

STAFF REPORT

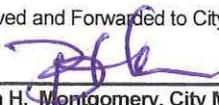
Date: Tuesday, September 8, 2015

To: Bryan H. Montgomery, City Manager

From: Joshua McMurray, Planning Manager

Subject: **A Request for a Five Year Extension to the Previously Approved Stonegate Tentative Parcel Map (MS 02-976) and Master Conditional Use Permit – 5400 Live Oak Avenue (APN: 037-100-066)**

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Summary and Recommendation

The proposed project is a request by Stonegate Partnership LLC for the approval of a five year extension to their approved Tentative Parcel Map (MS 02-976) and Master Conditional Use Permit. The previously approved project consists of a Tentative Parcel Map to subdivide a 2.5-acre parcel into two 1.25-acre parcels. The intent of the subdivision was to develop the property as a commercial/retail development. The project is located at 5400 Live Oak Avenue (APN: 037-100-066). At the time the project was approved, the applicant did not identify a land use or tenant for the site and the City required a Master Land Use Permit to guide the ultimate development of the site. The original project was approved on September 7, 2004 (Planning Commission Resolution No. 20-04). Through a series of legislative extensions approved by the State, the expiration date of the entitlements was extended though to September 7, 2015. The Subdivision Map Act (SMA) allows for an extension of time to be requested on a map nearing expiration as long as the extension is requested before the expiration date of the approved map per California Government Code section 66463.5(c). This project is in compliance with that requirement.

Staff recommends the City Council adopt the Resolution approving the application by Stonegate Partnership LLC, to extend the expiration date of the Tentative Parcel Map (MS 02-976) and Master Land Use Permit for an additional five (5) years, as conditioned.

Tentative Parcel Map Extension

As a result of the economic downturn in the late 2000's, the California Legislature passed bills in 2008, 2009, 2011 and 2013 that automatically extended the expiration dates of tentative maps, vesting tentative maps, and tentative parcel maps, subject to specific conditions. The purpose of the state extensions has been to grant additional time to maps already in effect at the time of the bill passing. Therefore, in order for a Map to qualify for an automatic time extension granted by one of the state bills, the map must be valid at the time the state bill was passed. The City has also made the interpretation that when the map has been automatically extended by state laws, the associated entitlements are likewise automatically extended in time. When the automatic extensions

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are no longer in effect, or do not apply to a map, then an applicant must apply for a time extension. If no time extensions are available, then the applicant would need to apply for the requested entitlements as a new project.

The Subdivision Map Act does not allow cities to impose additional conditions of approval other than those related to the time the map is valid. This does not restrict the developer or applicant from agreeing to a new condition imposed by the City. Although the project was approved in 2004, through review of the projects approvals, Staff has determined that this project is still consistent with the General Plan and Zoning currently in affect. The previous approval still requires a Design Review approval for any new construction. This Design Review process would allow the City to analyze and condition any future project built on the two lots.

California Government Code section 66463.5(c) allows for an applicant to request up to an additional six (6) years, subject to the approval by the City Council. This request would be in addition to the legislative extensions mentioned above. Since the applicant was granted a one (1) year administrative extension in 2007 which extended the approval to September 7, 2008, the applicant has five (5) years remaining to request. In an application made on June 11, 2015, the applicant has requested the additional five (5) year extension. If granted, the approval for this project would be extended through to September 7, 2020. State Law would not allow for any additional extensions past this date.

Original Project Description

The previously approved project consists of a Tentative Parcel Map to subdivide a 2.5-acre parcel into two 1.25-acre parcels. The intent of the subdivision was to develop the property as a commercial/retail development. The project is located at 5400 Live Oak Avenue (APN: 037-100-066). At the time the project was approved, the applicant did not identify a land use or tenant for the site and the City required a Master Land Use Permit to guide the ultimate development of the site. The Staff Report from the original project approval is attached for reference.

Options

As there have been legislative extensions applicable to most approved subdivision maps in Oakley, Staff has not had to process an extension in quite some time. With that said there is no guidance in the Oakley Municipal Code as it relates to criteria to determine the appropriate time period to extend the life of a subdivision map. The City is committed to its economic development program and by extending this map to the maximum allowable time per State Law, the City would provide a means for this development to move forward within the next five years. If the City were to deny the extension of time request, the applicant would have to start all over with a new submittal that would cost additional money and take additional time. The commercial market appears to be slowly coming back to Oakley as we have seen more interest over the past several months compared to the past several years during the recession. Granting the applicant the requested extension of time would make the property more attractive to developers as the entitlement process is complete.

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The City Council may also choose to approve an extension of time less than the five (5) years requested by the applicant. Although an option, Staff is recommending the City Council approve the full length of the request for the reasons listed above.

Environmental Review

This project is within the scope of the previously adopted Negative Declaration for the Stonegate project (MS 02-976) on file at the City of Oakley City Hall. No additional environmental review is necessary.

Findings

Draft findings are included in the attached resolution.

Recommendation

Staff recommends the City Council adopt the Resolution approving the application by Stonegate Partnership LLC, to extend the expiration date of the Tentative Parcel Map (MS 02-976) and Master Land Use Permit for an additional five (5) years, as conditioned.

Attachments

1. Vicinity Map
2. Planning Commission Resolution No. PC 20-04
3. Stonegate MS 02-976 and Master land Use Permit Staff Report dated August 9, 2004
4. Proposed City Council Resolution

Vicinity Map

Stonegate Tentative Parcel Map (MS 02-976)
and Master Conditional Use Permit
5400 Live Oak Avenue
APN: 037-100-066



**CITY OF OAKLEY
PLANNING COMMISSION
RESOLUTION NO. 20-04**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OAKLEY
MAKING FINDINGS AND APPROVING A MINOR SUBDIVISION TO CREATE TWO
1.25-ACRE PARCELS AND A MASTER LAND USE PERMIT TO GUIDE FUTURE
DEVELOPMENT OF THE SITE.**

WHEREAS, On November 1998, the voters approved the incorporation of the City of Oakley, to be effective July 1, 1999; and

WHEREAS, On July 1, 1999, the City of Oakley was incorporated; and

WHEREAS, After incorporation, the City adopted the Contra Costa County General Plan for the Oakley Area as its general plan, the County's subdivision ordinance as its subdivision ordinance, and the County's zoning ordinance as its zoning ordinance (Ordinance Nos. 1-99, 17-99, 22-99). Since that time, the City has prepared its own general plan, as required by Government Code Section 65360; and

WHEREAS, in December 2002, the Oakley City Council adopted the Oakley 2020 General Plan; and

WHEREAS, on April 8, 2002, the Stonegate Partnership (hereafter "Applicant") filed an application with the City of Oakley for a Minor Subdivision (MS 02-976) to create two 1.25-acre parcels and a Master Land Use Permit (hereafter the "Project") on property located at 5400 Live Oak Avenue (APN 037-100-035), hereafter the "Property"; and

WHEREAS, the Property is currently designated Commercial in the General Plan. The property is within the City's Redevelopment Area and currently zoned P-1 for Commercial; and

WHEREAS, the City prepared an Initial Study and Mitigated Negative Declaration which was distributed for a 30-day public review period which ended on July 14, 2004; and

WHEREAS, on July 19, 2004, the Planning Commission held a properly noticed public hearing at which it received a report from City staff, and staff indicated the applicant had requested a continuance, and the Commission voted to continue the public hearing to a date specific; and

WHEREAS, on August 9, 2004, the Planning Commission held a properly noticed public hearing at which it received a report from City staff, oral and written testimony from the Applicant and the public, and deliberated on the application; and

WHEREAS, these Findings are based on the City's General Plan, the City's Zoning Ordinances, and the information submitted to the Planning Commission at its August 9, 2004 meeting, both written and oral, including oral information provided by the

Applicant, as reflected in the minutes of the meeting, together with the documents contained in the file for the Minor Subdivision and Master Land Use Permit (hereafter the "Record"); and

WHEREAS, after hearing the matter on August 9, 2004, the Planning Commission by straw vote directed staff to prepare a resolution to approve the Negative Declaration, as prepared by the City, and a Minor Subdivision (MS 02-976) and a Master Land Use Permit for 5400 Live Oak Avenue.

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION:

- A. Approve the Negative Declaration as prepared by the City;
- B. Adopt the findings of fact as stated below for the Minor Subdivision (MS 02-976); and
 - 1. *The proposed subdivision, together with the provisions of its design and improvement, is consistent with General Plan.*
- C. Adopt the seven findings of fact as stated below for the Master Land Use Permit for 5400 Live Oak Avenue:
 - 1. *The proposed project, as approved, is not detrimental to the health, safety, and general welfare of the City;*
 - 2. *The proposed use will not adversely affect the orderly development of property within the City;*
 - 3. *The proposed use, as conditioned, will not adversely affect the preservation of property values and protection of tax base within the City;*
 - 4. *The proposed use will not adversely affect the policies and goals set by the General Plan;*
 - 5. *The proposed use will not create a nuisance and/or enforcement problems within the neighborhood;*
 - 6. *The proposed use will not encourage marginal development within the neighborhood; and*
 - 7. *Special conditions or unique characteristics of the subject property and its location or surroundings have been established.*
- D. Approve the Master Subdivision (MS 02-976) and Master Land Use Permit for the 5400 Live Oak Avenue – with the conditions listed below:

CONDITIONS OF APPROVAL

Planning Division Conditions

1. This Minor Subdivision and Master Land Use Permit are approved, as shown on the revised plans, received by the Community Development Department on July 13, 2004 as modified by the following Conditions of Approval, subject to final review and approval by the Community Development Director.
2. This Minor Subdivision and Master Land Use Permit approval shall be effectuated within a period of three (3) years from this date and if not effectuated shall expire on **September 7, 2007**. Prior to said expiration date, the applicant may apply for an extension of time, provided, however, this approval shall be extended for no more than a total of one year from **September 7, 2007**.
3. The applicant or future developer shall submit a Development Plan that shall include the building location, parking area, landscaping, fence plan, and lighting for approval to the Planning Commission.
4. The applicant or future developer shall submit detailed landscaping plans for the approval of Community Development Director.
5. The applicant or future developer shall submit an application for Design Review for approval by the Planning Commission.
6. The design of the buildings shall complement the Shurgard Storage Facility as well as each other.
7. The Master Land Use Permit has approved all uses identified in the Oakley Land Use Matrix in the Oakley Redevelopment Area Planned Unit District Guidelines that are permitted by right or with an administrative approval. All uses requiring a Land Use Permit in the matrix and uses not identified in the matrix still need Planning Commission approval. The Oakley Land Use Matrix is included as Attachment 1 of the Conditions of Approval.
8. The following shall be prohibited as sole uses:
 - A. Automotive Garage
 - B. Automotive Body Repair
9. Noise generating construction activities, including such things as power generators, shall be limited to the hours of 7:30 a.m. to 5:30 p.m. Monday through Friday, and shall be prohibited on State and Federal Holidays. The restrictions on allowed working days may be modified on prior written approval by the Community Development Director.
10. The maximum allowed lot coverage on the 1.03-acre parcel is 40% or 17,946 square feet and 18,295 square feet on the 1.05-acre parcel.
11. The setbacks for Commercial Development are 10-foot front yard setback and

there are no side and rear yard setback. There shall be a 25-foot front yard setback that shall include 15 feet of landscaping.

12. The two newly created parcels shall share a driveway aisle that may be restricted to perform as a right-in and right-out access point. A comprehensive precise alignment study of major roadways in Oakley will determine whether or not Live Oak Avenue will include a median island.
13. The development on the northern most parcel shall be coordinated with the City Public Works and Engineering Division to maintain the existing 20-foot access easement along the northern edge of the property.
14. The **minimum** parking required on site is based upon the **maximum** building footprint and is calculated at 1 space per 250 square feet of building square footage.
15. Parking spaces shall be sized at 9 feet by 19 feet.
16. A lighting and photometric plan will need to be submitted prior to the issuance of building permits. The minimum requirement shall be one foot of candle light within all parking areas and pedestrian pathways. The light fixtures on the commercial building shall be decorative fixtures. Light poles shall be a maximum height of 25 feet.
17. The applicant shall identify and remove the 3-inch diameter metal pipe extending approximately 6 inches above the concrete patio slab, referenced within the Phase One study for the project. Such removal shall be indicated on the improvement plans for the project.

Archaeological Review Requirements

18. Should archaeological materials be uncovered during grading, trenching or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), if deemed necessary.

Landscaping Requirements

19. There shall be a 15-foot landscape strip within the required 25-foot front yard setback along Live Oak Avenue.
20. All street trees shall be 24" box.
21. A landscaping and irrigation plan shall be submitted as part of the Development Plan and receive approval from the Planning Commission. The landscaping plan shall include the project's frontage and side yards. Landscaping shall conform to the City's Water Conservation Landscape Ordinance 82-26 and shall be installed prior to final occupancy. The plan shall be prepared by a licensed landscape architect and shall be certified to be in compliance with the City's Water Conservation Ordinance.

22. California native drought tolerant plant or shall be used as much as possible. All interior lot trees shall be a minimum fifteen-gallon size, all shrubs shall be a minimum five-gallon size, except as otherwise noted.
23. The parking lot shall provide 40 percent shading at tree maturity.
24. There should be a mixture of evergreen and deciduous trees planted throughout the site.
25. Prior to occupancy, an on-site inspection shall be made of privately owned lands by a licensed landscape professional to determine compliance with the approved landscape plan. A certification of completion shall be submitted to the Community Development Director for review and approval.
26. If occupancy is requested prior to the installation of the landscape and irrigation improvements, then either a cash deposit or a letter of credit shall be delivered to the City for 125 percent of the estimated cost of the uncompleted portion of the landscape and irrigation improvements. If compliance is not achieved after six months of occupancy as determined by the Community Development Director, the City shall contract for the completion of the landscaping and irrigation improvements to be paid for by the held sum. The City shall return the unused portion within one year of receipt or at the completion of all work.

Fencing

27. A fencing plan shall be submitted as part of the Development Plan a receive approval from the Planning Commission.

Sign Program Requirements

28. Only the following signs shall be allowed, all subject to final review and approval by the Community Development Director prior to the issuance of a building permit for signs:
 - A. One monument sign per parcel.
 - B. One street or parking lot facing wall sign per tenant space.
 - C. All proposed signage shall meet the requirements of the City's Zoning Ordinance and the Redevelopment Area Design Guidelines. All proposed signage shall be approved by the Community Development Director.
 - D. A sign program shall be submitted as part of the Development Plan.
29. All signs shall be on permanent structure and of design and material to complement the proposed commercial building. No signs on the premises shall be animated, rotating or flashing. No flags, pennants, banners, pinwheels or similar items shall be permitted on the premises, with the exception of a United States flag and California state flag.
30. The monument sign shall include the street address.

Public Works and Engineering Conditions

Applicant shall comply with the requirements of Title 8, 9, and 10 of the Ordinance Code. Any Ordinance Code exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan received by Community Development on July 13, 2004.

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO RECORDATION OF THE PARCEL MAP UNLESS OTHERWISE NOTED:

General:

31. Submit improvement plans prepared by a registered civil engineer to the City Engineer and pay appropriate fees in accordance with the Ordinance Code and these conditions of approval. The plans must be approved prior to the issuance of a building permit.
32. Submit grading plans including erosion control measures and revegetation plans prepared by a registered civil engineer to the City Engineer for review and pay appropriate processing costs in accordance with the Ordinance Code and these conditions of approval. The plans must be approved prior to the issuance of a building permit.
33. Submit a parcel map prepared by a licensed land surveyor or qualified registered civil engineer to the City Engineer for review and pay appropriate fees in accordance with the Ordinance Code and these conditions of approval.
34. Prior to the recordation of the Parcel Map, the existing structure shall be demolished.

Frontage Improvements

35. Design and construct road improvements including vertical and horizontal realignment along the Live Oak Avenue frontage in accordance with the draft Live Oak Avenue Precise Alignment Plan on file in the office of the City Engineer or any modifications thereto. Improvements shall be constructed prior to issuance of a building permit and shall include curb, five foot, six-inch landscaped parkway, four-foot sidewalk, frontage landscaping (to be maintained by the property owner), necessary longitudinal and transverse drainage, a minimum of twenty eight feet of pavement, and necessary conforms to existing improvements.

Road Alignment/Sight Distance:

36. Submit a preliminary plan and profile to the City Engineer for review showing all required improvements to Live Oak Avenue. The sketch plan shall be to scale, show horizontal and vertical alignments, transitions, curb lines, lane striping and cross sections and shall provide sight distance for a design speed of 55 miles per hour. The plan shall extend a minimum of 150 feet \pm beyond the limits of the proposed work.

Road Dedications:

37. Convey to the City, by Offer of Dedication, the right of way for Live Oak Avenue in accordance with the draft Live Oak Avenue Precise Alignment Plan on file in the office of the City Engineer or any modifications thereto.
38. Dedicate a joint access easement at the common lot line between Lot 1 and Lot 2 that will allow the parcels to share a driveway. The width and configuration of the easement shall be approved by the City Engineer.
39. Relinquish abutter's rights for the Live Oak Avenue frontage except for the one access point to be shared by Lot 1 and Lot 2.

Street Lights

40. Install streetlights along Live Oak Avenue. The City Engineer shall determine the final number and location of the lights, and the lights shall be on an LS2-A rate service.

Access to Adjoining Property

41. Furnish necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.
42. Prepare a private agreement for reciprocal access of vehicles and pedestrians and the common use of all parking for all properties within the subdivision. The agreement shall also allow for reciprocal access to the two properties north of the subdivision. The agreement shall be reviewed and approved by the City Attorney and shall be recorded against all the properties of the subdivision.

Utilities/Undergrounding

43. Underground all new and existing utility distribution facilities, including any along the Live Oak Avenue project frontage. The developer shall provide joint trench composite plans for the underground electrical, gas, telephone, cable television and communication conduits and cables including the size, location and details of all trenches, locations of building utility service stubs and meters and placements or arrangements of junction structures. The joint trench composite plans must be endorsed by the City Engineer prior to the approval of the Improvement Plans for the project. The composite drawings and/or utility improvement plans shall be signed by a licensed civil engineer. The plans must be approved prior to the issuance of a building permit.

Drainage

44. Dedicate a public drainage easement over the drainage system that conveys storm water run-off from public streets.

Fees/Assessments

45. Comply with the requirements of the development impact fees listed below, in addition to those noticed by the City Council in Resolution 00-85 and 08-03. The applicant shall pay the fees in the amounts in effect at the time each building permit is issued.
- A. Traffic Impact Fee (authorized by Ordinance No. 14-00, adopted by Resolution 49-03);
 - B. Eastern Contra Costa Sub-Regional Transportation Mitigation Fee (adopted by Ordinance Nos. 7-99, 18-99, and 23-99) and the East County Transportation Improvement Impact Fee (authorized by Ordinance No. 14-00, adopted by Resolution No. 05-02);
 - C. Park Land Dedication In-Lieu Fee (adopted by Ordinance No. 03-03);
 - D. Park Impact Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 19-03);
 - E. Public Facilities Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 18-03);
 - F. Child Care Facilities "In Lieu" Fee (adopted by Ordinance Nos. 18-99 and 23-99); and
 - G. Fire Facilities Impact Fee, collected by the City on behalf of the Oakley Fire Protection District.

The applicant should contact the City Engineer prior to constructing any public improvements to determine if any of the required improvements are eligible for credits or reimbursements against the applicable traffic benefit fees or from future developments. The applicant may be eligible for a credit against the East County Transportation Improvement Impact Fee that is equal to the amount of the Eastern Contra Costa Sub-Regional Transportation Mitigation Fee paid. The Applicant may also be eligible for a credit against the Park Land Acquisition component of the Park Impact Fee that is equal to the amount of the Park Land Dedication In-Lieu Fee paid.

46. Annex the property to the City of Oakley Landscape and Lighting District No. 1 for citywide landscaping and park maintenance, subject to an assessment for maintenance based on the assessment methodology described in the Engineer's Report for the District. Any required election and/or ballot protest proceedings shall be completed prior to approval of the parcel map. The Applicant shall apply for annexation and provide all information and documents required by the City or its agents in processing the annexation. All costs of annexation shall be paid by Applicant.
47. Annex the property to the City of Oakley Landscape and Lighting District No. 1 for citywide street lighting costs and maintenance, subject to an assessment for street light maintenance based on the assessment methodology described in the

Engineer's Report. Any required election and/or ballot protest proceedings shall be completed prior to filing of the parcel map. The applicant shall apply for annexation and provide all information and documents required by the City or its agents in processing the annexation. All costs of annexation shall be paid by Applicant.

48. Annex the property to the City of Oakley Landscape and Lighting District No. 1 for project specific landscaping maintenance, subject to an assessment for landscape operation and maintenance based on the assessment methodology described in the Engineer's Report. Any required election and/or ballot protest proceedings shall be completed prior to filing of the parcel map. The applicant shall apply for annexation and provide all information and documents required by the City or its agents in processing the annexation. All costs of annexation shall be paid by Applicant.
49. Participate in the provision of funding to maintain police services by voting to approve a special tax for the parcels created by this subdivision approval. The tax shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. The election to provide for the tax shall be completed prior to filing of the parcel map. Should the homes be occupied prior to the City receiving the first disbursement from the tax bill, the project proponent shall be responsible for paying the pro-rata share for the remainder of the tax year prior to the City conducting a final inspection.
50. Participate in the formation of a mechanism to fund the operation and maintenance of the storm drain system, including storm water quality monitoring and reporting. The appropriate funding mechanism shall be determined by the City and may include, but not be limited to, an assessment district, community services district, or community facilities district. The funding mechanism shall be formed prior to filing of the parcel map, and the project proponent shall fund all costs of the formation.
51. Participate in the formation of an assessment district, at the discretion of the City, for the construction of off-site improvements or advance payment of development impact fees. The assessment district shall be formed prior to the filing of the parcel map, and the project proponent shall fund all costs of formation.
52. Applicant shall comply with the drainage fee requirements for Drainage Area 29H as adopted by the County Board of Supervisors. The applicant shall pay the fee in effect at the time of building permit issuance. Certain improvements required by the Conditions of Approval for this development or the City Subdivision Ordinance Code may be eligible for credit or reimbursement against the drainage area fee. The developer should contact the City Engineer to personally determine the extent of any credit or reimbursement for which he might be eligible. Any credit or reimbursements shall be determined prior to filing the final map or as approved by the Flood Control District.

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 shall be aware of the requirements of the Federal Flood Insurance Program and the City Flood Plain Management Ordinance as they pertain to future construction of any structures on this property.
- B. The applicant shall be aware of the requirements of the City Grading Ordinance.
- C. The applicant shall be required to comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination Systems (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (Central Valley - Region V).
- D. The applicant shall obtain an encroachment permit for construction within existing City rights of way.
- E. The applicant shall obtain an encroachment permit from Caltrans for construction within the State right of way.
- F. Comply with the requirements of the Contra Costa Environmental Health Department for septic system requirements.
- G. Comply with the requirements of the Oakley-Knightsen Fire Protection District.
- H. Comply with the requirements of the Diablo Water District.
- I. Comply with the requirements of the Ironhouse Sanitary District.
- J. Comply with the requirements of Oakley Disposal Service.
- K. This project may be subject to the requirements of the Department of Fish and Game. It is the applicant's responsibility to notify the Department of Fish and Game, PO 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.
- L. 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.

PASSED AND ADOPTED by the City Council carrying out the responsibilities of the Planning Commission of the City of Oakley at a meeting held on the 7th day of September, 2004, by the following vote:

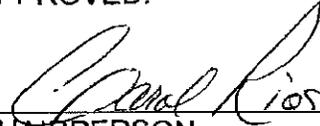
AYES: Anderson, Huffaker, Nix, Rios, Romick

NOES:

ABSTENTIONS:

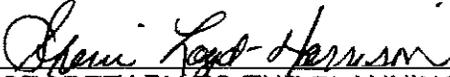
ABSENT:

APPROVED:



CHAIRPERSON

ATTEST:



SECRETARY TO THE PLANNING COMMISSION



Agenda Date: 8.9.04
Agenda Item: PC 4.1

**PLANNING COMMISSION MEETING
PLANNING DIVISION STAFF REPORT**

August 9, 2004

Prepared by: Kwame P. Reed, Associate Planner

Applicant: Stonegate Partnership

Owner: Stonegate Partnership

Request: The applicant requests approval of a Minor Subdivision to create two 1.25-acre parcels as well as a Master Land Use Permit to guide future development of the site.

Summary Recommendation

Staff recommends that the Planning Commission direct staff to create a resolution adopting the findings of fact for the Minor Subdivision and Land Use Permit; approving the Minor Subdivision and Land Use Permit with the Conditions of Approval; and approving the Negative Declaration.

Project Setting

Location: The project is located along Live Oak within the Redevelopment Area of the City. The properties to the north, east, and west of the project site are zoned P-1 for Commercial, and the property to the south is zoned P-1 for Light Industrial. The properties to the north are currently used for agricultural production. A single-family home is located on a portion of the project site and the Contra Costa County Flood Control District owns the property to the east.

General Plan: Commercial

Zoning: The property is zoned P-1 Planned Development for Commercial Development.

Lot Description: The 2.5 acre lot is a square shaped parcel and is relatively flat with no significant topographical features.

CEQA Status: A Negative Declaration was prepared by the City of Oakley and the review period will end on July 14, 2004.

Background and Analysis

The proposed project consists of a minor subdivision of 2.5 acres into two 1.25 acre parcels. With the required roadway dedication the parcels would net 1.03 and 1.05 acres. The

applicant is proposing to subdivide the parcel in order develop the property as commercial/retail development. Because the applicant has not specified a type of commercial/retail development, staff is establishing various uses that would be allowed under a Master Land Use Permit.

The applicant has proposed a use that involves the erection of a building used for retail and displays while providing an outdoor storage area for the company vehicles and a warehousing component. Outdoor storage is allowed with a Land Use Permit as long as the area is screened from view (see Condition #7). Warehousing is allowed with a Land Use Permit as long as the warehousing is 50 percent or less of the total permitted use's square footage (see Condition #7). Staff recommends the Master Land Use Permit shall permit all uses allowed by right and with an Administrative Land Use Permit as described in the Oakley Land Use Matrix in the Oakley Redevelopment Area Planned Unit District Guidelines (see Attachment 3). Uses identified in the guidelines requiring a Land Use Permit shall still require additional approval by the Planning Commission. Staff also recommends that the following uses be prohibited as sole uses on the site (see Condition #8):

- Automotive Garage
- Automotive Body Repair

Automotive retail/dealerships would be required to obtain a Land Use Permit and may include automotive servicing or body-work as a subordinate use.

The evaluation of this Land Use Permit and Development Plan and Minor Subdivision for the proposed project has been based upon the applicable development standards within the City's General Plan, Zoning Ordinance, and the Design Guidelines from the Oakley Redevelopment Area Planned Unit District (hereinafter DGORPUD). The following analysis and discussion is based on the standards and guidelines as set in these documents.

The future developer will still have to submit a Development Plan and Design Review application to the Planning Commission for approval (see Condition #3 & #5).

Site Plan

Lot Coverage: As stated in the City's General Plan, the standards for Commercial developments require maximum lot coverage of 40 percent. The applicant has not proposed a building for the proposed project but will be limited to developing buildings with footprints of 17,946 square feet (1.03 acre parcel) and 18,295 square feet (1.05 acre parcel) (see Condition #10). Therefore the proposal meets the requirements as set forth in the General Plan and the DGORPUD.

The applicant is also required to maintain a 20-foot access easement along the northern property line for access to the existing storm drain detention basin east of the site (see Condition #13)

The existing residence as situated will be located within the future ROW of Live Oak Avenue. In order for the City to accept the roadway dedication on the Parcel Map, the ROW must be clear of any obstructions. Therefore, as part of the minor subdivision request, the existing residence shall be removed prior to the recordation of the Parcel Map (see Condition #34).

Site Access: Because of the overall length of the property and future roadway classification and purpose of Live Oak Avenue, staff will require the two parcels to share a driveway that may perform as right-in and right-out only (see Condition #12). The project has also been conditioned to provide reciprocal access within the subdivision as well as the properties to the north (see Condition #42).

Live Oak Avenue will be the major access point from Highway 4/Main Street into the Light Industrial Area. Live Oak will have 110 feet of right-of-way with 82 feet of pavement and a possible median strip (the exact configuration of the roadway will be determined as part of the Live Oak Avenue Precise Alignment project that is currently underway). Consistent with the Subdivision Map Act, the frontage improvements will not be required until the first building permit for the property is requested.

Setbacks: As required in the DGORPUD for the Redevelopment Area, the front yard setback in the Commercial area is 10 feet and there is no required rear yard or side yard setback. Staff is requiring a minimum front yard setback of 25 feet that incorporates 15 feet of landscaping behind the ROW (see Condition #11).

The proposed development on the northern most parcel (the 1.03 acre parcel) will need to maintain a 20-foot side yard setback along the northern property line (see Condition #13).

Parking: The required parking for retail uses is 1:250; therefore if both parcels develop buildings with the maximum allowed footprints, the minimum parking spaces required is 72 and 73 respectively. All parking spaces are required to be 9 feet by 19 feet (see Condition #14 & 15).

Lighting: The applicant has not provided a lighting plan for staff review. The future developer will need to include a lighting plan with the Development Plan. Staff recommends that the building(s) have more decorative light fixtures than standard wall packs and that there is a minimum of one foot-candle illumination for all pedestrian walkways and parking areas. Light poles shall not exceed 25 feet and shall protect neighboring properties from glare. A lighting and photometric plan will be required prior to the issuance of Building Permits (see conditions #16).

Fencing: The applicant will need to submit a fencing plan with the Development Plan (see Condition #27). All fences shall be in compliance with the City of Oakley standards.

Development Plan: The applicant has not provided an application for Development Plan for staff review. The future developer will to submit a design review application to the Planning Commission for approval. Staff recommends the future building designs complement the nearby Shurgard Storage Facility. The future design of the buildings on the project site shall match each other (see Condition #6).

Landscape Plans

The Redevelopment Area Design Guidelines require 10 percent of the site to be landscaped. The landscaping needs to include a mix of deciduous and evergreen trees, groundcover, and shrubs (see condition #24). All interior site trees are required to be 15-gallon minimum and shrubs are required to be 5-gallon minimum (see Condition #22). Staff is requesting a minimum 15-foot landscape strip between the property line and any development on the property (see Condition #19). All street trees shall be 24' box (see Condition #20)

The landscape plan needs to comply with the City's water conservation requirements and shading requirements, which require the parking area to provide 40 percent shade coverage at tree maturity (see Conditions # 21 & 23).

Sign Plan

The applicant is required to submit a sign plan to the Community Development Department for approval. Each parcel will be allowed one monument sign for each. All other signage will need to be in compliance with the sign regulations of the Zoning Ordinance and the DGORPUD. Conditions # 28 & 29 states that all signage will need to conform to City requirements.

Recommendation

Based on the information provided by the applicant, the proposed plans, and the proposed conditions of approval, staff recommends the Planning Commission take the following actions:

By Straw vote, direct staff to prepare a resolution to –

- A. Approve the Negative Declaration as prepared by the City;
- B. Adopt the findings of fact as stated below for the Minor-Subdivision 02-976;
 - 1. *The proposed subdivision, together with the provisions of its design and improvement, is consistent with General Plan.*
- C. Adopt the seven findings of fact as stated below for the Land Use Permit for 5400 Live Oak Avenue;

1. *The proposed project, as approved, is not detrimental to the health, safety, and general welfare of the City;*
 2. The proposed use will not adversely affect the orderly development of property within the City;
 3. *The proposed use, as conditioned, will not adversely affect the preservation of property values and protection of tax base within the City;*
 4. *The proposed use will not adversely affect the policies and goals set by the General Plan.*
 5. *The proposed use will not create a nuisance and/or enforcement problems within the neighborhood.*
 6. *The proposed use will not encourage marginal development within the neighborhood.*
 7. *Special conditions or unique characteristics of the subject property and its location or surroundings have been established.*
- D. Approve the Minor Subdivision 02-976 and Land Use Permit for 5400 Live Oak Avenue - with the conditions listed below;

CONDITIONS OF APPROVAL

1. This Minor Subdivision and Master Land Use Permit are approved, as shown on the revised plans, received by the Community Development Department on July 13, 2004 as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.
2. This Minor Subdivision and Master Land Use Permit approval shall be effectuated within a period of three (3) years from this date and if not effectuated shall expire on **(DATE OF RESOLUTION)**. Prior to said expiration date, the applicant may apply for an extension of time, provided, however, this approval shall be extended for no more than a total of one year from three years from **(DATE OF RESOLUTION)**.
3. The applicant or future developer shall submit a Development Plan that shall include the building location, parking area, landscaping, fence plan, and lighting for approval to the Planning Commission.

4. The applicant or future developer shall submit detailed landscaping plans for the approval of Community Development Director.
5. The applicant or future developer shall submit an application for Design Review for approval by the Planning Commission.
6. The design of the buildings shall complement the Shurgard Storage Facility as well as each other.
7. The Master Land Use Permit has approved all uses identified in the Oakley Land Use Matrix in the Oakley Redevelopment Area Planned Unit District Guidelines that are permitted by right or with an administrative approval. All uses requiring a Land Use Permit in the matrix and uses not identified in the matrix still need Planning Commission approval. The Oakley Land Use Matrix is included as Attachment 1 of the Conditions of Approval.
8. The following shall be prohibited as sole uses:
 - A. Automotive Garage
 - B. Automotive Body Repair
9. Noise generating construction activities, including such things as power generators, shall be limited to the hours of 7:30 a.m. to 5:30 p.m. Monday through Friday, and shall be prohibited on State and Federal Holidays. The restrictions on allowed working days may be modified on prior written approval by the Community Development Director.
10. The maximum allowed lot coverage on the 1.03-acre parcel is 40% or 17,946 square feet and 18,295 square feet on the 1.05-acre parcel.
11. The setbacks for Commercial Development are 10-foot front yard setback and there are no side and rear yard setback. There shall be a 25-foot front yard setback that shall include 15 feet of landscaping.
12. The two newly created parcels shall share a driveway aisle that may be restricted to perform as a right-in and right-out access point. A comprehensive precise alignment study of major roadways in Oakley will determine whether or not Live Oak Avenue will include a median island.
13. The development on the northern most parcel shall be coordinated with the City Public Works and Engineering Division to maintain the existing 20-foot access easement along the northern edge of the property.

14. The **minimum** parking required on site is based upon the **maximum** building footprint and is calculated at 1 space per 250 square feet of building square footage.
15. Parking spaces shall be sized at 9 feet by 19 feet.
16. A lighting and photometric plan will need to be submitted prior to the issuance of building permits. The minimum requirement shall be one foot of candle light within all parking areas and pedestrian pathways. The light fixtures on the commercial building shall be decorative fixtures. Light poles shall be a maximum height of 25 feet.
17. The applicant shall identify and remove the 3-inch diameter metal pipe extending approximately 6 inches above the concrete patio slab, referenced within the Phase One study for the project. Such removal shall be indicated on the improvement plans for the project.

Archaeological Review Requirements

18. Should archaeological materials be uncovered during grading, trenching or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), if deemed necessary.

Landscaping Requirements

19. There shall be a 15-foot landscape strip within the required 25-foot front yard setback along Live Oak Avenue.
20. All street trees shall be 24" box.
21. A landscaping and irrigation plan shall be submitted as part of the Development Plan and receive approval from the Planning Commission. The landscaping plan shall include the project's frontage and side yards. Landscaping shall conform to the City's Water Conservation Landscape Ordinance 82-26 and shall be installed prior to final occupancy. The plan shall be prepared by a licensed landscape architect and shall be certified to be in compliance with the City's Water Conservation Ordinance.
22. California native drought tolerant plant or shall be used as much as possible. All interior lot trees shall be a minimum fifteen-gallon size, all shrubs shall be a minimum five-gallon size, except as otherwise noted.
23. The parking lot shall provide 40 percent shading at tree maturity.

24. There should be a mixture of evergreen and deciduous trees planted throughout the site.
25. Prior to occupancy, an on-site inspection shall be made of privately owned lands by a licensed landscape professional to determine compliance with the approved landscape plan. A certification of completion shall be submitted to the Community Development Director for review and approval.
26. If occupancy is requested prior to the installation of the landscape and irrigation improvements, then either a cash deposit or a letter of credit shall be delivered to the City for 125 percent of the estimated cost of the uncompleted portion of the landscape and irrigation improvements. If compliance is not achieved after six months of occupancy as determined by the Community Development Director, the City shall contract for the completion of the landscaping and irrigation improvements to be paid for by the held sum. The City shall return the unused portion within one year of receipt or at the completion of all work.

Fencing

27. A fencing plan shall be submitted as part of the Development Plan a receive approval from the Planning Commission.

Sign Program Requirements

28. Only the following signs shall be allowed, all subject to final review and approval by the Community Development Director prior to the issuance of a building permit for signs:
 - A. One monument sign per parcel.
 - B. One street or parking lot facing wall sign per tenant space.
 - C. All proposed signage shall meet the requirements of the City's Zoning Ordinance and the Redevelopment Area Design Guidelines. All proposed signage shall be approved by the Community Development Director.
 - D. A sign program shall be submitted as part of the Development Plan.
29. All signs shall be on permanent structure and of design and material to complement the proposed commercial building. No signs on the premises shall be animated, rotating or flashing. No flags, pennants, banners, pinwheels or similar items shall be permitted on the premises, with the exception of a United States flag and California state flag.

30. The monument sign shall include the street address.

Public Works and Engineering Conditions

Applicant shall comply with the requirements of Title 8, 9, and 10 of the Ordinance Code. Any Ordinance Code exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan received by Community Development on July 13, 2004.

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO RECORDATION OF THE PARCEL MAP UNLESS OTHERWISE NOTED:

General

31. Submit improvement plans prepared by a registered civil engineer to the City Engineer and pay appropriate fees in accordance with the Ordinance Code and these conditions of approval. The plans must be approved prior to the issuance of a building permit.
32. Submit grading plans including erosion control measures and revegetation plans prepared by a registered civil engineer to the City Engineer for review and pay appropriate processing costs in accordance with the Ordinance Code and these conditions of approval. The plans must be approved prior to the issuance of a building permit.
33. Submit a parcel map prepared by a licensed land surveyor or qualified registered civil engineer to the City Engineer for review and pay appropriate fees in accordance with the Ordinance Code and these conditions of approval.
34. Prior to the recordation of the Parcel Map, the existing structure shall be demolished.

Frontage Improvements

35. Design and construct road improvements including vertical and horizontal realignment along the Live Oak Avenue frontage in accordance with the draft Live Oak Avenue Precise Alignment Plan on file in the office of the City Engineer or any modifications thereto. Improvements shall be constructed prior to issuance of a building permit and shall include curb, five foot, six-inch landscaped parkway, four-foot sidewalk, frontage landscaping (to be maintained by the property owner), necessary longitudinal and transverse drainage, a minimum of twenty eight feet of pavement, and necessary conforms to existing improvements.

Road Alignment/Sight Distance:

36. Submit a preliminary plan and profile to the City Engineer for review showing all required improvements to Live Oak Avenue. The sketch plan shall be to scale, show horizontal and vertical alignments, transitions, curb lines, lane striping and cross sections and shall provide sight distance for a design speed of 55 miles per hour. The plan shall extend a minimum of 150 feet \pm beyond the limits of the proposed work.

Road Dedications:

37. Convey to the City, by Offer of Dedication, the right of way for Live Oak Avenue in accordance with the draft Live Oak Avenue Precise Alignment Plan on file in the office of the City Engineer or any modifications thereto.
38. Dedicate a joint access easement at the common lot line between Lot 1 and Lot 2 that will allow the parcels to share a driveway. The width and configuration of the easement shall be approved by the City Engineer.
39. Relinquish abutter's rights for the Live Oak Avenue frontage except for the one access point to be shared by Lot 1 and Lot 2.

Street Lights

40. Install streetlights along Live Oak Avenue. The City Engineer shall determine the final number and location of the lights, and the lights shall be on an LS2-A rate service.

Access to Adjoining Property

41. Furnish necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.
42. Prepare a private agreement for reciprocal access of vehicles and pedestrians and the common use of all parking for all properties within the subdivision. The agreement shall also allow for reciprocal access to the two properties north of the subdivision. The agreement shall be reviewed and approved by the City Attorney and shall be recorded against all the properties of the subdivision.

Utilities/Undergrounding

43. Underground all new and existing utility distribution facilities, including any along the Live Oak Avenue project frontage. The developer shall provide joint trench composite plans for the underground electrical, gas, telephone, cable television and communication conduits and cables including the size, location and details of all trenches, locations of building utility service stubs and meters and placements or

arrangements of junction structures. The joint trench composite plans must be endorsed by the City Engineer prior to the approval of the Improvement Plans for the project. The composite drawings and/or utility improvement plans shall be signed by a licensed civil engineer. The plans must be approved prior to the issuance of a building permit.

Drainage

44. Dedicate a public drainage easement over the drainage system that conveys storm water run-off from public streets.

Fees/Assessments

45. Comply with the requirements of the development impact fees listed below, in addition to those noticed by the City Council in Resolution 00-85 and 08-03. The applicant shall pay the fees in the amounts in effect at the time each building permit is issued.
- A. Traffic Impact Fee (authorized by Ordinance No. 14-00, adopted by Resolution 49-03);
 - B. Eastern Contra Costa Sub-Regional Transportation Mitigation Fee (adopted by Ordinance Nos. 7-99, 18-99, and 23-99) and the East County Transportation Improvement Impact Fee (authorized by Ordinance No. 14-00, adopted by Resolution No. 05-02);
 - C. Park Land Dedication In-Lieu Fee (adopted by Ordinance No. 03-03);
 - D. Park Impact Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 19-03);
 - E. Public Facilities Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 18-03);
 - F. Child Care Facilities "In Lieu" Fee (adopted by Ordinance Nos. 18-99 and 23-99); and
 - G. Fire Facilities Impact Fee, collected by the City on behalf of the Oakley Fire Protection District.

The applicant should contact the City Engineer prior to constructing any public improvements to determine if any of the required improvements are eligible for credits or reimbursements against the applicable traffic benefit fees or from future developments. The applicant may be eligible for a credit against the East County

Transportation Improvement Impact Fee that is equal to the amount of the Eastern Contra Costa Sub-Regional Transportation Mitigation Fee paid. The Applicant may also be eligible for a credit against the Park Land Acquisition component of the Park Impact Fee that is equal to the amount of the Park Land Dedication In-Lieu Fee paid.

46. Annex the property to the City of Oakley Landscape and Lighting District No. 1 for citywide landscaping and park maintenance, subject to an assessment for maintenance based on the assessment methodology described in the Engineer's Report for the District. Any required election and/or ballot protest proceedings shall be completed prior to approval of the parcel map. The Applicant shall apply for annexation and provide all information and documents required by the City or its agents in processing the annexation. All costs of annexation shall be paid by Applicant.
47. Annex the property to the City of Oakley Landscape and Lighting District No. 1 for citywide street lighting costs and maintenance, subject to an assessment for street light maintenance based on the assessment methodology described in the Engineer's Report. Any required election and/or ballot protest proceedings shall be completed prior to filing of the parcel map. The applicant shall apply for annexation and provide all information and documents required by the City or its agents in processing the annexation. All costs of annexation shall be paid by Applicant.
48. Annex the property to the City of Oakley Landscape and Lighting District No. 1 for project specific landscaping maintenance, subject to an assessment for landscape operation and maintenance based on the assessment methodology described in the Engineer's Report. Any required election and/or ballot protest proceedings shall be completed prior to filing of the parcel map. The applicant shall apply for annexation and provide all information and documents required by the City or its agents in processing the annexation. All costs of annexation shall be paid by Applicant.
49. Participate in the provision of funding to maintain police services by voting to approve a special tax for the parcels created by this subdivision approval. The tax shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. The election to provide for the tax shall be completed prior to filing of the parcel map. Should the homes be occupied prior to the City receiving the first disbursement from the tax bill, the project proponent shall be responsible for paying the pro-rata share for the remainder of the tax year prior to the City conducting a final inspection.
50. Participate in the formation of a mechanism to fund the operation and maintenance of the storm drain system, including storm water quality monitoring and reporting. The appropriate funding mechanism shall be determined by the City and may include, but not be limited to, an assessment district, community services district, or community

facilities district. The funding mechanism shall be formed prior to filing of the parcel map, and the project proponent shall fund all costs of the formation.

51. Participate in the formation of an assessment district, at the discretion of the City, for the construction of off-site improvements or advance payment of development impact fees. The assessment district shall be formed prior to the filing of the parcel map, and the project proponent shall fund all costs of formation.
52. Applicant shall comply with the drainage fee requirements for Drainage Area 29H as adopted by the County Board of Supervisors. The applicant shall pay the fee in effect at the time of building permit issuance. Certain improvements required by the Conditions of Approval for this development or the City Subdivision Ordinance Code may be eligible for credit or reimbursement against the drainage area fee. The developer should contact the City Engineer to personally determine the extent of any credit or reimbursement for which he might be eligible. Any credit or reimbursements shall be determined prior to filing the final map or as approved by the Flood Control District.

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 shall be aware of the requirements of the Federal Flood Insurance Program and the City Flood Plain Management Ordinance as they pertain to future construction of any structures on this property.
- B. The applicant shall be aware of the requirements of the City Grading Ordinance.
- C. The applicant shall be required to comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination Systems (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (Central Valley - Region V).
- D. The applicant shall obtain an encroachment permit for construction within existing City rights of way.
- E. The applicant shall obtain an encroachment permit from Caltrans for construction within the State right of way.
- F. Comply with the requirements of the Contra Costa Environmental Health Department for septic system requirements.
- G. Comply with the requirements of the Oakley-Knightsen Fire Protection District.
- H. Comply with the requirements of the Diablo Water District.
- I. Comply with the requirements of the Ironhouse Sanitary District.

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- J. Comply with the requirements of Oakley Disposal Service.
- K. This project may be subject to the requirements of the Department of Fish and Game. It is the applicant's responsibility to notify the Department of Fish and Game, PO 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.
- L. 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.

Attachments

- 1. Vicinity Map
- 2. Negative Declaration
- 3. Oakley Land Use Matrix

Exhibits

- A. Site Plan

RESOLUTION NO. XX-15

A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS AND APPROVING A FIVE YEAR EXTENSION TO THE PREVIOUSLY APPROVED TENTATIVE PARCEL MAP (MS 02-976) AND MASTER CONDITIONAL USE PERMIT FOR A PROPERTY LOCATED AT 5400 LIVE OAK AVENUE (APN: 037-100-066)**FINDINGS**

WHEREAS, on June 11, 2015, Stonegate Partnership, LLC. ("Applicant") filed an application requesting approval of a five (5) year extension to the previously approved Tentative Parcel Map (MS 02-976) and Master Conditional Use Permit. The previously approved project consists of a Tentative Parcel Map to subdivide a 2.5-acre parcel into two 1.25-acre parcel. At the time the project was approved, the applicant did not identify a land use or tenant for the site and the City required a Master Land Use Permit to guide the ultimate development of the site. The project is located at 5400 Live Oak Avenue and is zoned C (General Commercial) District. APN: 037-100-066; and

WHEREAS, the project site is designated "Commercial" on the Oakley 2020 General Plan Land Use Map, and zoned C (General Commercial) District; and

WHEREAS, the project was first approved by the City of Oakley Planning Commission on September 7, 2004 (Planning Commission Resolution No. 20-04); and

WHEREAS, as a result of the economic downturn in the late 2000's, the California Legislature passed bills in 2008, 2009, 2011 and 2013 that automatically extended the expiration dates of tentative maps, vesting tentative maps, and tentative parcel maps, subject to specific conditions; and

WHEREAS, this project met all of the specific conditions of the legislative extensions and the map was extended though to September 7, 2015; and

WHEREAS, the Subdivision Map Act allows for an extension of time to be requested on a map nearing expiration as long as the extension is requested before the expiration date of the approved map per California Government Code section 66463.5(c). This project is in compliance with that requirement; and

WHEREAS, this project is within the scope of the previously adopted Negative Declaration for the Stonegate project (MS 02-976) on file at the City of Oakley City Hall. No additional environmental review is necessary; and

WHEREAS, on August 27, 2015, the Notice of Public Hearing for the project was posted in the Contra Costa Times, 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 site. The notice was also mailed out to all owners of property within a 300-foot

radius of the subject property's boundaries, to outside agencies, and to parties requesting such notice; and

WHEREAS, on September 8, 2015, the City Council opened 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, and the information submitted to the City Council at its September 8, 2015 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 project (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 approval:

- A. Regarding the application requesting approval of a five (5) year extension to the previously approved Tentative Parcel Map (MS 02-976) and Master Conditional Use Permit, the City Council finds that:
 - 1. The proposed Tentative Parcel Map and Master Conditional Use Permit, together with the provisions of its design and improvements, is consistent with the Zoning Ordinance, and applicable portions of the Commercial General Plan Land Use Designations, as approved by the City Council acting as the Planning Commission for the Project, in that it allows for orderly commercial development in a commercial area that meets the General Plan and complies with the minimum lot size, lot width, and lot depth and all other applicable regulations set forth in the project's C District; and
 - 2. The site is physically suitable for the type of development in that the proposed Tentative Parcel Map and Master Conditional Use Permit meets all of the applicable development standards in the Project's C District and is compatible with surrounding commercial uses; and
 - 3. The site is physically suitable for the proposed subdivision as previously approved for the Tentative Parcel Map and Master Conditional Use Permit; and

4. The project is within the scope of the previously adopted Negative Declaration for the Stonegate project (MS 02-976) and Master Conditional Use Permit on file at the City of Oakley City Hall. No additional environmental review is necessary; and
5. The design of the subdivision and type of improvements are not likely to cause serious public health problems in that the proposed subdivision consists of 2 commercial lots. Construction and grading of the project are subject to building or grading permits, and violations of any such permits are subject to appropriate enforcement; and
6. The design of the subdivision includes the construction of improvements within public right-of-way that are consistent with the City's design standards. The improvements consist of widening Live Oak Avenue with roadway, sidewalk, curb and gutter, and landscaping; and
7. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision. The Tentative Parcel Map does not conflict with easements acquired by the public for access and utilities.

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 approval of a five (5) year extension to the previously approved Tentative Parcel Map (MS 02-976) and Master Conditional Use Permit, subject to the following conditions:

1. This approval shall be effectuated within a period of five (5) years from September 7, 2015 by the recording of a parcel map and if not effectuated shall expire on September 7, 2020. Unless the State Legislature passes any additional time extensions or any changes to the Subdivision Map Act would allow for any additional extensions, this project would not be subject to any additional extensions as approved.
2. This approval does not supersede PC Reso. 20-04; however it is intended to supplement that approval to specifically address the time extension granted by this approval. All conditions of PC Reso 20-04 are still valid.

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).

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 Game. It is the applicant's responsibility to notify the Department of Fish and Game, 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.
- J. The applicant shall obtain an encroachment permit from Caltrans for construction within the State right of way.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 8th day of September, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Doug Hardcastle, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date