



Department of Conservation and Development

County Planning Commission

Wednesday, June 14, 2017– 7:00 .P.M.

Laurel Place II – 7 Lot Residential Subdivision / Myrtle Drive & Bailey Road / Concord Area

Executive Summary

This item was originally heard by the Planning Commission on September 29, 2015. Testimony was taken and the item was continued to allow staff time to respond to a letter from the City of Concord regarding the project's development standards and a letter received that evening from a neighbor stating that the Mitigated Negative Declaration for the project did not address potential Biological Impacts that may occur on the project site as a result of the project. The 3.59 acre project site is located in a pocket of unincorporated County surrounded by the City of Concord (Refer to Attachment 4, Graphics, Exhibit 1- Vicinity Map).

Since the Planning Commission hearing in 2015 County staff has met with the City of Concord to discuss their concerns and the potential biological impacts to the project site have been addressed. The following is a summary:

City of Concord:

On October 7, 2015 County staff, along with County Public Works staff, met with staff from the City of Concord to discuss their concerns.

City of Concord concerns; For the City's letter outlining their concerns, dated September 25, 2015 refer to Attachment 3, Correspondence, #1:

The main concern is that this area is planned for future annexation to the City and the City believes that the County should require the project meet the their development standards; including drainage, pedestrian facilities, undergrounding utilities and constructing street improvements along adjacent public right-of-ways. Most of the City's concerns had to do with Public Works issues. The following is a summary of the City's concerns and Public Works response; for the full memo from Public Works, dated January 11, 2016, refer to Attachment 3, Correspondence, #2:

City of Concord: The City requests that Myrtle Drive and Bailey Road be improved as part of the project.

County Public Works: As the proposed subdivision has no actual frontage to Myrtle Drive, nor is it taking access from it, there are no provisions in the County Subdivision Ordinance to require construction of improvement along Myrtle Drive. (Refer to Attachment 4, Graphics, Exhibit 3 that shows strip of land that is not part of project site)

City: The City requests that pedestrian facilities be constructed along both Bailey Road and Myrtle Drive.

Public Works: The County has no trail plans in the area at this time. The prior trail construction (in Laurel Place 1) by the applicant and the extension of these improvements through the subject subdivision was in response to a request by the City.

City: Do not increase runoff from project into downstream culvert (leading to former Naval Weapons Station property) and there should be a requirement to meter it onsite in the bioretention basin. In addition, there should be a requirement that the project verify the downstream culvert across Bailey Road is functional and in good condition or otherwise replace.

Public Works: The bio retention basin is a C.3 feature. It is intended for bio retention and hydromodification, not attenuation of runoff for flood control purposes. A preliminary drainage study was submitted and reviewed that indicated that the existing culverts crossing Bailey Road could accommodate the runoff from the project site. The actual condition of these facilities and their possible replacement will typically be addressed during the design stage of the project.

City: The City requests that the applicant underground all utilities along the proposed private street, Bailey Road and Myrtle Drive.

Public Works: County Code 96-10.006 specifically limits the utility undergrounding requirements to the frontage of public streets. The project does not front public streets. The poles on the first phase of these trial improvements adjacent to the southeast were similarly relocated, not undergrounded.

City: Hammerhead versus Turnaround – confirm what exactly Fire District requirement is and what County requirement is.

Public Works: County Code 96-12-406 allows some flexibility in the design of turn-arounds at the terminus of private roads. The County and Fire Districts have developed various hammer-head and shunt style turnarounds that accommodate their needs. The design as shown was reviewed by the Contra Costa Fire District and found to be acceptable to them.

Biological Impacts / Revised Initial Study Mitigated Negative Declaration (IS/MND):

A letter from a neighbor was submitted the night of the September 29, 2015 CPC hearing challenging the CEQA Mitigated Negative Declaration (MND) finding of no impact to biological resources for the project ; for letter refer to Attachment 3, Correspondence, #3). The concern was that the California Tiger Salamander (CTS), which is a State and federally listed threaten species, may be impacted since a portion of the site contained areas that, during the winter, gather rain causing temporary ponds which may be a habitat for the CTS.

In response to this concern the applicant retained a wildlife biologist in early 2016 to conduct a biological assessment of the property. It was during these assessments the biologist identified potential impacts to California Tiger Salamander (CTS), Burrowing Owls, Nesting Birds and Wetlands that occur on the project site. The biologist recommended mitigation measures that require the project comply with federal and state regulatory agencies including the California Department of Fish and Wildlife (CDFW), U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE) and the Regional Water Quality Control Board (RWQCB).

A Revised Mitigated Negative Declaration (Revised MND) was developed to incorporate the new impacts and mitigations to biological resources. The Revised MND, dated October 2016 (See Attachment 2) was amended to incorporate these findings and the document was circulated to the State Clearing House (SCH# 2015112028) for a 30 day period from October 18, 2016 to November 17, 2016.

In response to the Revised MND the California Department of Fish and Wildlife (CDFW) submitted a letter dated November 23, 2016; for letter refer to Attachment 3, Correspondence, #4) expressing concerns about biological resources, including CTS, Special-Status Plants and wetlands.

In response to the letter, on January 26, 2017 the applicant and their biological consultant met with Jeanette Griffin of the California Department of Fish and Wildlife (CDFW) on the project site to review the concerns of CDWF. As a result of the meeting the applicant's biological consultant, WRA Environmental Consultants, drafted a memo, dated March 1, 2017; for Memo refer to Attachment 3, Correspondence, #5) that clarified impacts and mitigation measures to CTS, Burrowing Owl, Special-status Plants and Wetlands. On March 16, 2017 County staff contacted Jeanette of CDFW and she confirmed that CDFW concurs with the impacts and mitigations outlined in the memo, dated March 1, 2017. The impacts and mitigations in the Memo from WRA memo are now incorporated into the Revised MND.

Neighbor's Concerns:

At the September 29, 2015 CPC hearing several neighbors expressed concerns about the project. The following are a summary of concerns followed by staff response:

Neighbor's concern: We've experienced crime and trash in this neighborhood and we believe that the project would add to these problems in this area. (That evening the Planning Commission also requested staff to contact the Sheriff's Department to inquire about the crime rate in this area).

Staff response: Staff contacted Mike Voss of the Sheriff Department's Crime Analyst Division regarding these issues and he indicated that this area is not considered a high crime area, nor have they had calls to remove trash. He suggested that, if the neighbors would like to contact their Department regarding their concerns, Jessica Bledsoe (313-2535) is a Crime Prevention Specialist and would be happy to discuss any of the issues with them.

Neighbor's concern: We would like the proposed homes to face Myrtle Drive since this would help deter crime.

Staff response: The applicant does not own the strip of land along Myrtle Drive and therefore cannot construct the homes on that property (Refer to Attachment 4, Graphics, Exhibit 3 that shows strip of land not owned by applicant).

Neighbor's concern: Traffic on Bailey Road is very busy right now and the project would add to it.

Staff response: The project does not access Bailey Road.

Neighbor's concern: I purchased my house because the area is rural and to change the lot size to smaller lots would take away from that rural feel. The lot size should stay 20,000 square feet and not be allowed (through the proposed Rezoning from R-20 to R-15) to be reduced to 15,000 square feet.

Staff response: The proposed rezoning to R-15 (15,000 square foot minimum lot size) is consistent with the Laurel Place I, directly south, and actually provides for larger lots than those lots to the west, which have an R-10 zoning (10,000 square foot minimum lot size). The project provides a transition from smaller lots to the west (10,000 square foot min.) to larger lots at the east (20,000 square foot min.). (Refer to Attachment 4, Graphics, Exhibit 2 that shows transitional zoning from smaller to larger lots).

Neighbor's concern: Laurel Drive is narrow and there is a concern about emergency vehicle access.

Staff response: The project is required to comply with Fire District standards for access and they have indicated, in a memo dated January 22, 2015 that access as shown complies with their requirements.

Neighbor's concern: The project would add vehicle traffic and construction traffic to Myrtle Drive, which is already a busy street.

Staff response: The project would add approximately 7 peak hour trips of vehicular traffic to Myrtle Drive, which is not considered a significant impact to traffic.

I. Project Summary

The applicant requests approval of rezoning the project site from R-20 (20,000 sq. ft. min. lot size) to R-15 (15,000 sq. ft. min. lot size) (Refer to Attachment 4, Graphics, Exhibit 3, Rezoning Map) and a Vesting Tentative Map for seven residential lots with a public trail along its western boundary (Refer to Attachment 5, Vesting Tentative Map).

II. Recommendation

Staff recommends that the County Planning Commission do the following:

- A. Find that the Revised Mitigated Negative Declaration, dated October 2016 (Refer to Attachment 2, Revised MND) was presented to the County Planning Commission, and the Commission reviewed and considered the information contained in the Revised IS/MND prior to making a decision on the project; and,
- B. Find the Revised MND reflects the County's independent judgment and analysis and was prepared consistent with the State and County CEQA Guidelines; and,
- C. Find that on the basis of the whole record, the County has determined there is no substantial evidence that the project, after mitigation, would have a significant effect on the environment; and,
- D. Adopt the Revised MND and the mitigation measures contained therein; and
- E. Adopt the Findings (Refer to Attachment 1, Findings) and Approve Vesting Tentative Map for seven residential lots and a public trail (Refer to Attachment 5 – Vesting Tentative Map) subject to the conditions of approval and mitigation measures (Refer to Attachment 1, Conditions of Approval) ; and,
- F. Adopt a motion to recommend that the Board of Supervisors adopt the Revised MND, with mitigation measures and approve the rezoning of the project site from R-20 to R-15 (Refer to Attachment 4, Graphics, Exhibit 2, Rezoning Map).

III. Site / Area Description

The 3.59 acre project site is a flat, vacant lot that is located in a pocket of unincorporated County surrounded by the City of Concord Refer to Attachment 4, Graphics, Exhibit 1, Vicinity Map). The site is, for the most part, surrounded by residential development, beyond which in a north easterly direction, is the Concord Naval Weapons Station.

IV. Agency Comments

Local Agency Formation Commission (LAFCO): Regarding sewer service, which would be provided by the City of Concord; in an email, dated September 29, 2014 LAFCO pointed out that a city can apply to LAFCO to provide service outside its jurisdictional boundary in one of two way situations: 1) if the subject territory is outside the city's boundary and outside the city's sphere of influence (SOI) in response to a public health and safety emergency or 2) if the subject territory is outside the city's boundary and inside the city's SOI in anticipation of a future

annexation.

Staff: On September 8, 2015 the Concord City Council adopted Resolution No. 15-59 establishing a non-binding strategy to annex the unincorporated Ayers Ranch portion of the City's Sphere of Influence by the year 2030. The project site is within this area. By this action sewer service to the project can be provided by option number 2 above.

City of Concord: Response to the City of Concord's letter dated September 25, 2015 (Attachment 3, Correspondence, #1) found in the Executive Summary at the beginning of this report.

Contra Costa Fire Protection District: In a memo dated January 22, 2015 the District indicated that the revised turnaround complies with Fire District standards.

California Historical Resources Information System: In a memo date October 2, 2014 it was recommended that an archaeological study be done on the site since there is a possibility of these resources present.

Staff: The applicant contracted with Holman and Associates Archaeological Consultants to review the project site and, in a memo dated November 14, 2014 Holman and Associates concluded that there are no archaeological materials anywhere inside the project site, nor where there any recorded sites in the area.

Contra Costa Water District: In a memo dated January 30, 2015, the District indicated that service would be provided subject to their requirements.

V. CEQA Review

Initial Study / Mitigated Negative Declaration

There was an Initial IS/MND, dated June 2015 that was posted for a 20 day public comment period that ended on July 7, 2015. During the comment period the County received two letters. One letter was from a neighbor (attached in correspondence as #5) and the other letter was from LAFCO.

A letter from the neighbor (Refer to Attachment 3, Correspondence, #6) objected to the project because they contend that the applicant, Lennox Homes, entered into separate agreement with the City of Concord and LAFCO to provide sewer

service, but that agreement doesn't extend to the surrounding neighbors who want sewer service.

Staff response: This comment is noted and is part of this report that will be considered by the Planning Commission when making a decision about the project. However, this response is limited because the comment does not relate to the adequacy or accuracy of the IS/MND. In addition, since the date of the neighbor's letter, the City of Concord has adopted a Resolution of intent to Annex the Ayres Ranch area which now allows the neighbor to apply to the City of Concord for an Out of Agency Service agreement to have sewer service.

The letter from LAFCO stated that they were in agreement with the condition of approval that requires the applicant to comply with their requirements prior to filing the final map.

Revised Mitigated Negative Declaration

In response to comments received regarding impacts to biological resources the County issued a Revised MND in October 2016 for a 30 day public comment period from October 18, 2016 through November 17, 2016. Comments regarding the Revised MND are addressed in the Executive Summary Section at the beginning of this report.

VI. Staff Analysis

This is the second subdivision of a two stage development. The first subdivision, Laurel Place I, is located directly adjacent to the south (Refer to Attachment 4, Graphics, Exhibit 2). It is an eight lot subdivision, with public trail, that was approved by the County in 2007. It also involved a rezoning from R-20 to R-15. The project was recently constructed and the homes are occupied.

Similarly, the current proposal, Laurel Place II, involves the rezoning of property from R-20 to R-15 and the construction of homes with a public trail. Staff believes that this project would be a benefit to the community because it is an infill project, provides new homes and a public trail to the area.

- A. General Plan and Zoning: The proposed rezoning from R-20, Single Family Residential (20,000 square foot minimum lot size) to R-15, Single Family Residential (15,000 square foot minimum lot size) is consistent with the underlying general

plan designation of Single Family Low Density. The proposed rezoning is also consistent with the zoning that is located adjacent to the south and it provides a transition from R-10 zoning to the west and R-20 zoning to east.

- B. Tree Removal: The project proposes to remove 33 trees, 11 of which are oak trees. According to an arborist report submitted by the applicant (Mc Neil, 8/14/14) most of the trees proposed for removal are in declining or poor health. The landscape plan for the project proposes the planting of 37 trees along the proposed public trail and staff is recommending, in addition to those trees, the project plant one street tree for each lot.
- C. Public Trail: The project is also proposing a section of public trail along the western edge. This would extend the trail section that has been built in the completed Laurel Place I project to the south. This section of trail is part of a larger trail plan envisioned by the City of Concord and would be dedicated to them for that purpose.

VII. Traffic and Circulation

The project has a 79-foot long frontage along Bailey Road, but is not proposing to use that street for site access. Instead, they propose to serve all seven of the residential lots from a private road extending southwesterly through their adjacent subdivision to a "knuckle" in Laurel Place, a private road. The travel way of the private road will be 20-28 feet wide within a 21-29-foot wide access and utility easement.

An additional 20-foot wide PG&E and trail easement will run the length of the private road and extend past the hammer-head turnaround to Bailey Road. As with the prior phase of this project, the trail easement will be dedicated to the City of Concord and constructed to City standards.

Drainage

The project site generally drains from southeast to the northern tip of the property to culverts located under Bailey Road. The proposed fill and a retaining wall to be constructed along the east property line have been relocated further into the site to accommodate a drainage ditch at the toe of the wall. A right-of-entry may not be required from the adjacent property owner to install and maintain these improvements.

Division 914 of the County Ordinance Code requires that all stormwater entering and/or originating on this property to be collected and conveyed, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having a

definable bed and banks, or to an existing adequate public storm drainage system which conveys the stormwaters to an adequate natural watercourse.

A study verifying the adequacy of the culverts crossing Bailey Road was submitted and reviewed. Conveyance of storm waters to this culvert system with on-site detention and minor improvements at the upstream entrance should satisfy the drainage requirements of the County Ordinance Code.

VIII. Conclusion

Staff recommends that the County Planning Commission find the Revised MND, dated October 2016, is adequate for the purposes of CEQA and adopt the Revised MND, and mitigation measures, approve the Vesting Tentative Map, subject to the conditions of approval and adopt a motion to recommend that the Board of Supervisors adopt the Revised MND with mitigation measures and approve the rezoning of the property from R-20 to R-15.

Attachment 1: Findings and Conditions of Approval

Attachment 2: CEQA Determination / Revised IS/MND

Attachment 3: Correspondence

Attachment 4: Graphics – Maps; Vicinity Map, Rezoning Map, Strip of Land Map

Attachment 5: Vesting Tentative Map, Grading and Landscaping Plan