



STAFF REPORT

Date: April 12, 2016
To: Bryan H. Montgomery, City Manager
From: Kenneth W. Strelow, Senior Planner
SUBJECT: Duarte Ranch 9027 Tentative Map Extension (TME 01-16)

SUMMARY

This is a continued public hearing on a request by Richard Sestero of Seeno Homes ("Applicant") for approval of a Tentative Map Extension for the project known as Duarte Ranch Subdivision 9027 ("Project"). The map is currently set to expire on May 8, 2016. Duarte Ranch Subdivision consists of approximately 29 acres subdivided into 116 detached single family residential lots and a 2.1 acre park. The project is located at the southeast corner of Laurel Road and Rose Avenue and zoned P-1 (Planned Unit Development) District. APNs 034-260-024, 025, and 026.

Staff recommends the City Council adopt the resolution approving Duarte Ranch 9027 Tentative Map Extension (TME 01-16), as conditioned.

BACKGROUND

The public hearing was originally opened on March 22, 2016. The City Council voted to continue the public hearing to April 12, 2016 to allow adequate time to provide public hearing notices to all owners of properties with 500 feet of the project boundaries, as well as the standard list of outside agencies and entities requesting such notice. No public comments were submitted and no deliberation of the project took place at the March 22, 2016 meeting.

General Plan and Zoning

The General Plan Land Use Designation for the project site is *Single Family Residential, High Density* as depicted in the [Oakley 2020 General Plan](#) Figure 2-2 (Land Use Diagram). The site is zoned "P-1" (Planned Unit Development) District, which was approved along with a development plan for the Duarte Ranch Subdivision project.

Previous Entitlements and Subdivision Extensions

The Duarte Ranch Subdivision 9027 Tentative Map was originally approved by the Oakley City Council on May 8, 2006 through adoption of Resolution 76-06. Approval of the rezone to P-1 District was on May 22, 2006 through adoption of Ordinance 08-06. Originally, the tentative map was conditioned to expire three (3) years after the approval (or May 8, 2009). However, through multiple state-wide automatic map extensions¹ the tentative map expiration date was pushed out for an additional seven (7) years, or to May 8, 2016.

After the original applicant, Heartwood Communities Inc., broke ties with the project, the non-inhabited and larger portion of the project was purchased by Discovery Builders (a sister company of Seeno Homes) in 2007. In 2015, the applicant approached the City with interest to proceed with development on Duarte Ranch, and with a request to modify specific conditions of approval in order to make the project more feasible. On November 10, 2015, the City Council adopted Resolution 131-15, which deleted conditions of approval 55 and 56, and modified conditions of approval 41, 42, 46, 58, 59 from the original Resolution 76-06. In summary, the deleted conditions would have required the developer to acquire, dedicate and improve private property across the streets from the project's west and north property lines; a practice not common with City of Oakley tentative maps. The modified conditions clarified language related to stormwater treatment, street light construction, and right of way dedication.

PROJECT DESCRIPTION

The applicant is requesting an extension to the entitlement of the approved tentative map in order to allow adequate time to complete what is expected to be two main phases of the project. According to the applicant, plans to begin Phase 1 of the project will begin this year, but it is unknown if the market will allow for Phase 2 to be feasible. It is also unknown if recording the Final Map will provide for an automatic extension, which is dependent on the dollar amount of off-site improvements. Given these unknowns, the applicant has requested a three (3) year extension, which would result in the tentative map expiring on May 8, 2019.

ENVIRONMENTAL REVIEW

It can be seen with certainty that the request for an extension to the tentative map will not result in any new physical impacts to the project, and therefore not result in any new significant environmental impacts. The project falls within the scope of the original California Environmental Quality Act (CEQA) analysis and no further environmental analysis is required.

¹ SB 1185 (2008) – 12 months, AB 333 (2009) – 24 months, AB 208 (2011) – 24 months, and AB 116 (2013) – 24 months.

ANALYSIS

The Subdivision Map Act (Government Code 66452.6 (e)) allows the governing body with authority to approve a tentative map to extend that approval for a period not to exceed six (6) additional years from the original expiration date. That original expiration date would include any automatic extensions, such as those mentioned above, and the extension does not have to occur in one approval. In other words, the City may grant multiple approvals on the same map, so long as requests for extensions are submitted prior to expiration of the tentative map.

The applicant is requesting a three (3) year extension to the tentative map approval. Staff is recommending a one (1) year extension in order to encourage the applicant/developer to continue processing the development in a timely manner, consistent with what was presented to Staff and the City Council at the time the developer requested deletions and modifications to the original conditions of approval. Staff has communicated to the applicant that if construction is started and continues to move forward on a phase 1, and it is found that offsite improvements would not constitute an automatic extension of the tentative map, that Staff would recommend approval of additional discretionary extensions, if needed. The applicant has been notified of this recommendation and is in agreement.

Conditions of Approval

Pursuant to the Subdivision Map Act, the City Council may approve or conditionally approve extensions to a tentative map. For this extension, the City's Public Works and Engineering Department is requesting the City Council 1) replace conditions 85, 86, 87 and 90 from Resolution 76-06 (original TM approval) with a single condition to that will combine them, and 2) replace condition 88 from Resolution 76-06 with a single condition that will update the language. The conditions requested for modification in this action were not modified by Resolution 131-15.

The first new condition would require the developer to annex in to the City's recently established Community Facilities District No. 2015-2 (CFD No. 2015-2), which provides a funding mechanism to mitigate the Development's fiscal impact associated with the City's regional, community, and neighborhood parks, public area landscaping, street lights, and storm water facilities, which replaces the need for the other conditions. The condition would also allow the developer to establish an alternative and acceptable funding mechanism.

The second new condition would update the language related to annexing into the City's Special Police Tax Area District, which provides a funding mechanism to mitigate the development's impact on the City's police services budget. The condition would also allow the developer to establish an alternative and acceptable funding mechanism.

It is noted here and referenced in the proposed resolution's findings that all conditions of approval in Resolution 76-06 that were not modified through adoption of Resolution 131-15

(as described in the “Background” above) or in the proposed resolution are still in full effect for this tentative map. Likewise, all conditions in Resolution 131-15 are still in effect for the tentative map.

FINDINGS

Complete draft findings are included in the attached resolution.

RECOMMENDATION

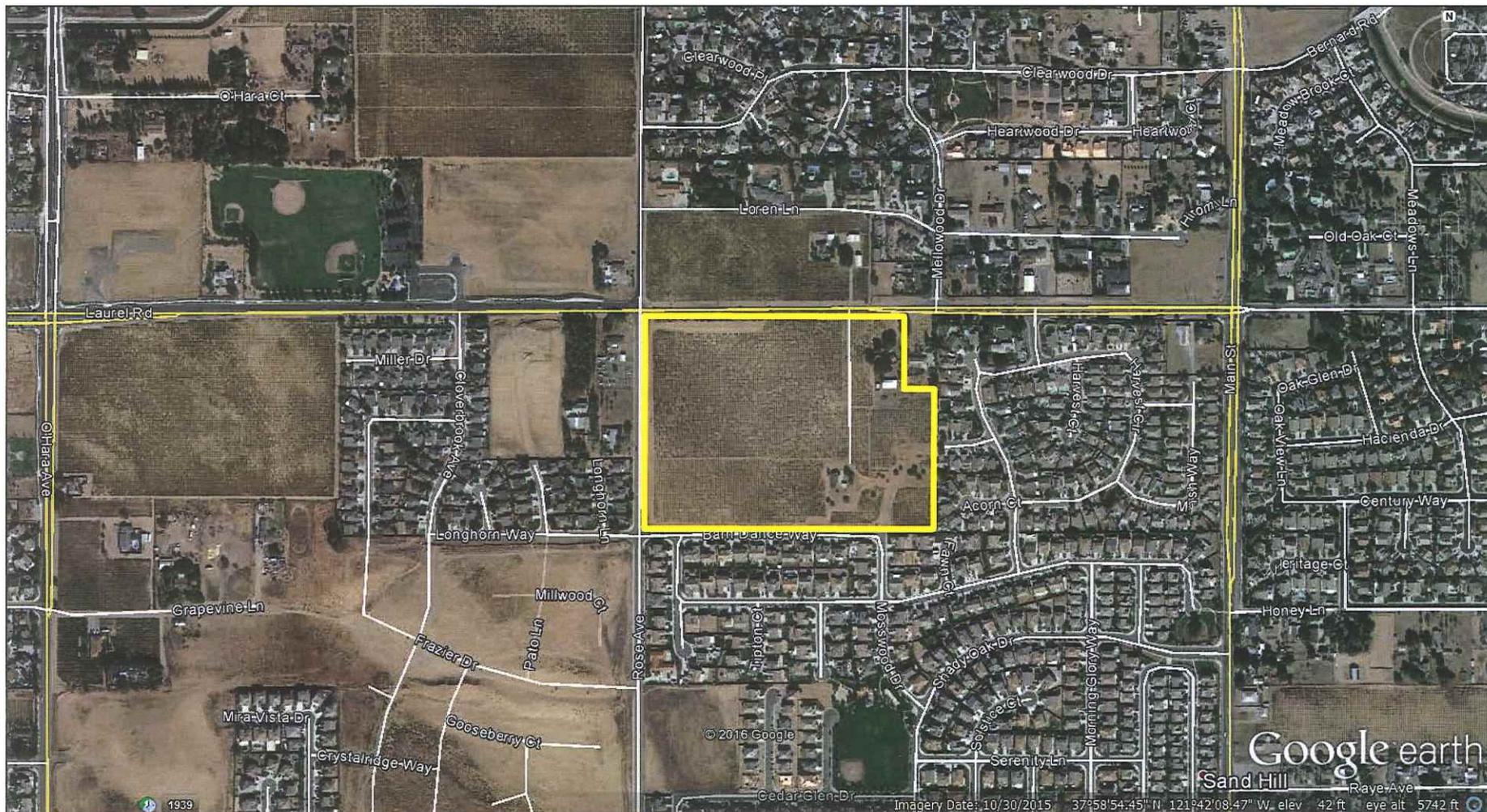
Staff recommends the City Council adopt the resolution approving Duarte Ranch 9027 Tentative Map Extension (TME 01-16), as conditioned.

ATTACHMENTS

1. Vicinity Map
2. Public Hearing Notice
3. Draft Resolution

Vicinity Map

Duarte Ranch 9027 Tentative Map Extension (TME 01-16)





City of Oakley
3231 Main Street
Oakley, CA 94561
www.oakleyinfo.com

NOTICE OF PUBLIC HEARING

Notice is hereby given that on **April 12, 2016** at 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council of the City of Oakley will hold a Public Hearing at the Council Chambers located at 3231 Main Street, Oakley, CA 94561 for the purposes of considering an application for a **Tentative Map Extension**.

Project Name: Duarte Ranch 9027 Tentative Map Extension (TME 01-16)

Project Location: Southeast corner of Laurel Road and Rose Avenue, Oakley, CA 94561. APN 034-260-024, 025, and 026.

Applicant: Richard Sestero, Seeno Homes, 4021 Port Chicago Hwy., Concord, CA 94520.

Request: This is a continued public hearing on a request for approval of a Tentative Map Extension. The applicant is requesting to extend the approval of Tentative Map 9027 (known as "Duarte Ranch Subdivision") for an additional three (3) years. The map is currently set to expire on May 8, 2016. Duarte Ranch Subdivision consists of approximately 29 acres subdivided into 116 detached single family residential lots and a 2.1 acre park. The project is zoned P-1 (Planned Unit Development) District.

The Staff Report and its attachments will be available for public review, on or after April 8, 2016 at City Hall, 3231 Main Street, Oakley, CA 94561 or on the City's website www.oakleyinfo.com.

Interested persons are invited to submit written comments prior to and may testify at the public hearing. **Written comments may be submitted to Kenneth W. Strelow, Senior Planner at the City of Oakley, 3231 Main Street, Oakley, CA 94561 or by email to strelow@ci.oakley.ca.us.**

NOTICE IS ALSO GIVEN pursuant to Government Code Section 65009(b) that, if this matter is subsequently challenged in Court by you or others, you may be limited to raising only those issues you or someone else has raised at a Public Hearing described in this notice or in written correspondence delivered to the City of Oakley City Clerk at, or prior to, the Public Hearing.

RESOLUTION NO. XX-16

**A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS
AND APPROVING A TENTATIVE MAP EXTENSION FOR THE PROJECT KNOWN
AS DUARTE RANCH 9027 TENTATIVE MAP EXTENSION (TME 01-16)****FINDINGS**

WHEREAS, on February 18, 2016, Richard Sestero of Seeno Homes ("Applicant") filed an application requesting approval of a Tentative Map Extension for the project known as Duarte Ranch Subdivision 9027 ("Project"). The project is located at the southeast corner of Laurel Road and Rose Avenue and zoned P-1 (Planned Unit Development) District. APNs 034-260-024, 025, and 026; and

WHEREAS, on February 18, 2016, the project application was deemed complete per Government Code section 65920 et. seq; and

WHEREAS, the map is currently set to expire on May 8, 2016; and

WHEREAS, Duarte Ranch Subdivision consists of approximately 29 acres subdivided into 116 detached single family residential lots and a 2.1 acre park; and

WHEREAS, the General Plan Land Use Designation for the project site is Single Family Residential, High Density as depicted in the Oakley 2020 General Plan Figure 2-2 (Land Use Diagram). The site is zoned "P-1" (Planned Unit Development) District, which was approved along with a development plan for the Duarte Ranch Subdivision project; and

WHEREAS, the tentative map was originally approved by the Oakley City Council on May 8, 2006 through adoption of Resolution 76-06. Approval of the rezone to P-1 District was on May 22, 2006 through adoption of Ordinance 08-06; and

WHEREAS, on November 10, 2015, the City Council adopted Resolution 131-15, which deleted conditions of approval 55 and 56, and modified conditions of approval 41, 42, 46, 58, 59 from the original approval Resolution 76-06; and

WHEREAS, it can be seen with certainty that the request for an extension to the tentative map will not result in any new physical impacts to the project, and therefore not result in any new significant environmental impacts. The project falls within the scope of the original California Environmental Quality Act (CEQA) analysis and no further environmental analysis is required; and

WHEREAS, on March 11, 2016, the Notice of Public Hearing for the project was published in the Contra Costa Times, and on March 12, 2016 it was posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, and outside the library at Freedom High School located at 1050 Neroly Road; and

WHEREAS, on March 22, 2016, the City Council opened the public hearing and continued the item to the April 12, 2016 meeting in order to allow adequate time to notice responsible agencies and owners of property within 500 feet of the subject property's boundaries; and

WHEREAS, on March 31, 2016, the Notice of Public Hearing for the project was posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, outside the library at Freedom High School located at 1050 Neroly Road, and at the project location, and mailed out to all owners of property within 500 feet of the project boundaries, outside agencies, and parties requesting such notice; and

WHEREAS, on April 12, 2016, the City Council continued the public hearing and received a report from City Staff, oral and written testimony from the applicant and public, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the project, as revised by the City Council during its deliberations; and

WHEREAS, if any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City; and

WHEREAS, these Findings are based on the City's General Plan, the City's Zoning and Subdivision Ordinances, the Subdivision Map Act, Vesting Tentative Map 9027, the project's P-1 District and Final Development Plan, and the information submitted to the City Council at its April 12, 2016 meeting, both written and oral, including oral information provided by the applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the Subdivision (hereafter the "Record").

NOW, THEREFORE, BE IT RESOLVED THAT, on the basis of the above Findings and the entire Record, the City Council makes the following additional findings in support of the recommended approvals:

- A. Regarding the application requesting approval of Duarte Ranch 9027 Tentative Map Extension (TME 01-16), the City Council finds that:
1. The proposed tentative map extension does not modify any of the original tentative map's design, and therefore, all of the findings made on the original tentative map (City Council Resolution 76-06) are still valid and apply to this extension; and
 2. All conditions of approval in City Council Resolution 76-06, not otherwise modified by City Council Resolution 131-15 or this resolution, are still in effect; and

3. All conditions of approval in City Council Resolution 131-15, not otherwise modified by this resolution, are still in effect

B. The Project complies with Measure J Growth Management requirements.

BE IT FURTHER RESOLVED THAT, on the basis of the above Findings and the Record, the City Council approves the applicant's request for Duarte Ranch 9027 Tentative Map Extension (TME 01-16), subject to the following conditions:

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE NOTED (BOLD CONDITIONS ADDED OR AMENDED AT PUBLIC HEARING):

Planning Department Conditions

1. Applicant shall comply with the requirements of the Oakley Municipal Code and applicable Conditions of Approval from City Council Resolution Nos. 76-06 and 131-15, as well as City Council Ordinance No. 08-06. Any exceptions must be stipulated in these Conditions of Approval.
2. This approval shall extend the period of the tentative map for a period of one (1) additional year, resulting in Tentative Map 9027 expiring on May 8, 2017, unless it is further extended pursuant to the Subdivision Map Act or other automatic extensions. This extension shall constitute one (1) year of the maximum six (6) years of discretionary extension(s) allowed under Government Code section 66452.6(e).
3. All conditions of approval shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense.
4. The applicant shall indemnify, defend, and hold harmless the City of Oakley, the City Approving Authorities, and the officers, agents, and employees of the City from any and all claims, damages and liability (including, but not limited to, damages, attorney fees, expenses of litigation, costs of court).

Public Works and Engineering Conditions

5. Condition of Approval Nos. 85, 86, 87 & 90 of City Council Resolution 76-06 shall be replaced with the following condition:
 - a. Either a) Annex the property to the City of Oakley's Community Facilities District No. 2015-2 (CFD No. 2015-2) which provides a funding mechanism to mitigate the Development's fiscal impact associated with the City's regional, community and neighborhood parks, public area landscaping, street lights and storm water facilities, or b) establish a

separate funding mechanism acceptable to the City of Oakley to mitigate the Development's fiscal impact associated with the City's regional, community and neighborhood parks, public area landscaping, street lights and storm water facilities. If the applicant elects to annex into CFD No. 2015-2, the applicant shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of the annexation shall be paid by applicant in advance. The CFD's annual special tax rates per parcel will be set at the time of annexation. The annexation shall be completed prior to filing of the final parcel map. The applicant may defer annexation of the 12 acre remainder parcel to a later date such as recording a future map of the parcel.

6. Condition of Approval Nos. 88 of City Council Resolution 76-06 shall be replaced with the following condition:
 - a. Either a) Annex the property to the City of Oakley's Oakley Special Police Tax Area District which provides a funding mechanism to mitigate the Development's impact on the City's police services budget or b) Establish a separate funding mechanism acceptable to the City of Oakley to mitigate the Development's impact on the City's police services budget. If the applicant elects to annex into the Oakley Special Police Tax Area District, the applicant shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of the annexation shall be paid by applicant in advance. The Oakley Special Police Tax Area District's annual special tax rates per parcel will be set at the time of annexation. The annexation shall be completed prior to filing of the final parcel map. For the homes that are occupied prior to the City receiving the first disbursement from the County on their property tax bills, the project proponent shall be responsible for paying the pro-rata share for the remainder of the fiscal year.

Advisory Notes:

The following Advisory Notes are provided to the applicant as a courtesy but are not a part of the conditions of approval. Advisory Notes are provided for the purpose of informing the applicant of additional ordinance requirements that must be met in order to proceed with development.

- A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.
- B. The project will require a grading permit pursuant to the Ordinance Code.
- C. Applicant shall comply with the requirements of Ironhouse Sanitary District.
- D. The applicant shall comply with the requirements of the Diablo Water District.

- E. Comply with the requirements of the East Contra Costa Fire Protection District.
- F. Comply with the requirements of the Building Inspection Division. Building permits are required prior to the construction of most structures.
- G. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
- H. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- I. The applicant shall obtain an encroachment permit for construction within existing City rights of way.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the April 12, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Kevin Romick, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date