



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: July 13, 2021

Subject: Pantages Residential Subdivision Project (277 Lots) in the Discovery Bay area (District III)

RECOMMENDATION(S):

1. OPEN the public hearing on the Pantages Residential Development Project, RECEIVE testimony, and CLOSE the public hearing.
2. APPROVE an addendum to the Pantages Bays Residential Development Project Environmental Impact Report.
3. ADOPT the CEQA findings for the Project.
4. ADOPT the mitigation monitoring and reporting program for the Project.
5. SPECIFY that the Department of Conservation and Development, located at 30 Muir Road, Martinez, California, is the custodian of the documents and other material which constitute the record of proceedings upon which the decision of the Board of Supervisors is based.
6. DIRECT staff to file a Notice of Determination with the County Clerk.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **07/13/2021** ☒ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes:

See Addendum

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: July 13, 2021

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Jennifer Cruz, (925)
655-2867

cc:

RECOMMENDATION(S): (CONT'D)

7. ADOPT Resolution No. 2021/212, amending the General Plan to change the land use designation of the subject property from Single-Family Residential-High Density (SH), Single-Family Residential-Medium Density (SM), Water (WA), Open Space (OS), Public/Semi-Public (PS) to Single-Family Residential-High Density (SH), Open Space (OS), Water (WA), and Parks and Recreation (PR) (County File #CDGP19-0002).

8. ADOPT Ordinance No. 2021-17, rezoning the subject property from Planned Unit District (P-1), Urban Farm Animal Exclusion Overlay (UE), and General Agriculture (A-2) to Planned Unit District (P-1) and Urban Farm Animal Exclusion Overlay (-UE) (County File #CDRZ19-3252).

9. APPROVE the Preliminary and Final Development Plan (County File #CDDP19-3024) along with the associated Tree Permit.

10. APPROVE the findings in support of the Project.

11. APPROVE the Project conditions of approval.

12. APPROVE the Pantages Bay Residential Subdivision Project.

13. ACKNOWLEDGE that the Planning Commission approved the vesting tentative map for the Project, and that no appeal of this approval was filed.

FISCAL IMPACT:

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

BACKGROUND:

On December 3, 2013, the Board of Supervisors approved and certified an Environmental Impact Report (EIR) for the Pantages Bays Project near Discovery Bay. The Project consisted of the following primary features; widening of Kellogg Creek for the creation of waterfront lots; 292 single-family residential lots (116 waterfront lots and 176 non-waterfront lots); construction of a Sheriffs' Marine Patrol Substation adjacent to the waterway; creation of two open space areas; and creation of a public trail from the project entrance through the open space area to the water's edge.

Subsequently, a modification to the Pantages Bays project was approved by the Board of Supervisors on October 5, 2015. The modified project included the same number of residential units and the same design features. However, the revised project provided improved roadway circulation, improved layout of the waterfront lots, significant modifications to the shoring walls to improve their long-term durability, and a reduction of the public trail footprint through the Open Space areas. An Addendum (2015 Addendum) to the Pantages Bays EIR was prepared for the modified project and certified

by the Board of Supervisors on October 6, 2015.

Since then, the applicant has been working on obtaining state and federal regulatory permits but has encountered difficulties in securing the required permits. Based on the difficulties with obtaining state and federal regulatory permits for certain portions of the project, the applicant opted to submit a new, redesigned project to the Department of Conservation and Development. The new project would subdivide the same site into 277 residential lots, which is 15 lots less than the original 2013 approval.

New Pantages Project

The new project includes a General Plan Amendment (GPA) to modify the current General Plan map for the project site. The proposed GPA includes Single-Family Residential-High Density (SH), Open Space (OS), Water (WA), and Parks and Recreation (PR) designations. Also proposed are a rezoning of the property to a new Planned Unit Zoning District (P-1), and to the Urban Farm Animal Exclusion Overlay (UE) Zoning District, a subdivision of the project site into 277 single-family residential lots (with 18 common area parcels), and a new final development plan for the Pantages project. The proposed rezoning ordinance will also rezone lands that are no longer part of the project area back to their original general agricultural (A-2) zoning. The project also involves the removal of 23 code-protected trees. The new project involves siting of the residential land uses in a manner that avoids impacts to the northern wetland complex and Kellogg Creek, and includes a trail network, clubhouse area, two internal lakes within the project site, and public roads. The project has a reduced development footprint when compared to the 2013 project (161.5 acres vs. 171.2 acres), resulting in reduced project impacts. Of the 277 units, a total of 41.55 units are required to be set aside as affordable (15 percent of the project units). Eighty percent of the required affordable units (33 units) would be affordable to Moderate income households and twenty percent of the required affordable units (8 units) would be affordable to low income households. An in-lieu fee will be paid for the remaining 0.55 units.

Project Components

Residential Elements

The project includes 277 single-family residential housing units. These units would not have deep water or waterfront access to Kellogg Creek. The project now includes the creation of two new manmade lakes within the project site (Lake South and Lake North). The residential lots will range from 6,000 – 12,000 square feet. Lots on the northern portion of the project site are generally 60' wide by 100' deep and lots on the southern portion of the project site are generally 60' wide by 110' deep lots. Site access would be from Point of Timber Road and Wilde Drive. Roads and sidewalks will be constructed to County standards.

Trail Network

The project includes two public trail systems providing 5,200 linear feet of trails and walkways. The trails and walkways include an internal pedestrian trail adjacent to Lake South, and a multi-purpose trail around the site providing views of Kellogg Creek, the adjacent wetlands, and Lake North. The internal pedestrian trail around Lake South would connect to Point of Timber Road and passive park areas throughout the project site. This trail would also provide maintenance and emergency access.

Clubhouse

The proposed project includes a clubhouse to provide residents with amenities such as exercise facilities, meeting rooms, and a viewing area of the wetlands and Kellogg Creek. The clubhouse would be located at the eastern terminus of Point of Timber Road adjacent to Kellogg Creek. This location would accommodate the clubhouse along with parking, guest parking, and active outdoor spaces to accommodate recreational uses.

Internal Lakes

The proposed project would include construction of two lakes within the project site, Lake South and Lake North. Lake South, approximately 23 acres in size, would be surrounded by residential units on three sides, along with open space walkways that will provide view corridors. The northern edge of Lake South will be adjacent to the extension of Point of Timber Road, providing views of the entire lake from the trail and road. Lake South includes five bio-retention areas along its perimeter. Lake North would encompass approximately 7 acres and would be located in an upland area among the seasonal wetlands and emergent marsh in the northern part of the project site.

Impacts To Wetlands and Kellogg Creek

The proposed project avoids or minimizes impacts to aquatic resources including wetland complexes and Kellogg Creek. Approximately 5.29 acres of wetland impacts were evaluated in the 2013 project and approximately 5.55 acres of wetland impacts were evaluated in the 2015 project. The previous projects also required dredging to create bays and coves, that would have resulted in impacts to a 10.75 area along Kellogg Creek to facilitate deep water access. The project would preserve on-site wetland features, would be set back from Kellogg Creek by approximately 70 feet, and would not increase in boat activity on the Sacramento San Joaquin Delta due to the elimination of bays and coves that would have provided deep water access.

Grading

The cut and fill amounts would not exceed the cut and fill amounts analyzed in the original 2013 project. Dirt excavated from the internal lakes would be used to raise the overall site to the same levels approved with the 2013 project, which raised portions of the project site out of the 100-year floodplain. Cut material would be balanced on-site,

however, if needed, up to 90,000 additional cubic yards of fill material may need to be imported annually during construction. Haul trucks would access the project site from Highway 4, approximately 1.5 miles away from the project site, then proceed onto Bixler Road, and then turn right onto Point of Timber Road to enter the project site.

The proposed project would no longer require a shoring wall, as the project would be set back from Kellogg Creek. Furthermore, the use of any type of pile driving equipment is not anticipated to be needed.

Environmental Review

The Department of Conservation and Development previously prepared an EIR for the Pantages Bays Residential Development Project, a prior version of the currently proposed project. The Board of Supervisors certified the Pantages Bays EIR on December 3, 2013. The Board also adopted a previous addendum to the EIR on October 6, 2015.

An Addendum has been prepared for the proposed Project. As stated in the Addendum to the Pantages Bays EIR, the changes proposed in the revised Project are not substantial and the circumstances under which the Project will be undertaken do not require major revisions to the existing EIR. No new information has been identified that shows new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Accordingly, a new subsequent or supplemental EIR is not required. 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).

County Planning Commission

The project was scheduled before the County Planning Commission (CPC) on April 28, 2021. The CPC opened the hearing and received testimony from neighbors regarding clarification of access to the subject property, impacts to shoreline, concern with higher density, impacts to wildlife, community benefits, additional fire district services, and setbacks. These concerns were addressed by staff and the applicant at the hearing. The CPC voted to approve (6-0) the vesting tentative map (County File #CDSD19-9527) based on staff's recommendations, including modifications to conditions of approval #29, 38, and 73, the addition of condition of approval #139, and recommended approval of the remaining components of the project to the Board of Supervisors. The changes to condition of approvals include the removal of language related to the shoring wall and removal of language referencing the bank stabilization for Kellogg Creek, removal of the reference to turbidity barriers, since these elements are no longer part of the project and removal of language to clarify the required setbacks. The added condition of approval required the applicant to enter into an agreement with the East Contra Costa Fire Protection District to annex in to the Community Facilities District.

Conclusion

The proposed project is consistent with applicable goal and policies of the General Plan and also with the intent of the SH, OS, WA, PR General Plan designations and the P-1 Zoning district and the project avoids impacts to the norther wetland complex and Kellogg Creek compared to the previously approved project. The project includes 277 residential lots, which will provide 41.55 inclusionary housing units, and community benefits that include preservation of onsite wetland resource, pedestrian access to the wetlands, and supplemental funding to support park maintenance in the Discovery Bay area. Staff recommends that the Board of Supervisors approve the proposed General Plan Amendment, rezoning, and final development, based on the attached findings and conditions of approval.

CONSEQUENCE OF NEGATIVE ACTION:

In the event that the proposed project is not approved, the applicant will not obtain approval of the required General Plan Amendment, Rezoning, and Development Plan entitlements needed to allow development of the proposed 277-lot subdivision project in the Discovery Bay area.

CHILDREN'S IMPACT STATEMENT:

The project involves a 277-lot subdivision. Pursuant to Condition of Approval #8, the applicant shall pay the required fee established by the Board of Supervisors per lot upon which a residence is being built for childcare facility needs in the area. Therefore, the recommendation supports one or more of the following children's outcomes:

- (1) Children Ready for and Succeeding in School;
- (2) Children and Youth Healthy and Preparing for Productive Adulthood;
- (3) Families that are Economically Self Sufficient;
- (4) Families that are Safe, Stable and Nurturing; and
- (5) Communities that are Safe and Provide a High Quality of Life for Children and Families.

CLERK'S ADDENDUM

Speakers: Name not given; Name not given. Written commentary received from Dave Johnson, Discovery Bay (attached).

ADOPTED the recommendations; and revised Condition of Approval 68 g to change 'Ownership (subject to conservation covenants/easements) and maintenance: TDBCSD. to now read "Ownership (subject to conservation covenants/easements) and mainenance: TDBCSD or alternative beings below."

ATTACHMENTS

Resolution 2021/212

Project Findings

Conditions of Approval COAs-SD19-9527

Ordinance 2021-17

Pantages Bays Residential Development EIR Addendum

Pantages Bays Residential Development -EIR

MMRP

Maps

County Planning Commission Staff Report

Project Plans

PowerPoint Presentation-Pantages Bays Residential Development