

**PROJECT FINDINGS FOR TREVOR SMITH, PANTAGES AT DISCOVERY BAY LLC (APPLICANT) AND C&D DISCOVERY BAY LLC AND WATERFRONT LOTS LLC (OWNERS): COUNTY FILES: #CDGP19-0002, CDRZ19-3252, CDS19-9527, CDDP19-3024**

**A. CEQA FINDINGS**

1. Section 15164 of the *State CEQA Guidelines* states that an addendum to an earlier EIR shall be prepared if some changes or additions are necessary to the previously certified document, but none of the conditions described in Section 15162 have occurred. Section 15162 of the *State CEQA Guidelines* identifies the conditions that require preparation of a subsequent EIR. A proposed change in a project will require preparation of a subsequent EIR if:

A) The change in the project is substantial.

Substantial changes in the project are those that would require major revisions of the 2013 Pantages EIR due to the involvement of new significant environmental effects, or if a substantial increase in the severity of previously identified significant effects has occurred.

B) The circumstances under which the project is undertaken have substantially changed.

Substantial changes in circumstances are those that would require major revisions of the 2013 Pantages EIR due to the involvement of new significant environmental effects, or any changes that would cause a substantial increase in the severity of the previously identified significant effects.

C) New information of substantial importance, which was not known and could not have been known, with the exercise of reasonable diligence at the time the previous environmental document was approved, shows any of the following.

- The project will have one or more significant effects not discussed in the previous EIR or negative declaration.
- Significant effects previously examined will be substantially more severe than shown in the previous EIR.
- Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative.
- Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more

significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Additionally, pursuant to Section 15163 of the *State CEQA Guidelines*, a lead agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

- any conditions described in Section 15162 would require the preparation of a subsequent EIR; or
- only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

## PROJECT AND EIR FINDINGS

### *Certification of Addendum*

The Commission finds that the Addendum to the Pantages Bays Residential Development Project Environmental Impact Report (EIR) has been completed in compliance with CEQA; that the Commission reviewed and considered the information contained in the Addendum prior to approving the project; and the Addendum reflects the County's independent judgment and analysis.

### *Impact Conclusions and Mitigation Measures*

There are no substantial changes proposed by the project or in the circumstances in which the project would 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 herein, the project is consistent with the findings of the 2013 Pantages EIR and would have similar construction-related and operational effects (Section 15162, subdivision (a), State CEQA Guidelines), but at a reduced scale. Most mitigation measures from the 2013 Pantages EIR would remain in effect and would continue to mitigate the project. The project and changes in best practices 2013 resulted in updated mitigation measures for Biological Resources (Section 2.4) and Transportation and Traffic (Section 2.15). Additionally, the project has reduced or eliminated certain impacts, such that mitigation is no longer required.

The impacts of the proposed project remain within the impacts previously analyzed in the 2013 Pantages EIR (Section 15162, subdivision (b)(3), State CEQA Guidelines). The proposed project does not require major revisions to the Pantages Bays Project EIR. No new significant information or changes in circumstances surrounding the project have occurred since certification of the EIR. The previous analysis completed for the project

remains adequate under CEQA. However, the project Applicant will remain obligated to comply with all applicable mitigation measures and conditions of approval contained within the 2013 Pantages EIR and 2015 Pantages Addendum, unless appropriately added, modified, or removed to reflect the environmental review in this addendum.

The Mitigation, Monitoring Reporting Program [MMRP] 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) 655-2705.

## **B. General Plan Amendment**

1. **Required Finding:** Adoption of the proposed General Plan Amendment will not violate the County Urban Limit Line.

**Project Finding:** No change to the County Urban Limit Line (ULL) is proposed. No extension of urban services beyond the ULL is proposed. The subject site is located entirely within the ULL, and therefore may be designated for "urban" or "non-urban" development, as defined in the 2005-2020 Contra Costa County General Plan. The proposed land use designations, Single-Family Residential-High Density (SH), Open Space (OS), Parks and Recreation (PR), and Water (WA) are all allowed.

2. **Required Finding:** Adoption of the proposed General Plan Amendment is consistent with the 65/35 Land Preservation Standard.

**Project Finding:** Adoption of the proposed General Plan Amendment (GPA) will not violate the 65/35 Land Preservation Standard (the "65/35 Standard"), established by county voters through adoption of Measure C-1990 and

reaffirmed through adoption of Measure L-2006. Under the 65/35 Standard, no more than 35 percent of the land in the county may be designated for development with urban uses and at least 65 percent of the land must be designated for non-urban uses such as agriculture, open space, parks, etc. The subject site's existing land use designations are SH, Single-Family Residential-Medium Density (SM), Public/Semi-Public (PS), OS, and WA. The proposed designations are SH, OS, WA, and PR. SH and SM are urban designations, while the rest are non-urban. The proposed GPA condenses and simplifies the land use plan, reducing the area dedicated to urban uses by 26.2 acres while expanding the OS acreage by 25 acres. The reduced acreage dedicated to urban uses is consistent with, and supports, the 65/35 Standard.

3. **Required Finding:** The proposed General Plan Amendment is consistent with the Contra Costa County Growth Management Program.

**Project Finding:** The current iteration of the Contra Costa County Growth Management Program was established by county voters through adoption of Measure J-2004. The project complies with the objectives and requirements of the Growth Management Program and related Contra Costa Transportation Authority (CCTA) resolutions.

4. **Required Finding:** Following adoption of the proposed General Plan Amendment, the General Plan will remain internally consistent, as required under Government Code Section 65300.5.

**Project Finding:** The County General Plan comprises an integrated, internally consistent, and compatible statement of policies governing land use in the unincorporated areas of the county. The proposed GPA affects only the Land Use Element Map and involves reorganizing the land use plan for a previously approved project. The development footprint would shrink, and the unit count would decrease from 292 single-family homes to 277. Open space would increase by 25 acres and there would be less overall disturbance to the natural environment when compared to the previous plan. The proposed change is consistent and compatible with the General Plan's policies for the Discovery Bay area as well as the overarching goals and policies of the General Plan related to land use, growth management, transportation, housing, noise, conservation, open space, and safety. In no way does amending the project's land use plan interfere with the County's ability to otherwise implement the General Plan. Adoption of the proposed GPA will not result in an internal inconsistency within the General Plan.

5. **Required Finding:** Adoption of the proposed General Plan Amendment is in the public interest, as required under Government Code Section 65358(a).

**Project Finding:** Adoption of the proposed GPA is in the public interest. The Bay Area suffers from a severe housing shortage. The previous plan for 292 single-family homes was unable to obtain approval from various State and federal agencies because of certain environmental impacts that would occur. The proposed plan for 277 single-family homes avoids many of those impacts and has a higher likelihood of being constructed, thus adding to the housing stock and helping to alleviate the housing shortage.

The project includes the following additional components that also are in the public interest:

- It provides 41.55 inclusionary housing units, which includes construction of 8 Lower Income Housing Units and 33 Moderate Income Housing Units, and payment of an in-lieu fee for the remaining fractional unit (0.55 unit). The previous approval did not include affordable units.
  - It preserves all onsite wetland resources, including 19.77 acres associated with the emergent marsh and seasonal wetlands in the area north of the residential development.
  - It provides public pedestrian access in proximity to the onsite wetlands and Kellogg Creek by way of 5,200 linear feet of new trails meandering through new parks near the wetlands and along the preserved Kellogg Creek. The trails will accommodate pedestrian and bicyclist use on an approximately 10-foot wide, all-weather compacted crushed granite surface that will double as emergency vehicle access. The wetland, park, and trail experiences will be enhanced with educational signage that documents and discusses the types of plant and animal species inhabiting the environmental resource areas.
  - It provides supplemental funding to support park maintenance in the Discovery Bay area.
6. **Required Finding:** Adoption of the proposed General Plan Amendment would not exceed the limit on such amendments specified under Government Code Section 65358(b).

**Project Finding:** Pursuant to Government Code Section 65358(b), no mandatory element of the General Plan may be amended more than four times

per calendar year. The proposed GPA affects the Land Use Element, a mandatory element, and is the first amendment to such element for 2021.

### **C. Growth Management Findings**

1. Traffic: The property site is located at the terminus of Point of Timber Road, a publicly maintained road, and Wilde Drive, a maintained road stubbed to the property from the adjacent Ravenswood subdivision. The main access to the project site will be from Point of Timber with secondary access from Wilde Drive. An Environmental Impact Report (EIR) was prepared in 2013 and identified several streets and intersections in the region that will be directly or cumulatively impacted by this development. The mitigation measures per the 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. Below is a summary of the impacts.

- Under the Existing Plus Project conditions, the addition of project traffic is not projected to cause any significant impacts. Under Cumulative conditions, the addition of Project traffic is projected to cause potentially significant impacts at 11 intersections and significant and unavoidable at two roadway sections (Vasco Road and Marsh Creek Road).
- Holoway Drive/Byron Highway – This unsignalized intersection is projected to operate at LOS F during the PM peak hour under Cumulative and Cumulative Plus Project conditions. The addition of project trips would increase intersection delay by more than five seconds, which is considered a potentially significant impact.
- Sellers Avenue/Balfour Road – This unsignalized intersection is projected to operate at LOS F during AM and PM peak hours under Cumulative and Cumulative Plus Project conditions. The addition of project trips would increase intersection delay by more than five seconds, which is considered a potentially significant impact.
- Balfour Road/Byron Highway – This unsignalized intersection is projected to operate at LOS E during the AM peak hour under Cumulative Plus Project conditions. The addition of project trips would degrade intersection operations from acceptable LOS D to LOS E, which is considered a potentially significant impact.

- Point of Timber Road/Byron Highway – This unsignalized intersection is projected to operate at unacceptable LOS D during the PM peak hour under Cumulative Plus Project conditions. The addition of project trips would degrade intersection operations from LOS B to unacceptable LOS D, which is considered a potentially significant impact.
- Point of Timber Road/Bixler Road – This unsignalized intersection is projected to operate at unacceptable LOS E during the PM peak hour under Cumulative Plus Project conditions. The addition of project trips would degrade intersection operations from LOS C to LOS E, which is considered a potentially significant impact.
- Marsh Creek Road/Sellers Avenue – This unsignalized intersection is projected to operate at LOS F during AM and PM peak hours under Cumulative and Cumulative Plus Project conditions. The addition of project trips would increase intersection delay by more than five seconds, which is considered a potentially significant impact.
- Marsh Creek Road/Bixler Road – This unsignalized intersection is projected to operate at LOS F during AM and PM peak hours under Cumulative and Cumulative Plus Project conditions. The addition of project trips would increase intersection delay by more than five seconds, which is considered a potentially significant impact.
- State Route 4/Byron Highway (south intersection) – Based on the HCM method, this signalized intersection is projected to operate at LOS E during the AM peak hour under Cumulative and Cumulative Plus Project Conditions. Based on the CCTALOS method, this intersection is projected to operate at LOS E during the AM peak hour and unacceptable LOS D during the PM peak hour under Cumulative conditions and LOS F during the AM peak hour and LOS E during the AM peak hour under Cumulative Plus Project conditions. The addition of project trips would increase delay by less than five seconds, but would increase the V/C ratio by more than 0.01, which is considered a potentially significant impact.
- State Route 4/Newport Drive – This unsignalized intersection is projected to operate at LOS F during the PM peak hour under Cumulative and Cumulative Plus Project conditions. The addition of project trips would

increase intersection delay by more than five seconds, which is considered a potentially significant impact.

- Camino Diablo Road/Vasco Road – Based on the HCM method, this signalized intersection is projected to operate at LOS E during the PM peak hour under Cumulative and Cumulative Plus Project conditions. Based on the CCTALOS method, this intersection is projected to operate at LOS D during the PM peak hour. The addition of project trips would increase delay by more than five seconds and increase the V/C ratio by more than 0.01, which is considered a potentially significant impact.
- Camino Diablo Road/Byron Highway – This unsignalized intersection is projected to operate at LOS F during AM and PM peak hours under Cumulative and Cumulative Plus Project conditions. The addition of project trips would increase intersection delay by more than five seconds during the PM peak hour, which is considered a potentially significant impact.
- All 11 of these impacts can be reduced to less-than-significant levels with implementation of the proposed mitigations.
- Service along Vasco Road, south of Camino Diablo would not meet the Contra Costa County Transportation Authority's Multimodal Transportation Service Objective (MTSO) target LOS D in either the northbound or southbound direction during the AM and PM peak hour under either cumulative condition. Service along Marsh Creek Road, west of SR4, would not meet the MTSO target LOS D in either the eastbound or westbound direction during the AM or PM peak hour under either cumulative condition. The addition of project traffic would worsen the LOS along both these two roadway segments. And, even though the project will pay its fair share of regional roadway fees, since there is no plan to provide additional capacity on this roadway section, the impacts to these two road segments would remain significant and unavoidable, and required adoption of a Statement of Overriding Conditions, which was previously prepared and adopted for the 2013 EIR.

2. Water:

Water would be supplied to the project by the Town of Discovery Bay Community Services District (TDBCSD). The TDBCSD prepared a Water Master Plan (Water



MP) in January of 2012, that identifies projected growth, including the Pantages Bays Project, through 2020, and the water supply and service improvements required to serve them. The improvements and programs in the Water MP would be implemented through a Capital Improvement Plan (CIP) funded by financial mechanisms approved by the TDBCSD. The Pantages Bays Project would be required to pay its fair share towards the improvements identified in the Water MP. To assure that the development does not outpace infrastructure the applicant is required to submit a Can & Will Serve letter from TDBCSD to the County prior to filing of the Final Map (Condition of Approval #49). Also, prior to issuance of the first occupancy permit, the applicant shall provide documentation to CDD that the necessary improvements to serve the project are constructed and operational (Condition of Approval #49).

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

3. Sanitary Sewer:

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

Similar to the Water MP, the Wastewater MP includes recommended improvements to meet the District's projected wastewater demands through 2020. The improvements would be implemented through a Capital Improvement Program (CIP) funded by financial mechanisms approved by the TDBCSD. The plan would include new capacity fee to charge new development for its fair share of wastewater treatment upgrades that are necessary to serve both the existing community and new development. The Pantages Bays Project would be required to pay their fair share towards the improvements identified in the Wastewater MP CIP. To assure that the development does not outpace infrastructure the applicant is required to submit a Can & Will Serve letter from TDBCSD to the County prior to filing of the Final Map (Condition of Approval #49). Also, prior to issuance of the first occupancy permit, the applicant shall provide documentation to CDD that the necessary improvements to serve the project are constructed and operational (Condition of Approval #49).

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

4. Fire Protection:

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

5. Public Protection:

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

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

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

6. Parks and Recreation:

The County General Plan Growth Management Element requires new development to provide 3 acres of neighborhood parkland per 1000 people. Pursuant to the County's dedication requirements. The project would increase the amount of land designated for open space, and parks and recreational land uses by 63.3 and 14.8 additional acres, respectively, compared to the project evaluated in the Pantages 2013 Pantages EIR. Additionally, the applicant will be

paying a park impact fee of \$ 6,616 per dwelling unit and dedication fee of 3,142 per dwelling unit.

7. Flood Control and Drainage:

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

#### **D. Rezoning Findings**

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

**Project Finding:** The site is currently zoned P-1, Planned Unit Development that was approved by the Board of Supervisors on December 3, 2013 and subsequently on October 6, 2015. The Project modifies the configuration of the previously approved development that reduces the number of residential units from 292 to 277 that necessitates the modification of the boundaries of the P-1 zoning. The new configuration will be consistent with the new General Plan land use designation of Single-Family Residential-High Density (SH), Open Space (OS), Water (WA), and Parks and Recreation (PR).

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

**Project Finding:** The Project is a residential P-1 Planned Unit Development compatible with and substantially based generally on the standards contained under the R-6 residential zoning district, and it includes open space areas with recreational public trail uses. The Project is consistent with the adjacent residential developments to the west, east and south which are single-family residential neighborhoods of comparable residential densities and are zoned P-1 as well.

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

**Project Finding:** The Project use will provide new housing that assist in meeting the housing supply needs identified in the Housing Element of the General Plan. Furthermore, the Project will provide 41.55 inclusionary housing units.

#### **E. 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 will provide 277 residential units, and common and open space areas. The Project is consistent with the new General Plan land use designations of Single-Family Residential-High Density (SH), Open Space (OS), Water (WA), and Parks and Recreation (PR) for the project site. Furthermore, the project is consistent with the respective Goals and Policies of the County's General Plan.

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.

#### **F. Findings of Approval of P-1 Zoning District and Final Development Plan**

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

**Project Finding:** The applicant has indicated that they intend to commence construction within 2 ½ years off the effective date of the zoning change and plan approval.

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

**Project Finding:** The project includes a General Plan Amendment to re-designate the project site to Single-Family Residential-High Density (SH), Open Space (OS), Water (WA), and Parks and Recreation (PR). The project provides 277 residential units and common areas, including open space areas with two public trail systems. Overall, the project is consistent with these new land use designations and the respective Goals and Policies of the County's General Plan.

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

**Project Finding:** The surrounding area consists of residences and the project to provide 277 residential units is consistent with the area. Residences will consist of one or two-story elements and have setbacks similar to the surrounding properties in the area. The design of the residences will be reviewed by staff prior to issuance of a building permit. Overall, the project is similar to the single-family development established in the surrounding area and the previous residential project approved for the project site.

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

**Project Finding:** The previous 292 residential development approved for the site included a Final Development Plan to establish a P-1. The project was not developed due to regulatory permitting difficulties. The project is to allow 277 residential units that is consistent with the surrounding area.

## **G. 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. Reasonable development of the property will require the removal of 23 trees will be necessary to construct the project. Replanting of trees is required, including a restitution for the replanted trees. All feasible efforts have been made to retain the maximum number of trees, as well as, to preserve those trees, which are exceptional due to their visual prominence on the site.
2. Development of this project cannot be reasonably accommodated on other parts of the property due to the size of the project site.