

**FINDINGS AND CONDITIONS OF APPROVAL AS APPROVED BY THE COUNTY
PLANNING COMMISSION ON AUGUST 14, 2019**

A. CEQA FINDINGS

1. The Contra Costa County Planning Commission adopts the following findings for certification of the EIR and approval of the Ball Estates project, pursuant to the California Environmental Quality Act, California Public Resources Code, Sections 21000, et seq. the Guidelines for Implementation of CEQA, Title 14 of the California Code of Regulations, Sections 15000, et seq. ("CEQA Guidelines") and the County's CEQA Guidelines.
2. Pursuant to the Public Resources Code Section 21081 and CEQA Guidelines Section 15901, no public agency shall approve and carry out a project where an Environmental Impact Report (the "EIR") has been certified, which identifies one or more significant impacts on the environment that would occur if the project is approved, unless the public agency makes one or more of the following three findings for each of those significant impacts, accompanied by a brief explanation of the rationale for each finding:
 - a) Changes or alternations have been required in, or incorporated into, the project which mitigate or avoid the significant effect on the environment;
 - b) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency;
 - c) Specific economic, legal, social technological, or other consideration, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.
3. The Ball Estate, 35-Lot Subdivision Project, did not present any significant impacts that cannot be mitigated to a less-than-significant impact level.

PROJECT AND EIR FINDINGS

Certification of EIR

The Commission finds that the EIR has been completed in compliance with CEQA; that the Commission reviewed and considered the information contained in the EIR prior to approving the project; and the EIR reflects the County's independent judgment and analysis.

Impact Conclusions and Mitigation Measures

Attachment B (the Mitigation, Monitoring Reporting Program [MMRP]) is attached to these findings and is hereby adopted by the Commission, and is incorporated into these findings. The mitigation measures will feasibly reduce or avoid the potentially significant and significant impacts of the project to less-than-significant levels, and will reduce some less-than-significant impacts as well. In adopting these mitigation measures, the Commission intends to adopt each of the mitigation measures identified by the EIR.

The various documents and other materials constitute the record upon which the Commission bases these findings and the approvals contained herein. These findings cite specific pieces of evidence, but none of the Commission's findings are based solely on those pieces of evidence. These findings are adopted based upon the entire record, and the Commission intends to rely upon all supporting evidence in the record for each of its findings. The location and custodian of the documents and materials that comprise the record is Contra Costa County, Department of Conservation and Development, 30 Muir Road, Martinez, CA, 94553, telephone (925) 674-7205.

B. Growth Management Findings

1. Traffic: Policy 4-c under the Growth Management Program (GMP) of the County's General Plan requires a traffic impact analysis be conducted for any project that is estimated to generate 100 or more AM or PM peak-hour trips. The project is to allow 35 residential lots, a parcel for a staging (parking) area, and three open space parcels. The project would generate a low volume of trips (32 trips during the AM peak hour and 43 vehicle drips during the PM peak hours, plus additional trips that could be generated by the proposed staging area), but nonetheless, a traffic study was prepared for the project. Trips during peak-hour associated with the staging area would likely travel against the flow of peak-hour commuter. Construction period would generate up to 60 total daily trips during peak hour. The number of trips generated during construction are temporary and substantially below trip generation during project operation.

2. Water: The project is an in-fill site that is currently serviced East Bay Municipal Utility District (EBMUD). Uses on-site would include 35 residences and irrigation of landscaped areas, a staging (parking) area, and three open space parcels. Based on the project's 35 homes, which would add a population of 105 to EBMUD's service area. Given this, the project would demand approximately 63,000 gpd, or 0.063 mgd. EBMUD's average system demand from 2006-2010 was approximately 197 mgd. Therefore, the project will increase demand by less than 0.1 percent. The project would result in no additional water demand nor require additional water supply capacity beyond what has already been projected and planned.
3. Sanitary Sewer: The project is within the service area of the Central Contra Costa Sanitary District (CCCSD) who provides wastewater services for the project. Based on the residential demand factors utilized by CCCSD, the project would generate approximately 7,000 gsd (0.007 mgd) of wastewater. Projected wastewater flows associated with the project would result in a negligible (0.002 percent) increase in wastewater volume to the facility. No new treatment facilities would be required to accommodate this demand. CCCSD has identified that the existing wastewater sewer lines serving the project vicinity have sufficient capacity to accommodate projected wastewater flow volumes.
4. Fire Protection: The San Ramon Valley Fire Protection District provides service to the project site. The District provided comments requiring compliance with applicable fire codes and regulations. Additionally, the project includes an emergency vehicle access (EVA) easement that has been reviewed by the District. There is no significant increase in demand for fire services expected as a result of the project.
5. Public Protection: As the project will add to the County's population, Condition of Approval (COA) #12, requires that prior to the recording of the final map, the owner of the property shall participate in establishing a special tax for the parcels created by this subdivision. The collected tax money will be used to augment existing police services to accommodate for the incremental increase in population as a result of the subdivision.
6. Parks and Recreation: As the project will add to the County's population, COA #9 and #10 requires the project proponent to pay applicable Park fees per unit. The Park Impact fee collected will be used for acquisition of parkland and development of parks and recreational facilities. The Park Dedication requirement allows the developer of land for residential use to dedicate land, pay an in-lieu fee, or a

combination of both for neighborhood and community park or recreational purposes. In addition, a staging area that includes 19 parking spaces and a restroom will be located on Lot 21. The staging area is a unique amenity that will be open to the general public and will benefit the community at large, rather than simply benefitting the local residents.

7. Flood Control and Drainage: The project is not within the 100-year flood boundary as designated on the Federal Emergency Flood Rate Maps. No special requirements per the Federal Flood Insurance Program and the County Flood Plain Management Ordinance (Ordinance No. 2000-33) will be applicable to this subdivision.

Stormwater flows onto the site from Las Trampas Ridge to the west. There are three distinct watershed basins that drain to the subject property. The primary one, encompassing 157 acres, flows through the middle of the site, into an existing storm drain system in Camille Avenue. The other two smaller basins, both approximately 28 acres are located north and south of the primary drainage area. The northern basin does not have a well-defined drainage course and sheet flows to Ironwood Place and the adjacent subdivision to the east. The southern area drains to a small watercourse that flows through the rear yards of homes along Forest Lane.

All runoff from the northern area and a large portion of the southern area are proposed to be intercepted by on-site subdivision improvements and routed to the Camille Avenue storm drain. An exception to the off-site collect and convey requirements is necessary to accommodate this diversion. The Camille Avenue storm drain was designed by the County in the early 1960's and assumed a much more intense development of the Las Trampas Ridge area. Due to General Plan changes in the intervening decades and the transfer of property to EBRPD, the contributing watershed west of this site will remain open space. The Preliminary Drainage Study received on June 22, 2018, that indicates the residual design capacity of the Camille Avenue storm drain is sufficient to accept the proposed runoff from the north and south drainage basins, which should be of benefit to the downstream properties currently receiving these storm waters. Exceptions to the County's structure setback requirements from natural watercourses is included in the project. The only significant watercourse subject to the setback requirements is the creek conveying runoff from the central drainage basin along the north side of Lots 30 and 23, then traversing Lots 22 and 25. Portions of this creek are being restored as part of this subdivision. In other cases, there is a significant difference

in elevation between the left and right top of banks, for which conformance with the setback standards would be an undue burden on the higher lots.

C. Tentative Map Findings

1. Required Finding: The advisory agency shall not approve a tentative map unless it finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general plan required by law.

Project Finding: The project is located within the Alamo community, where immediate uses includes primarily low-density single-family residences. The project is to subdivide an approximately 61-acre property into 35-residential lots, a parcel for a staging (parking) area, and three open space parcels. The General Plan land use designation for approximately 21 acres of the project site is Single-Family Residential-Low Density, which comprises of the 35 lots and approximately 1.42 acres for Parcel A. The remaining 40 acres of the project site has a General Plan land use designation of Open Space.

The SL designation allows 1.0 – 2.9 units per net acre. The net acreage of the SL designated area is 19.83 acres (approximately 1.86 acres of the 21.69 acres will be used for right-of-way), which would allow 20 – 58 units. The project results in 35 residential lots, within the number of units allowed. Further, 35-residential lots would have a density of 1.76 units per net acre, which is within the SL density range. The portions of the project site proposed for residential development are located within the Urban Limit Line and the project is an infill development, as the lower portions are surrounded by existing development and have access to necessary utility connections. Overall, the project is consistent with the applicable policies for the SL land use designation.

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

Project Finding: The project will comply with the collect and convey regulations, storm drainage facilities, and design standards for private roads. Additionally, compliance with the California Building Code and all applicable County Ordinances is required for grading of the property and construction of residential buildings.

D. Findings for Granting an Exception to the Subdivision Ordinance (Title 9) Requirements

In accordance with Section 92-6.002 of said Code, the following findings are required by the advisory agency to consider in granting each exception request:

- 1) That there are unusual circumstances or conditions affecting the property.
- 2) That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant.
- 3) That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

Accordingly, the exception requests, discussion points and evidence supporting the reventant findings are as follows:

1. 92-4.018 – Cul-de-sac (maximum length)

The County Subdivision Ordinance limits cul-de-sacs to 700 linear feet, serving a maximum of 16 lots. Ironwood Place is 1000 feet long, serving 14 lots (not including Irongate Court, another intersecting cul-de-sac). The on-site extension of Camille Avenue is also 1000 feet long and serves 21 lots. The project site is abundant with native and valued, exotic trees, of which a large amount will be preserved.

Grading with the natural contour of the land and the placement of streets to provide access were carefully considered to minimize impacts and/or the removal of highly rated trees. Restrictions relative to long cul-de-sacs are important to address access and safety for emergency response. To address this concern, an Emergency Vehicle Access (EVA) easement will be provided from the on-site extension of Ironwood Place to the existing terminus of Ironwood Place north of Lots 5 and 6. The cul-de-sacs were designed to avoid tree impacts, while the EVA provides an overall improvement to emergency vehicle circulation. Providing an EVA connecting neighborhoods is a major safety improvement to the area.

Project Findings:

- 1) That there are unusual circumstances or conditions affecting the property.

The subdivision, like many of the existing neighboring streets in the surrounding area, is only accessible from Camille Avenue and Ironwood Place. The project site is abundant with native and some valued, specimen, exotic trees which are to be preserved.

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

To minimize the removal of the highly rated trees on the site by grading with the natural contour of the land, streets were placed to provide access while limiting impacts to, and preserving these assets.

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

The project creates a new emergency vehicle access route to the Hemme Avenue neighborhoods constituting an overall improvement to emergency vehicle circulation.

2. 96-8.402 – Locations (of sidewalks)

Most of the streets in this area have no sidewalks, but there is a pedestrian path along the south side of Camille Avenue for its entire length. This exception request relates to the sidewalk requirements of the Ordinance Code. Typically, sidewalks would not be required in this zoning district, but are required in this case due to the proximity to Rancho Romero Elementary School. To minimize tree loss and to keep in character with the neighborhood, the applicant has requested an exception from the requirement, but is willing to install sidewalks along one side of the more prominent streets in the subdivision. The sidewalk improvements will provide safe and continuous pedestrian access within the project site and will not be detrimental to the public welfare or injurious to other property.

Project Findings:

- 1) That there are unusual circumstances or conditions affecting the property.

The property is a relatively isolated, rural character, and heavily wooded. The Property runs from the end of Camille Avenue, westward to the Las Trampas Regional Wilderness. It is not connecting one residential area to another, but instead constitutes a large lot subdivision, which transitions from protected wilderness to single-family residential development. Thus, there is no "through" pedestrian traffic nor a need to connect existing sidewalks. The Project's proposed sidewalks are sufficient to provide for the pedestrian safety of children and other residents while remaining in character with surrounding development. Camille Avenue, the primary access road off Danville Blvd., has sidewalks on only one side and the Ironwood Subdivision, immediately adjacent to the east, has no sidewalks within its streets.

The heavily wooded nature of the Project site dictates that the provision of sidewalks will require removal of additional trees. The intent of the applicant is to remove as few trees as possible in order to retain the natural, rustic feel of the area. Pedestrian safety is the overriding concern, but the traffic report for the Project indicates the proposed sidewalk system guarantees the safety of pedestrians while allowing the preservation of many trees, which is important for environmental reasons.

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

The applicant is proposing to develop wooded and environmentally sensitive property in a way that will have as little impact as possible and to save as many mature trees as possible. The developers of other properties in the area have not provided sidewalks. Most proposed subdivisions are not faced with the need to minimize paving and grading to protect the maximum number of trees.

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

Safe pedestrian access within the project to Rancho Romero School is provided by installing the sidewalks on A Drive, B Court and the extension of Ironwood Place. An existing sidewalk on only the south side of Camille Ave. connects with the Iron Horse Regional Trail that leads to the school from Camille Ave. The sidewalk improvements will provide safe pedestrian access within the project and will not be detrimental to the public welfare or injurious to other property.

The traffic report prepared for the Project examined the sidewalk system proposed and concluded it was safe and efficient for pedestrian safety.

3. 98-8.208 – Crown (at cul-de-sac)

This exception request is related to the end of street turnarounds near the terminus of Camille Avenue. This Code section states "...the pavement crown and geometric design of the street cross-section shall be shown and dimensioned on the improvement plans, and shall conform to accepted design standards. The minimum cross-slope shall be two percent." The design policy for cul-de-sacs is described on the County Improvement Plan Check List as, "Cul-de-sacs all have 1% to 4% cross slope between gutter lip and high point."

The proposed public cul-de-sac at the end of Camille Ave. and the project entrance to "A" Drive has several trees along its circumference. To design this cul-de-sac and minimize impact to the trees, cross slopes of the pavement will exceed the minimum cross-slopes in Section 98-8.208 - Crown, and as indicted in the County's improvement plan checklist. Granting this exception minimizes grading and thus reduces tree loss and relaxes transitional slopes to the existing Camille Lane, which intersects near the beginning of the cul-de-sac.

Project Findings:

1) That there are unusual circumstances or conditions affecting the property.

The terrain at the site is fixed at Camille Lane and trees exist at its circumferential perimeter. A public cul-de-sac is required at the end of the public street.

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

The gradient of the cul-de-sac is designed to accommodate vehicular access in conjunction with existing grades. The exception is requested to reduce impacts to trees and to meet transitionally with the existing Camille Lane.

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

The cul-de-sac is being constructed on the property at the end of Camille Ave. of the project and will be dedicated to the public. Vehicles entering the intersection from any direction will have adequate sight lines for safety, complying with code requirements. The exception will not adversely affect public welfare or other property.

4. 914-2.004 - Offsite collect and convey requirements (diversion of runoff)

This Code requirement includes a caveat that conveyance of storm waters off-site cannot be diversion from the existing drainage patterns. The Camille Avenue storm drain was designed by the County in the early 1960's and assumed a much more intense development of the Las Trampas Ridge area. Due to General Plan changes in the intervening decades and the transfer of property to East Bay Regional Park District (EBRPD), the contributing watershed west of this site will remain open space. A Preliminary Drainage Study received on June 22, 2018, indicates the residual design capacity of the Camille Avenue storm drain is sufficient to accept the proposed runoff from the north and south drainage basins, which should be of benefit to the downstream properties currently receiving these storm waters.

Project Findings:

- 1) That there are unusual circumstances or conditions affecting the property.

Storm water entering the northern portion of the site currently discharges to an inadequate swale behind homes fronting Irongate Court adjacent to the project. The proposed drainage system will intercept this runoff and divert it to an adequate system within the project which will convey it to

the Camille Avenue drainage system. This small diversion improves drainage, and reduces flood risks to adjacent properties.

Similarly, runoff entering the southern portion of the subdivision are conveyed to an inadequate culvert across Camille Lane and in large storms, flows across Camille Lane then discharges to an open ditch to adjacent residences.

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

This diversion will improve existing conditions for the neighboring homes. The exception is necessary to stop flooding by conveying drainage to an adequate storm drain system. The granting of this exception is necessary for the development of the project without causing damage to adjacent neighboring properties or securing off-site private rights of entry or easements.

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

The Camille Avenue system was designed prior to the 2005 General Plan and assumed additional R- 20 zoning in the areas now designated as open space. Since these areas will not be developed, the system has adequate capacity to accept the diversion of flow. All discharge from the site continues to flow to San Ramon Creek. The installation of the project storm drain system will not be detrimental but beneficial to the public.

5. 914-14.012 – Structure setback lines for unimproved earth channels (Lots 21-24)
6. 914-14.014 – Structures and encroachments within structure setback areas ("A" Drive, "A" Lane, "B" Court, and bridge structures on "A" Court and "B" Drive)

These exception requests are related to the County's structure setback requirements from natural watercourses. The significant watercourse subject to the setback requirements is the creek conveying runoff from the central drainage basin along the north side of Lots 30 and 23, then traversing Lots 22 and 25. Portions of this creek are being restored as part of this subdivision. In other cases, there is a significant difference in elevation between the left and

right top of banks, for which conformance with the setback standards would be an undue burden on the higher lots. Additionally, retaining riparian trees and tree screening/replanting will ensure preservation of the natural features of the property, while developing the property.

Project Findings:

- 1) That there are unusual circumstances or conditions affecting the property.

The tree screen to the north of Lots 21 and 22 constitutes an unusual circumstance affecting the property. The desire to save these trees to maintain a visual screen from neighboring properties on the northwest and northeast boundaries of the proposed subdivision is paramount.

Lots 23 and 24 building areas are 50 plus feet from the creek and more than 24 feet above the creek. Placing the creek setback at the top of bank at the rear of Lots 23 and 24 is an adequate setback. The unusual topographic condition and the desire to maintain a tree screen is the purpose for requesting this exception.

The layout of the roads and lots at A Drive and A Lane was largely determined by the constraints imposed by the trees. Using the existing road for A Drive will avoid removal of additional trees. Having small portions of roadway within the setback are unavoidable.

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

This exception is necessary for the preservation of the redwood tree screen in the context of this subdivision application and to provide for a substantial creek setback for development of the property preserving the natural features of the property.

Access into and throughout the site is contingent on the roadway locations. Limitations imposed by existing tree locations prohibit roadway layouts that would avoid encroaching into the creek setbacks at existing A Drive and A Lane. Realigning existing A Drive outside the creek setback would result in heavy grading and maximum tree loss.

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

Both riparian trees and an important visual tree screen will be retained and creek access will be provided under the current exception.

The construction of these roads will require Fish and Wildlife permits to protect natural habitat of the creeks. There will be no effect materially detrimental to the public or injurious to other property as a result of these road crossings.

E. SB 166 Finding (Government Code Section 65863)

(a) Each city, county, or city and county shall ensure that its housing element inventory described in paragraph (3) of subdivision (a) of Section 65583 or its housing element program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583 can accommodate, at all times throughout the planning period, its remaining unmet share of the regional housing need allocated pursuant to Section 65584, except as provided in paragraph (2) of subdivision (c). At no time, except as provided in paragraph (2) of subdivision (c), shall a city, county, or city and county by administrative, quasi-judicial, legislative, or other action permit or cause its inventory of sites identified in the housing element to be insufficient to meet its remaining unmet share of the regional housing need for lower and moderate-income households.

Finding: A component of preparing the County's Housing Element for the General Plan is the identification of vacant and underutilized sites suitable for residential development, and an evaluation of the housing development potential of these sites in fulfilling the County's share of the regional housing needs as determined by the Association of Bay Area Governments (ABAG). This property is identified in the County's 2015-2023 Housing Element Sites Inventory (the "Inventory") with a unit potential of 35 above-moderate housing units.

This project includes 35 market-rate (above-moderate) units, which meets the identified housing potential in the Inventory. The development is located within the Single-Family Residential-Low Density General Plan land use designation, which allows for 1 to 2.9 residential units per net acre. The developer is averaging 1.76 units per net acre and is maximizing the density despite property constraints

including a portion of the property having a designation of open space. In addition, the County has already exceeded the number of above-moderate units identified by ABAG in its regional housing needs allocation for the remainder of this cycle of the Housing Element. This project will add to the surplus of units in this category.

F. Tree Permit Findings

Required Finding: The County Planning Commission is satisfied that the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied:

1. The arborist report indicates that the several trees are in poor health or the tree is crowding an adjacent healthy tree(s).
2. Reasonable development of the property would require the alteration or removal of trees and this development could not be reasonably accommodated on another area of the lot.
3. Where the arborist or forester report has been required, and the Deputy Director, Community Development Division is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.