Potential Grading Alternative between Lakeshore and Project, Off-Site Dirt Hauling

Also as before, the project is currently designed, where residential lots back up to Lakeshore there is a strip of land, 26 to 37 feet in width, owned by the Lakeshore HOA between the Pantages property and Lakeshore residential lots. Some HOA board members have expressed to the applicant an interest in having that strip filled as part of the grading for the project. There would still be a swale to carry storm water between the Lakeshore and Pantages Bays lots but the slopes would be shorter. The applicant has expressed a willingness to work with the Lakeshore board (and adjoining Lakeshore homeowners) toward that end in the final grading design at this location. Applicant's engineers have estimated the additional yardage to place that additional engineered fill is relatively small compared to the overall grading. It should be considered a minor change in the grading that may be accomplished with the final grading plan, subject to grading easements and/or lot line adjustments between the parties. A revised grading plan in this location and any associated lot line adjustments would be subject to review and comment by the Public Works Department and review and

approval of CDD.

[See Condition 79 for requirements regarding alternative grading plan along Lakeshore.]

Project with balanced cut and fill grading

Fill material would be balanced on site; however there is a potential to import up to 90,000 cubic yards per year of fill material. As before, the developer would excavate more soil from the bays to maintain balance. However, as included in the Conditions of Approval number 79 of the already approved project, if the final grading plan and the actual grading is not balanced, then the developer would prepare an off-site dirt hauling plan that would include the pavement analysis and any necessary road repair as required by Public Works Condition of Approval number 102 for submittal to the County for its review and approval.

In the event some off-site import (or export) of dirt is ultimately required Public Works and CDD must review and approve the hauling plan and route to mitigate the short term effects of that truck traffic, and to address any road pavement concerns.

[See Condition 79 and 102 for review and approval of plan for off-site hauling of dirt and road pavement analysis.]

Fire District Review

The Contra Costa County Fire Protection District [CCCFFPD] has indicated that the modification to the approved plans, with roadways and EVA, appear to comply with their standards.

[See Condition 71 regarding fire district requirements.]

Historical Signage and Street Names

Point of Timber Road in the Delta has some historical significance. The project will include signage on the trails describing some of that history. Street names with historical significance will also be used if available.

[See Conditions 46 and 49 regarding historical signage and street names.]

C. GENERAL PLAN CONSISTENCY

General Plan Amendment: The proposed modification to the General Plan designation is consistent with the current General Plan designation for the project site that was approved by the Board of Supervisor in December of 2013, with the previously noted exception. The project site is designated Single-Family Residential High Density (SH), Single-Family Residential Medium Density (SM), Public/ Semi-Public (PS), Open Space (OS) and Water (WA). The proposed modification would be the same land use designations but in a slightly different configuration and number of acres as follows (See Attachment C, General Plan Map for comparison):

- 45.5 acres of Single Family Residential – High Density (SH) - Previously 34 acres
- 42.3 acres of Single Family Residential-Medium Density (SM)- Previously 46 acres
- 45.3 acres of Open Space (OS)- Previously 43.2 acres
- 0.5 acres of Public Semi Public (PS)- Previously 0.5 acres
- 37.6 acres of Water (WA)- Previously 46 acres

(1) Maintain the 65/35 Land Preservation Plan Standard (Measure C-1990)

General Plan Policy Consideration: General Plan policy #3-p, Land Use Element - *"Maintain the 65/35 Land Preservation Standard and devise a means of tracking urban and non-urban development and uses in the cities and unincorporated areas."*

The County determined in the previous approval that the re-designation of the 171-acre site from the AL and DR land use designations to the combination of SH, SM, OS, WA and PS use designations under the General Plan would not result in a violation of the 65/35 Land Preservation Standard. Approximately 80 acres of the 171 acre-site would be converted from non-urban use (Agricultural Lands) to urban use designations, 33.9 acres to SH and 46.4 acres to SM, respectively. According to the Department of Conservation and Development's Geographic Information Systems (GIS) mapping system, over 8,000 acres of land area countywide under non-urban use designations within the ULL would be eligible for conversion to urban

use designations without causing the County to exceed urban uses beyond 35% of land area countywide as mandated under Measure-1990: The 65/35 Contra Costa County Land Preservation Plan Ordinance. As proposed, the General Plan Amendment involving a shift of 80 acres from non-urban use to urban use would be minor and would not cause a violation of 65/35 Land Preservation Plan Ordinance Standard. The proposed modification to the General Plan does not violate the 65/35 Land Preservation Plan Standard.

(2) Potential Loss of Prime or Productive Agricultural Lands

General Plan Policy Considerations:

General Plan policy #3-11, Land Use Element: *"Urban uses shall be expanded only within the Urban Limit Line where conflicts with the agricultural economy will be minimal."*

General Plan policy #3-14, Land Use Element: *"Protect prime productive agricultural land from inappropriate subdivisions."*

In the previous approval the County determined that the project site was not useful for viable agricultural production and because of its proximity to existing residential development with Discovery Bay was appropriate for residential use. The proposed modification to the General Plan designations does not change that conclusion.

(3) Growth Management Standards Consideration

The following growth management standards were met by the previously approved project. The proposed modifications to the project still comply with these standards.

General Plan Policy Considerations:

General Plan Policy #3-5, Land Use Element: *"New development within unincorporated areas of the County may be approved, provided growth management standards and criteria are met or can be assured of being met prior to the issuance of building permits in accordance with growth management."*

General Plan Policy #4-1, Growth Management Program Element: *"New development shall not be approved in unincorporated areas unless the*

applicant can provide the infrastructure which meets the traffic level of service and performance standards outlined in Policy 4-3, or a funding mechanism has been established which will provide the infrastructure to meet the standards or as is stated in other portions of this Growth Management Element."

Traffic Level of Service

As more fully described in the Transportation/Traffic section of the EIR, implementation of the project would increase traffic and worsen level of service standards at several intersections. However the project shall pay its fair share of the improvements necessary to not exceed the County's traffic level of service standards in the General Plan (standards as detailed in the Growth Management Element and Transportation/Circulation Element).

Other Growth Management Standards

In regard to the other Growth Management standards, the project's impact on public services was evaluated in the EIR. As noted in the EIR, the project would lead to the construction of 292 single family residence with a projected population increase of 876 people within the Discovery Bay community. This increase of additional residents would have a minor impact on the public services. The analysis in the EIR provides sufficient information to determine that the project as proposed can meet the public services performance standards contained in both the Growth Management and Public Facilities/Service elements to the General Plan. The public entities, which are expected to serve the key public services to the project site, include:

Water – Town of Discovery Bay Community Services District (after annexation)

Sewer – Town of Discovery Bay Community Services District (after annexation)

Schools – Byron Union School District and Liberty Union School District

Regional Recreation – East Bay Regional Park District

Local Parks – Town of Discovery Bay Community Services District

Fire – East Contra Costa Fire Protection District

Police – Contra Costa Sheriff's Department.

IX. PUBLIC WORKS CONSIDERATIONS

The Public Works Department reviewed the modified plan and, except as noted in Area of Benefit and Traffic Impact Fees below, have the same considerations as before:

Traffic & Circulation:

An adequate turnaround must be constructed at the terminus of the public street outside of the queuing lane for the gates. Secondary pedestrian, bicyclist and emergency access will be available from Wilde Drive, a public street stubbed to the property from the adjacent Ravenswood subdivision. This secondary access will be closed to everyday vehicular traffic by bollards, gates or other means acceptable to the Fire District and Public Works Department.

All on-site streets shall be privately maintained, but shall meet Public Works standards as to width, alignment and pavement structural section. Interior trails, which also serve as emergency access, shall be designed to these same vehicular standards as well. Some exceptions to County Standards have been recognized within the recommended Conditions of Approval to accommodate proposed storm water treatment infrastructure.

The EIR mitigation measures also require the minimum finished floor elevation of residential units to be 14.1 feet, and the minimum finished street (and EVA/trails) elevation to be 12.1 feet. This is somewhat higher than elevations shown on portions of the vesting tentative map. Since the site, as shown, is anticipated to have an earthwork balance, additional excavation of Kellogg Creek and/or the project bays will be necessary, or fill material will need to be imported. Regardless, construction related equipment and materials can potentially damage the existing travel routes to the site. An analysis of the pre-construction pavement condition should be required along the proposed travel routes, and security posted to assure the developer repairs project-related damage to existing roads.

Drainage:

All project drainage infrastructures will be designed to County standards. Project runoff will be conveyed to Kellogg Creek.

As noted above, the source of much of the fill for the building pads will be generated from excavation within Kellogg Creek and the creation of "bay and coves" within the project site. This will increase the capacity in the creek, being of general benefit to adjacent and immediately upstream properties. This work will be effectuated in cooperation with Reclamation District 800 with proper permitting from the applicable regulatory agencies

Storm Water Management & Discharge:

This project is subject to all requirements of the National Pollutant Discharge Elimination System (NPDES) for municipal, construction and industrial activities per the County's MS4 permit with California State Water Resources Control Board. Preliminary plans for incorporating long-term best management practices (BMPs) for the reduction or elimination of storm water pollutants have been reviewed in conjunction with this application. The applicant shall submit a FINAL Storm Water Control Plan (SWCP) and a Storm Water Control Operation and Maintenance Plan (O+M Plan) to the Public Works Department prior to filing of the final map.

In addition, the property owner shall enter into a standard Storm Water Management Facility Operation and Maintenance Agreement with the County, and annex the property into Community Facilities District (CFD) No. 2007-1, which provides funding to the County to oversee the ongoing operation and maintenance of storm water facilities by property owners per the County's NPDES permit.

Flood Plain Management:

As noted above, the project is located in a Special Flood Hazard Area as designated on the Federal Emergency Flood Insurance Rate Maps and is thus subject to the requirements of the Federal Flood Insurance Program and the County Flood Plain Management Ordinance. The applicant intends to re-grade and elevate the habitable portions of the property (including the modular building for the Sheriff's marine patrol substation) to be above the Base Flood Elevation to satisfy these requirements.

Prior to site grading, the applicant will be required to obtain a Conditional Letter of Map Revision (C-LOMR-F) from FEMA concurring that the proposed grading and site improvements, when completed, will satisfy FEMA's requirements. After completion of grading and storm drain improvements, the applicant shall submit a LOMR-F application to FEMA to finalize their approval process.

Area of Benefit & Other Traffic Impact Fees:

The project Environmental Impact Report (EIR) has identified several streets and intersections in the region that will be directly or cumulatively impacted by this development. The mitigation measures per said EIR include construction or participation in the funding of these improvements, either directly or through payment of fees to established regional area of benefit fee accounts or, in the absence thereof, County managed roadway deficiency trust accounts. These mitigation measures have been identified and are to be incorporated within the context of CDD's recommended

Conditions of Approval.

According to a Public Works memo dated July 9, 2014 they state that in reviewing the previously approved Conditions of Approval for the prior project the only recommended changes are relative to the traffic mitigation conditions. At that time, several of the conditions of approval which linked to mitigation measures cited specific road improvements throughout the region which the project should financially contribute towards. It was noted that some of these projects were being considered with the proposed update of the Bridge/Thoroughfare Fee Ordinance for East County and, if so, the payment of the new fee (s) would satisfy the mitigation measure. Subsequently, the update has been completed and the new fee ordinance was adopted, thus these related conditions should be updated accordingly. Additionally, one of the mitigation requirements that considered two alternatives has been resolved to a specific project. The cited traffic mitigation measures/ conditions have been updated. These conditions have been updated as seen in the attached conditions of approval #'s 50, 54, 55, 56, 58, and 62.

Additional Considerations:

As with the approved project, in the modified configuration considerable areas are proposed to be owned and maintained by Reclamation District 800, by the Town of Discovery Bay Community Services District (TDBCSD), or by the Homeowners Association. This is a similar arrangement that was employed by the Ravenswood project (except for ownership and maintenance by RD 800) and is noted within the context of the EIR mitigation measures under BIO-12. The County has no interest, or the financial resources, in owning or maintaining these properties and supports the proposed ownership and maintenance arrangements proposed. If RD 800 or TDBCSD are not amenable to this relationship, the properties should remain with the developer, and then granted to the homeowners association or another entity created specifically for conservation monitoring and maintenance in perpetuity, and that is approved by the Contra Costa Department of Conservation and Development, Community Development Division.

X. CONCLUSION

Staff recommends that the Planning Commission find the Addendum to the Pantages Bays Residential Development Project Environmental Impact Report (EIR) to be adequate and complete, finding that it has been prepared in compliance with the California Environmental Quality Act (CEQA), Approve the modified vesting tentative map subject to the attached conditions of approval and mitigation measures, Adopt a motion to recommend that the Board of Supervisors find the Addendum to the

Pantages EIR to be adequate for the purposes of CEQA, adopt the Mitigation Measures, approve the modified General Plan Amendment, Rezoning and Development Plan for the project based on the mitigation measures and conditions of approval.

ATTACHMENTS

Attachment A- Findings and Conditions of Approval

Attachment B – Addendum to the Pantages Environmental Impact Report

Attachment C- Maps; Vicinity Map / General Plan Map / Zoning Map

Attachment D – Plates: 1- Sequence of Construction, 2- Bay Construction, 3- Development Plan, 4 – Housing Types, 5 – Design Standards, 6 – Project Entry, 7 – Sea Level Rise

Attachment E – Full Plan Set including Sheet 5-Development Plan, Sheet 7 - Modified Vesting Tentative Map and Sheet 13 – Landscape Plan