



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: September 24, 2019

Subject: Development Agreement for the Ball Estates Subdivision Project (#SD13-9338) in Alamo

RECOMMENDATION(S):

1. OPEN the public hearing on Ordinance No. 2019-26, CONSIDER testimony, and CLOSE the public hearing.
2. CERTIFY that the environmental impact report prepared for the Ball Estates Project was completed in compliance with the California Environmental Quality Act (CEQA), was reviewed and considered by the Board of Supervisors before Project approval, and reflects the County's independent judgment and analysis.
3. CERTIFY the environmental impact report prepared for the Ball Estates Project.
4. ADOPT the attached CEQA Findings for the Project.
5. ADOPT the Mitigation Monitoring and Reporting Program for the Project.
6. SPECIFY that the Department of Conservation and Development, located at 30 Muir Road, Martinez,

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **09/24/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 24, 2019

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Jennifer Cruz, (925)
674-7790

cc:

RECOMMENDATION(S): (CONT'D)

CA, is the custodian of the documents and other material which constitute the record of proceedings upon which the decision of the County Planning Commission is based.

7. ACKNOWLEDGE that, on August 14, 2019, the County Planning Commission approved a vesting tentative map for the Ball Estates Subdivision project, and that no appeal was filed; and ACKNOWLEDGE that the Planning Commission recommended that the Board of Supervisors adopt an ordinance approving the development agreement.

8. APPROVE the Ball Estates Subdivision project.

9. ADOPT Ordinance No. 2019-26 approving a development agreement between Contra Costa County and DWB Property, LLC, et al., for the Ball Estates Project development.

10. DIRECT the zoning administrator to conduct an annual review of the development agreement in accordance with Board of Supervisors' Resolution No. 85/412.

11. DIRECT the Clerk of the Board of Supervisors to record the development agreement in the Official Records of the Contra Costa County Clerk-Recorder within 10 days after the development agreement has been executed by all parties.

12. APPROVE and AUTHORIZE the Director of Conservation and Development, or designee, to execute, on behalf of the County, an indemnity agreement with the developer consistent with Condition of Approval No. 3.

13. DIRECT the Department of Conservation and Development to file a CEQA Notice of Determination with the County Clerk.

FISCAL IMPACT:

The applicant has paid the necessary application deposit, and is obligated to pay supplemental fees to cover all additional costs associated with the application process.

BACKGROUND:

Project Summary:

The Ball Estates major subdivision project includes a phased vesting tentative map to subdivide an approximately 61-acre site into 35 residential lots, three open space lots (Parcels A, B, C), and a staging area on Lot 21. The construction of roads, utilities, and ancillary services associated with the residential lots is included in the project, as well as the demolition of two existing residences, office buildings, and auxiliary structures. The project includes a tree permit for the removal of approximately 469 trees and proposed impact to an additional 205 trees. Exceptions to certain Title 9 requirements are also included in the project. The project also includes a development agreement between the County and the applicant for the project.

County Planning Commission Hearing

The project was heard before the County Planning Commission on August 14, 2019. During the public hearing, testimony was accepted from the applicant and members of the public. After accepting testimony and closing the public hearing for the project, the County Planning Commission passed a motion (4-1) to approve the subdivision (#SD13-9338) which included a recommendation that the Board of Supervisors adopt the development agreement prepared for the project. The Planning Commission's motion also included modifications to the conditions of approval. No appeal was filed on the subdivision approval.

Development Agreement

The applicant has submitted a request for approval of a Development Agreement between the County and DWB Property, LLC, et al. A few of the applicant's primary goals for requesting the proposed development agreement are to ensure the ability to proceed with development of the property in accordance with applicable law in effect at the time of approval, to reduce economic risk, and to provide procedural guidance for all parties in relation to the more unique elements of the project (e.g. indemnity agreement, maintenance agreement, developer funding obligation, etc.). The proposed development agreement also includes a commitment by DWB Property, LLC, et al. to pay the County \$50,000 for use towards reviewing and considering an update to the County's tree ordinance, Chapter 816-6 of the County Ordinance Code. The development agreement will have a 15-year term. The development agreement extends the term of the vesting tentative map through the term of the development agreement. The term may be extended due to an "enforced delay," or tolled due to a third-party lawsuit, initiative, or referendum. The development agreement and Ordinance No. 2016-26 are attached.

Staff recommends that the Board of Supervisors approve the project, certify the environmental impact report, adopt Ordinance No. 2019-26 approving this development agreement for the project, and take the other actions set forth above. An electronic copy of the environmental impact report is available at www.cccounty.us/ballestates. A copy of the environmental impact report may be viewed at the Clerk of the Board of Supervisors' office.

CONSEQUENCE OF NEGATIVE ACTION:

In the event that the Board does not adopt the development agreement, there will be no development agreement between the applicant and the County and the provisions of the agreement will have no effect including extending the life of the vesting tentative map 15 years, instead of the normal three years as allowed by County code which could be extended as provided for within California Subdivision Map Act.

CLERK'S ADDENDUM

ATTACHMENTS

Findings

Conditions of Approval

Parcel Page

General Plan Map

Zoning Map

Aerial Photograph

Vesting Tentative Map 08-13-19

Ordinance No. 2019-26

Development Agreement

Mitigation Monitoring Reporting Program