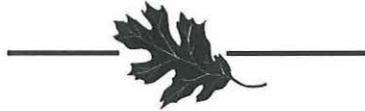


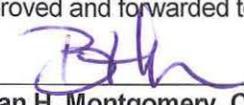
# OAKLEY



CALIFORNIA

## STAFF REPORT

Approved and forwarded to City Council

  
Bryan H. Montgomery, City Manager

**Date:** December 8, 2015

**To:** Bryan H. Montgomery, City Manager

**From:** Kenneth W. Strelo, Senior Planner

**SUBJECT:** **Pagano Parcel Map MS 15-977 (TPM 03-15) – Continued from 11/10/15**

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### Summary

This is a continued public hearing on a request by Matt Beinke of East Cypress Partners, Inc. ("Applicant") for approval of a Tentative Parcel Map to subdivide one 18.65-acre parcel into four lots consisting of three 1.0-acre lots and one 15.04-acre lot with approximately 0.61 acres dedicated for widening of Cypress Road. There is no development proposed as a part of this application. The project is located at [4277 Knightsen Avenue](#), and is zoned AL (Limited Agriculture) District. APN 032-020-014.

Staff recommends the City Council adopt the resolution approving TPM 03-15, as conditioned.

### Background

On November 10, 2015, per a written request by the Applicant, the City Council opened the public hearing and continued the item to a date certain (12/08/15) in order to allow adequate time for Staff and the Applicant to further discuss conditions of approval nos. 13 and 14 of the proposed resolution. In summary, condition no. 13 has been modified in a manner that will allow the applicant to defer annexation of the vacant, proposed Parcel D into the Community Facilities District No. 2015-2 (CFD) to a future date. The CFD is used to mitigate the development's fiscal impact on the City's regional, community and neighborhood parks, public area landscaping, street lights and storm water facilities. Staff is comfortable recommending this modification because the resulting parcel may not be developed or further subdivided without annexation into the CFD, and until that time would have little to no impact to the parks, public landscaping, street lights, or stormwater facilities. The discussion related to condition of approval 14 regarding annexation into the City's Special Police Tax Area District has been resolved and there is no requested modification to the originally proposed condition.

There is one minor discrepancy in the project description and plans. The plans and original staff report indicate that the three proposed 1.0-acre parcels on the southern end of the project each contain one existing single family home. Upon further discussions with the applicant, Staff has learned that only two of the three proposed parcels (Parcels A and B) have an existing single family home, and Parcel C has an existing barn, not home. This new information results in no changes to the original analysis and recommendation on the project.

The Staff Report from November 10, 2015, minus its attachments, is attached for background and analysis of the project.

### **Recommendation**

Staff recommends the City Council adopt the resolution approving TPM 03-15, as conditioned.

### **Attachments**

1. Staff Report from November 10, 2015
2. Vicinity Map
3. Public Hearing Notice
4. Applicant's Plans
5. Proposed Resolution

**STAFF REPORT**

Approved and forwarded to City Council

Bryan H. Montgomery, City Manager

**Date:** November 10, 2015

**To:** Bryan H. Montgomery, City Manager

**From:** Kenneth W. Strelo, Senior Planner

**SUBJECT:** Pagano Parcel Map MS 15-977 (TPM 03-15)

**Summary**

This is a public hearing on a request by Matt Beinke of East Cypress Partners, Inc. ("Applicant") for approval of a Tentative Parcel Map to subdivide one 18.65-acre parcel into four lots consisting of three 1.0-acre lots and one 15.04-acre lot with approximately 0.61 acres dedicated for widening of Cypress Road. There is no development proposed as a part of this application. The project is located at [4277 Knightsen Avenue](#), and is zoned AL (Limited Agriculture) District. APN 032-020-014.

Staff recommends the City Council adopt the resolution approving TPM 03-15, as conditioned.

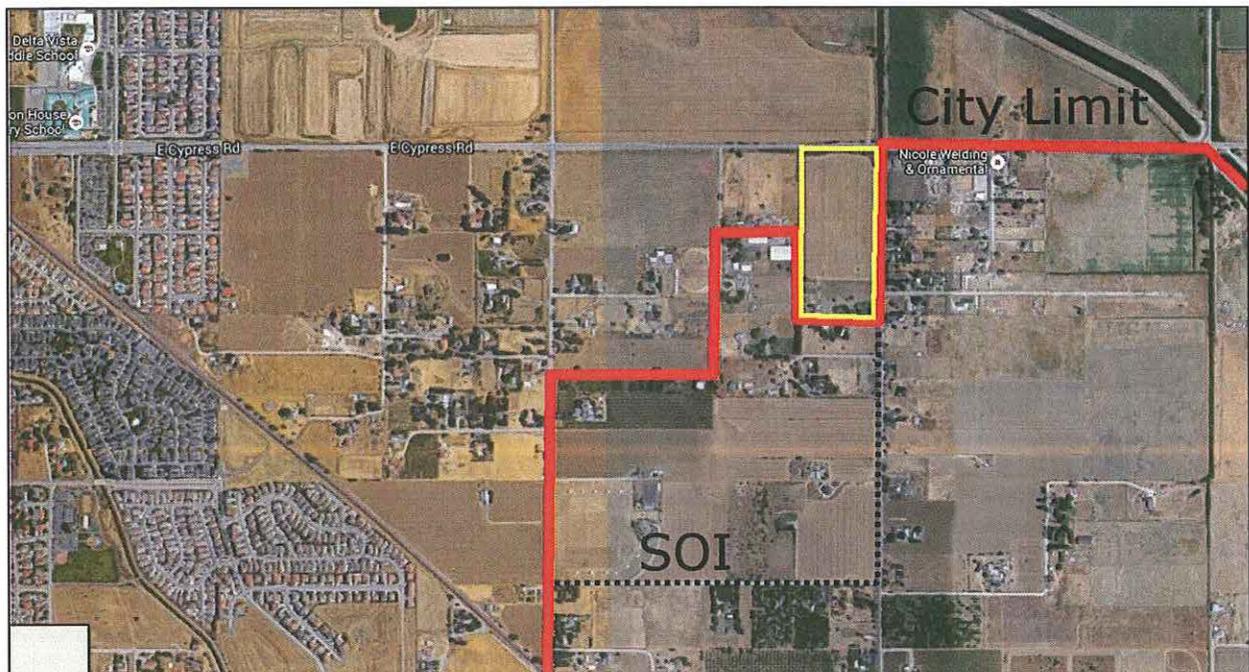
**Background**

**General Plan and Zoning** - The General Plan Land Use Designation for the project site is *Agricultural Limited (AL)* as depicted in the [Oakley 2020 General Plan](#) Figure 2-2 (Land Use Diagram). The AL land use designation allows for a maximum density of 1.0 dwelling units per gross acre, per General Plan Table 2-1 (Land Use Designations Densities and Intensities). The site is zoned [AL \(Limited Agriculture\) District](#), which allows for one detached single family dwelling unit per parcel as a permitted use (Oakley Municipal Code ("OMC") section 9.1.402(b)(2)). Also, General Plan Table 2-6 (General Plan/Zoning Compatibility Matrix) shows the AL District to be consistent with the AL land use designation.

**Existing Conditions and Surrounding Uses** - Currently, the parcel consists of three single family homes, all located in the southern portion of the site, and ruderal grassland (which makes up a majority of the site). The uses surrounding the property are mostly large lot rural residential. There is also a gasoline station and a couple of light industrial-type businesses that front Cypress Road further to the east. The eastern property line is contiguous with Knightsen Avenue, and all of the properties on the east side of that road are

in unincorporated Contra Costa County. The southern property line, and approximately half of the western property line, is contiguous with the City limit line. While the properties directly south and partially to the west or not located within the City of Oakley, they are within the City's Sphere of Influence. See Figure 1, which depicts the site location, City Limit Line, and Sphere of Influence).

Figure 1. Project Site (yellow), City Limit Line (red) and Sphere of Influence (black, dotted)



### **Project Description**

**Tentative Parcel Map and Road Dedications** - The proposed tentative parcel map (MS 15-977) does not include plans for development, rather the application requests to split the three existing single family residential uses into their own 1-acre parcels, and retain the remaining portion of the site as its own lot. Since, eventually East Cypress Road will be widened, the plans show the future widening on the northern property line. Specifics of the subdivision are as follows: Existing parcel size = 18.65 acres; future Parcels A, B, and C = 1.0 acres each; future Parcel D = 15.04 acres; and future East Cypress Road widening = 0.61 acres.

### **Environmental Review**

The proposed project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15315 (Class 15 – Minor Land Divisions) of the State CEQA Guidelines. This project can be classified as Class 15 in that:

- The project is a division of land in an urbanized area zoned for residential use (AL District is a residential zoning district) into four or fewer parcels;
- The division is in conformance with the General Plan and zoning ordinance, and no variances or exceptions are required; and
- All services and access to the proposed parcels to local standards are available, and the parcel was not involved in a larger subdivision within the last two years.

### **Required Findings**

The tentative parcel map was analyzed in relation to the required findings found in the City's subdivision ordinance (adopted County ordinance by reference), which generally state, "the City Council shall not approve a tentative map unless it finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general plan required by law. When approving the tentative map for a minor subdivision, the advisory agency shall make findings as required concerning the fulfillment of construction requirements." The proposed parcels must also comply with the regulations set forth in the AL District.

### **Analysis and Findings**

The proposed tentative parcel map represents a subdivision of land that is consistent with the applicable General Plan policies and guidelines in that it results in a gross density of one dwelling unit per acre, which is at the maximum allowable gross density for the Agricultural Limited land use designation. Also, the lot sizes are consistent with the applicable AL District zoning regulations. The map is conditioned to dedicate a portion of East Cypress Road for future improvements, which will be required at the time of any future development of Parcel D. Knightsen Avenue does not require additional widening.

### **Findings**

Complete draft findings are included in the attached resolution.

### **Recommendation**

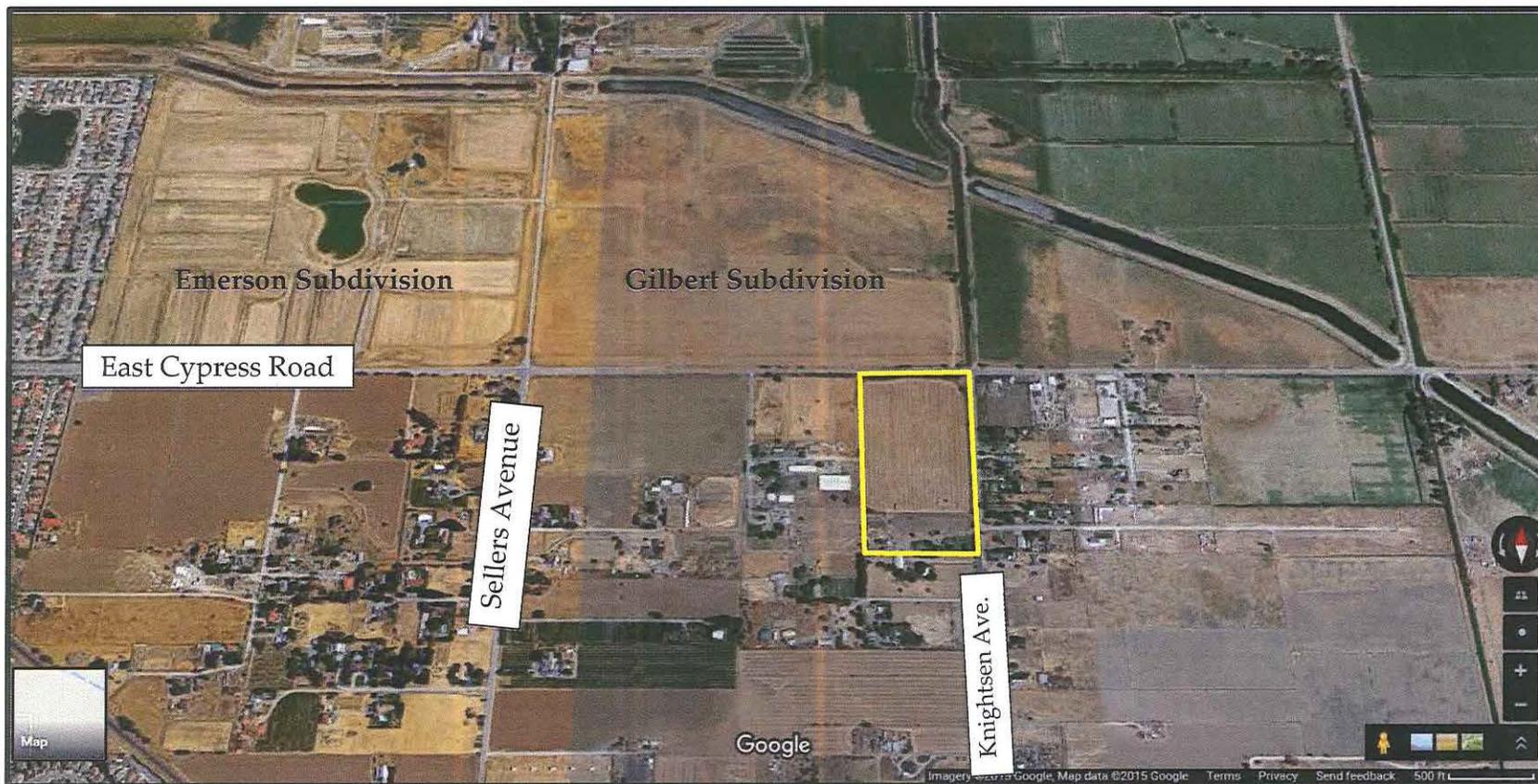
Staff recommends the City Council adopt the resolution approving Pagano Parcel Map MS 15-977 (TPM 03-15), as conditioned.

### **Attachments**

- Vicinity Map
- Public Hearing Notice
- Applicant's Plans
- Draft Resolution

Vicinity Map

Pagano Parcel Map 15-977 (TPM 03-15)  
4277 Knightsen Avenue





City of Oakley  
3231 Main Street  
Oakley, CA 94561  
[www.oakleyinfo.com](http://www.oakleyinfo.com)

## NOTICE OF PUBLIC HEARING

Notice is hereby given that on **November 10, 2015** 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 Parcel Map**.

**Project Name:** Pagano Parcel Map MS 15-977 (TPM 03-15)

**Project Location:** 4277 Knightsen Avenue, Oakley, CA 94561. APN 032-020-014.

**Applicant:** Matt Beinke of East Cypress Partners, Inc.

**Request:** This is a public hearing on a request for approval of a Tentative Parcel Map to subdivide one 18.65-acre parcel into four lots consisting of three 1.0-acre lots and one 15.04-acre lot with approximately 0.61 acres dedicated for widening of Cypress Road. There is no development proposed as a part of this application. The project is zoned AL (Limited Agriculture) District.

The Staff Report and its attachments will be available for public review, on or after November 5, 2015 at City Hall, 3231 Main Street, Oakley, CA 94561 or on the City's website [www.oakleyinfo.com](http://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. Strelo, Senior Planner at the City of Oakley, 3231 Main Street, Oakley, CA 94561 or by email to [strelo@ci.oakley.ca.us](mailto:strelo@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.

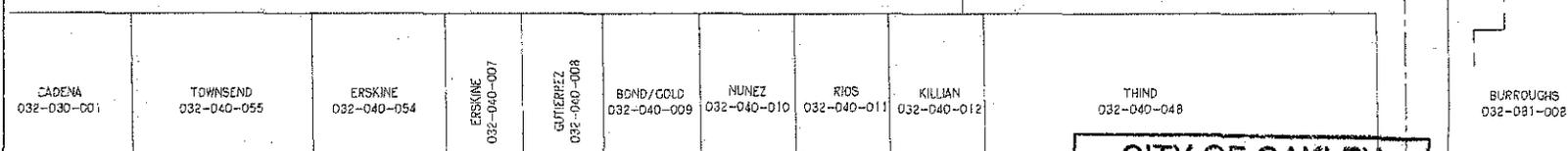
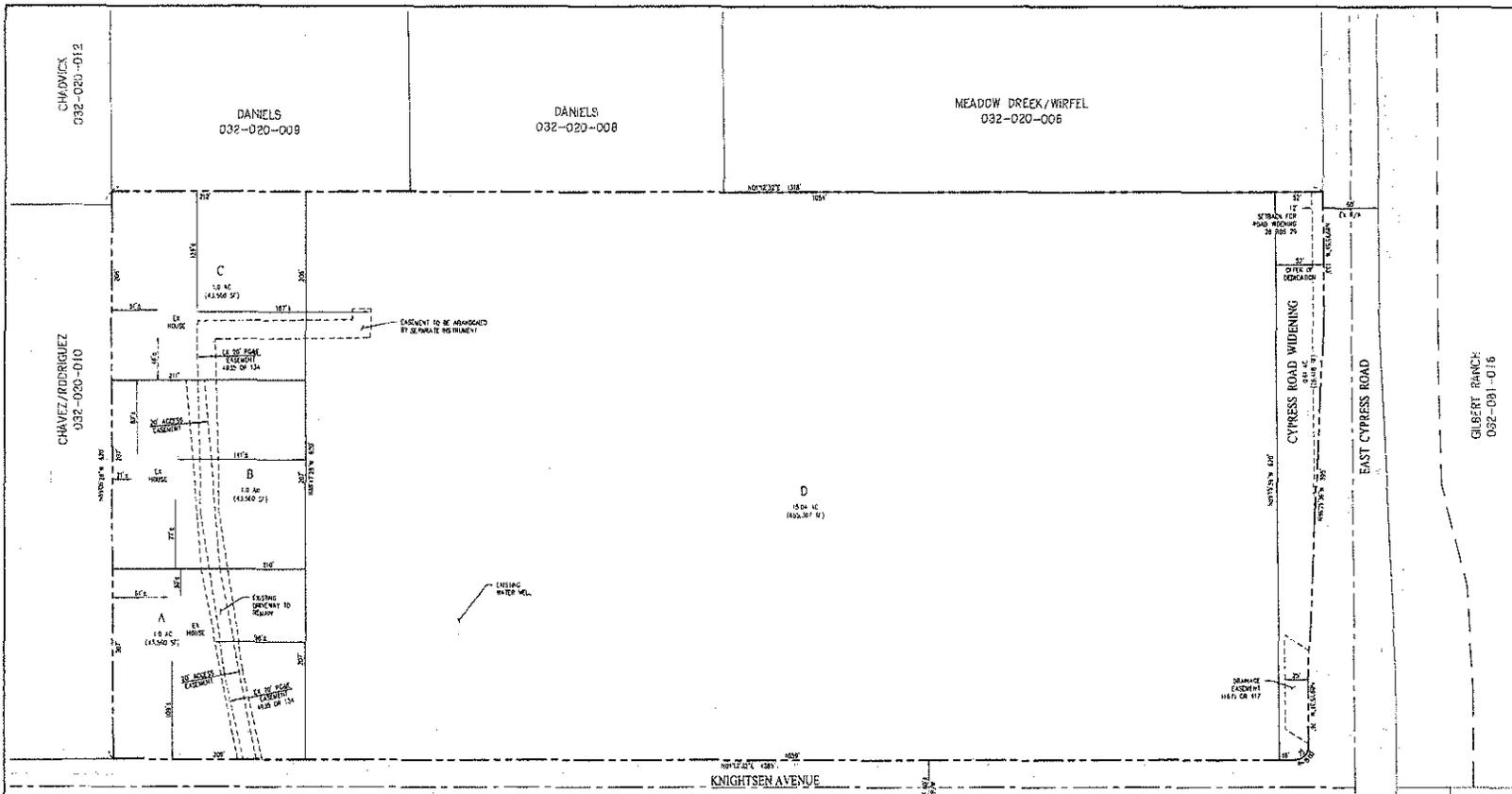


**GENERAL NOTES:**

- PROPERTY OWNER: POGGIO PAGANO  
P.O. BOX 386  
EVROSA, CA 94554
  - DEVELOPER/APPLICANT: LASH CYPRESS PARTNERS, LLC  
2020 BURNHAM ROAD  
SANFORD, CA 95070  
WAFI BLDG. 1703 7AM-10PM
  - ENGINEER: CARLSON, BARBER & PERINA, INC.  
2033 CANNON RANCH, SUITE 250  
SAN RAMON, CA 94583  
(925)880-0322
  - LAND AREA SUMMARY: (TOTAL AC. TOTAL)
- | Parcel                | Area (AC)      |
|-----------------------|----------------|
| PARCEL A              | 1.0 AC         |
| PARCEL B              | 1.0 AC         |
| PARCEL C              | 1.0 AC         |
| PARCEL D              | 3.0 AC         |
| CYPRESS ROAD WIDENING | 9.0 AC         |
| <b>TOTAL</b>          | <b>15.0 AC</b> |
- TOTAL NO. OF PARCELS: 4
  - USE: EXISTING - RESIDENTIAL / AGRICULTURAL  
PROPOSED - RESIDENTIAL / AGRICULTURAL
  - ZONING: EXISTING - (R) (L) RES. AGRICULTURE  
PROPOSED - NO CHANGE
  - GENERAL PLAN: EXISTING - AGRICULTURAL LIMITED
  - UTILITIES: SHARON WATSON DISTRICT  
PROVIDES: SANITARY SEWER  
GAS & ELECTRIC: PACIFIC GAS & ELECTRIC COMPANY  
TELEPHONE: SBC CALIFORNIA  
CITY OF OAKLEY
  - APPL: 032-000-016
  - NOTICE: FINAL MAPS MAY BE FILED ON THE LANDS SHOWN BY THIS MAP

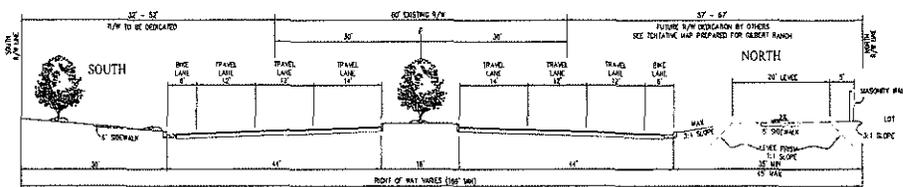
**LEGEND:**

- BOUNDARY
- RIGHT-OF-WAY
- PUBLIC RIGHT-OF-WAY
- LOT LINE
- EASEMENT
- GENERAL

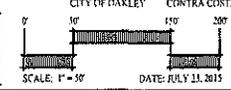


**CITY OF OAKLEY**  
**Planning Department**  
 SEP 02 2015  
**RECEIVED**

**VESTING TENTATIVE PARCEL MAP**  
**PAGANO PROPERTY**



ULTIMATE CYPRESS ROAD STREET SECTION  
 (SELLERS AVENUE TO EAST OF KNIGHTSEN ROAD)  
 NOT TO SCALE



CITY OF OAKLEY CONTRA COSTA COUNTY CALIFORNIA

DATE: JULY 21, 2015

## RESOLUTION NO. XX-15

A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS  
AND APPROVING A TENTATIVE PARCEL MAP FOR "PAGANO PARCEL MAP MS  
15-977" LOCATED AT 4277 KNIGHTSEN AVENUE  
APN 032-020-014 (TPM 03-15)

## FINDINGS

**WHEREAS**, on September 2, 2015, Matt Beinke of East Cypress Partners, Inc. ("Applicant") filed an application requesting approval of a Tentative Parcel Map to subdivide one 18.65-acre parcel into four lots consisting of three 1.0-acre lots and one 15.04-acre lot with approximately 0.61 acres dedicated for widening of Cypress Road. There is no development proposed as a part of this application. The project is located at 4277 Knightsen Avenue, and is zoned AL (Limited Agriculture) District. APN 032-020-014; and

**WHEREAS**, the site currently has two single family homes, which would continue to occupy proposed Parcels "A" and "B"; and

**WHEREAS**, the applicant's plans include the Tentative Parcel Map titled "Vesting Tentative Parcel Map Pagano Property," which was received on September 2, 2015 and attached to the project staff report ("Plans"); and

**WHEREAS**, on October 5, 2015 the project application was deemed complete per Government Code section 65920 et. seq; and

**WHEREAS**, the project site is designated "Agricultural Limited" on the Oakley 2020 General Plan Land Use Map, and zoned AL (Limited Agriculture) District; and

**WHEREAS**, the project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15315 (Class 15 – Minor Land Divisions); and

**WHEREAS**, on or prior to October 30, 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 November 10, 2015, the City Council held a properly noticed public hearing at which it opened and continued the item to December 8, 2015; and

**WHEREAS**, on December 8, 2015, 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, and the information submitted to the City Council at its December 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 approvals:

- A. Regarding the application requesting approval of Minor Subdivision 15-977 for the project titled, "Pagano Parcel Map MS 15-77 (TPM 03-15)", the City Council finds that:
  - 1. The proposed tentative parcel map represents a subdivision of land that is consistent with the applicable General Plan policies and guidelines in that it does not exceed the maximum gross density of one dwelling unit per acre for the applicable "Agricultural Limited" land use designation; and
  - 2. The subdivision is conditioned to dedicate the appropriate amount of right of way along the northern property line for future frontage improvements, which would be required, subject to Parcel "D" being developed.
- 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 Tentative Parcel Map for "Pagano Parcel Map MS 15-977 (TPM 03-15)", subject to the following conditions:

Applicant shall comply with the requirements of the Oakley Municipal Code, unless otherwise stipulated in this resolution. Conditions of Approval are based on the plans received by the Planning Division and made a part of the City Council's meeting packet for the December 8, 2015 City Council meeting.

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 Division Conditions*

**General:**

1. This Tentative Parcel Map is approved, as shown on the revised plans date stamped by the Planning Division on September 2, 2015, and as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.
2. This approval shall be effectuated within a period of three (3) years from the effective date of this resolution by the recording of a Parcel Map and if not effectuated shall expire on December 8, 2018. Prior to said expiration date, the applicant may apply for an extension of time pursuant to the provisions of the Municipal Code and Subdivision Map Act.
3. All construction drawings submitted for plan check shall be in substantial compliance with the plans presented to and approved by the City Council on December 8, 2015.
4. 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.
5. There shall be no construction associated with this Tentative Parcel Map. The applicant has stated that the Final Parcel Map will only result in the division of land, and no improvements or new residential units.
6. 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).

**East Contra Costa County HCP/NCCP**

7. Payment of East Contra Costa County Habitat Conservation Plan / Natural Communities Conservation Plan (HCP/NCCP), as included in the project's Planning Survey Report, shall be required for the 0.98 acres of ruderal habitat located on Parcels A, B, and C prior to recording of the Final Parcel Map. Payment of the impact fees, as included in the project's Planning Survey Report, for the 15.40 acres of ruderal habitat located on Parcel D shall be submitted prior to issuance of a grading permit for any onsite grading or construction if and when

proposed in the future. The actual fee amounts due will be subject to the current fees at the time a Certificate of Coverage is requested.

**Subdivision Disclosures:**

8. Where a lot/parcel is located within 300' of a high voltage electric transmission line, the applicant shall record the following notice:

"The subject property is located near a high voltage electric transmission line. Purchasers should be aware that there is ongoing research on possible potential adverse health effects caused by the exposure to a magnetic field generated by high voltage lines. Although much more research is needed before the question of whether magnetic fields actually cause adverse health effects can be resolved, the basis for such a hypothesis is established. At this time no risk assessment has been made."

When a Final Subdivision Public Report issued by the California Department of Real Estate is required, the applicant shall also request that the Department of Real Estate insert the above note in the report.

9. The following statements shall be recorded at the County Recorder's Office for each parcel to notify future owners of the parcels that they own property in an agricultural area:

"This document shall serve as notification that you have purchased land in an agricultural area where you may regularly find farm equipment using local roads; farm equipment causing dust or blowing sand; crop dusting and spraying occurring regularly; burning associated with agricultural activities; noise associated with farm equipment such as zox guns and aerial crop dusting and certain animals, including equestrian trails as well as flies may exist on surrounding properties. This statement is again, notification that this is part of the agricultural way of life in the open space areas of the City of Oakley and you should be fully aware of this at the time of purchase.

***Public Works and Engineering Conditions***

**THE FOLLOWING PUBLIC WORKS AND ENGINEERING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE APPROVAL OF A FINAL PARCEL MAP UNLESS OTHERWISE NOTED:**

10. The Applicant shall submit a final parcel map prepared by a licensed land surveyor or qualified registered civil engineer to the City Engineer and pay appropriate fees in accordance with the Code and these conditions of approval.

11. The Applicant shall convey to the City, by offer of dedication, the right of way for Cypress Road for the planned future half width of 82-feet along the project frontage.
12. The applicant shall be responsible for paying the County Recorder's fee for the Notice of Determination as well as the State Department of Fish and Wildlife's filing fee.
13. The Applicant shall 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 Parcel D to a later date (e.g. upon a further subdivision or separate development entitlement).
14. The Applicant shall 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. 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.
- C. 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 of the City of Oakley at a meeting held on the 8<sup>th</sup> day of December, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

\_\_\_\_\_  
Doug Hardcastle, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date