

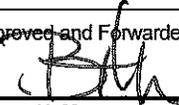


Agenda Date: 11/10/2015

Agenda Item: 4.6

STAFF REPORT

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Date: Tuesday, November 10, 2015

To: Bryan H. Montgomery, City Manager

From: Kevin Rohani, Public Works Director/City Engineer

Subject: Request to Eliminate Conditions of Approval #55 & #56 and to revise #41, #42, #46, #58 & #59 of Resolution No. 76-06 Related to Subdivision 9027 – Duarte Ranch at the South East Corner of Laurel Road and Rose Avenue

Background and Analysis

Subdivision 9027 was approved with conditions on May 8, 2006 through the adoption of City Council Resolution 76-06. Heartwood Communities, Inc. was the applicant, but later in 2007, the project was acquired by Discovery Builders, Inc., (Discovery) which still currently owns the project. With the economic recession, the project was put on hold, until earlier this year when Discovery contacted Staff to discuss restarting it. Part of this discussion was related to Conditions of Approval (COA) #41, #42, #46, #55, #56, #58 and #59.

COA #41 requires Discovery to execute any agreements related to long term maintenance of facilities required by the Stormwater Control Plan. Discovery and City Staff agree that including the following text to the COA is appropriate, "This could include forming and annexing to a CFD to allow the City to maintain these facilities."

COA #42 states, "Building permits for house construction shall not be issued until the subdivision streets serving the lots have been paved." Discovery and City Staff agree that permits for model homes can be excluded as long as the Fire Department approves it.

COA #46 requires Discovery to build the signal at the intersection of Rose Avenue and Laurel Road, unless traffic signal warrant analysis does not find the signal is needed, in which case Discovery would need to install electrical conduits and other necessary appurtenances. After reviewing the site, it was determined that right of way would need to be acquired from two property owners, one at the southwest

corner and the other at the northeast corner of the intersection. Discovery has approached at least one of the property owners, and was told in strong terms that the owners were not interested in selling any land. It was also determined that existing power lines and poles belonging to Western Area Power Administration would likely need to be relocated before the signal could be constructed. Discovery and City Staff agree that fulfilling COA #46 would be onerous, and agree that the following language would be appropriate to replace the current language, "Developer will have a traffic study prepared for the subdivision by a competent traffic engineer and, based on the final number of trips generated by the project, shall pay a proportionate share of the cost of the signal."

COA #55, #56, #58 and #59 require the developer to acquire and dedicate street right of way, and to construct full improvements along the north side of Laurel Road and the west side of Rose Avenue, across from the project. Both the north side of Laurel Road and the west side of Rose Avenue are on the opposite sides of the street from the project frontages.

In most of the cases in Oakley that involve subdivision frontage improvements, only the improvements adjacent to the project are required when the project is approved. Under State law, the City may require additional improvements such as those specified in Conditions #55, #56, #58 and #59, as long as the City reimburses the costs of the additional improvements.

In a review of the minutes of the Planning Commission meeting and of the City Council meeting where this project was approved; as well as other records provided, no information exists as to why these conditions were set.

Before the project was put on hold, Discovery attempted to negotiate the purchase of the necessary right of way along Laurel Road but was met with strong resistance from the property owner, and was not successful. The City may use legal proceedings to possibly obtain the necessary right of way but this condemnation process is expensive, will take a year or more to complete, and frequently elicits a strong, negative response from the owner of the land being taken. Also, Discovery is not interested in pursuing condemnation.

Discovery has requested to have Conditions #55 & #56 eliminated and have Conditions #58 & #59 revised to read as follows: (#58) "Convey to the City, by offer of dedication, the right of way for the planned ultimate half width of sixty-nine feet along the Laurel Road project frontage, including any necessary widening for the required median and bus turnout." (#59) Convey to the City, by offer of dedication, the right of way for Rose Avenue for the planned ultimate width of thirty-eight feet along the project frontage."

There have been several meetings between staff and Discovery to discuss their request, and staff supports the request. The modifications requested by the applicant would result in conditions of approval that are consistent with most other residential

subdivision projects. Modifying the conditions of approval in a manner consistent with other similar projects will provide more relative equality in construction expenses and ideally will encourage the developer to start construction of this project.

The benefits to having this project completed include the completion of frontage improvements along the south side of Laurel Road and the east side of Rose Avenue.

Fiscal Impact

There is no fiscal impact associated with this action.

Staff Recommendation

Staff recommends that the City Council adopt the attached resolution related to Resolution 76-06 approving the elimination of the Conditions of Approval #55 & #56 and revising #41, #42, #46, #58 & #59 as stated.

Attachments

- 1) City Council Resolution 76-06
- 2) Approved Tentative Map
- 3) Resolution Eliminating Conditions of Approval #55 & #56 and Revising #41, #42, #46, #58 & #59 from Resolution 76-06

RESOLUTION NO. 76-06**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
MAKING FINDINGS AND APPROVING
SUBDIVISION 9027 BY HEARTWOOD COMMUNITIES, INC., LOCATED SOUTH OF
LAUREL ROAD AND EAST OF THE FUTURE EXTENSION OF ROSE AVENUE,
INCLUDING A REZONE, VESTING TENTATIVE MAP, DESIGN REVIEW AND A TREE
PERMIT AND CERTIFYING THE NEGATIVE DECLARATION RELATED THERE TO****FINDINGS**

A. Heartwood Communities, Inc., (herein referred to as "Applicant"), has submitted applications to develop approximately 29.1-acres, located on the south side of Laurel Road and east of the future extension of Rose Avenue, with 116 single-family lots and an approximately 2.1-acre public park (the "Project"). The Project application includes requests for approval of the following:

- Rezoning the property from General Agriculture (A-2) to P-1 (Planned Development);
- Vesting Tentative Map 9027, which would subdivide the two parcels into 116 single-family lots in two phases and an approximately 2.1-acre public park;
- Design Review to construct 116 single family homes, based on five floor plans, three elevation options for each, and associated landscaping and fencing and development of the park site; and
- A Tree Permit to allow for the removal of 2 trees from the Project site.

B. The Project site is designated Single-Family High (SH) in the Oakley 2020 General Plan. The proposed unit densities of the Project are consistent with those General Plan designations.

C. The City prepared a Negative Declaration dated March 23, 2006, which reflected the independent judgment of the City as to the potential environmental effects of the Project. The City circulated a Notice of Intent for the Mitigated Negative Declaration on March 24, 2006 (Exhibit A). The Notice of Intent was circulated for the required 30-day public review period, from March 24, 2006 through April 23, 2006.

D. On April 17, 2006, the Planning Commission held a properly noticed public hearing at which it received a report from City staff, oral and written testimony from the Applicants and the public, and deliberated on the applications. At the conclusion of its deliberations, the Commission took a straw vote and unanimously expressed its opinion that the applications should be approved, subject to the conditions recommended by staff and as revised by the Commission during its deliberations.

E. On April 17, 2006, the Planning Commission adopted a resolution (PC Resolution No. 10-06) recommending approval of the project to the City Council.

F. On May 8, 2006, the City Council held a properly noticed public hearing at which it received a report from City staff, oral and written testimony from the Applicants and the public, and deliberated on the applications. At the conclusion of its deliberations, the City Council took a vote and unanimously expressed its opinion that the applications should be approved, subject to the conditions recommended by staff and as revised by the Council during its deliberations.

G. On May 8, 2006, the City Council reviewed the proposed Ordinance and waived the reading and introduced the Ordinance to rezone the property from A-2 to P-1 (Planned Development).

H. 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 May 8, 2006 meeting, both written and oral, including oral information provided by the Applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the Subdivision (hereafter the "Record").

NOW, THEREFORE, on the basis of the above findings of fact and the entire Record, the City Council make the following additional findings in support of the recommended approvals:

1. Regarding the rezoning of the Property from A-2 to P-1, the Council finds that:

a. The change in zoning will comply with the General Plan, which prescribes single-family development on the Project property with densities consistent with those proposed for the Project;

b. The uses proposed in the land use district are compatible within the district and to uses authorized in adjacent districts. All proposed uses within the district are for single-family housing, consistent with the allowable density range. Development on adjacent properties will also be residential; and

c. A community need has been demonstrated for the proposed use. The Project will result in the construction of additional housing units, which is necessary to meet demand in the community. The project will also provide additional park land which is currently an underserved need within the City.

2. Regarding the approval of Vesting Tentative Map 9027, the Council finds that the proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan. The number of units, layout of lots and streets, identified improvements and dedications, and other technical requirements comply with the density prescribed by the General Plan and its applicable policies.

3. Regarding the approval of the Design Review of the Duarte Ranch Development (Subdivision #9027).

a. The proposed development of 116 single family homes is consistent with the General Plan designation.

b. The proposed development of 116 single family homes complies with all applicable Zoning regulations.

c. The proposed design and materials of the single family homes are compatible with the surrounding area.

4. The Project complies with Measure C Growth Management requirements.

BE IT FURTHER RESOLVED THAT, on the basis of the foregoing Findings and the entire Record, the City Council take the following actions:

- Rezone the Project property from A-2 to P-1;
- Approve Vesting Tentative Map;
- Approve the Design Review; and
- Approve the Tree Permit.

BE IT FURTHER RESOLVED THAT, on the basis of the above Findings and the Record, the City Council approves the Applicant's request for the rezoning of the Property, the Vesting Tentative Map, the Design Review and the Tree Permit with the following conditions:

CONDITIONS OF APPROVAL

Rezone & Subdivision

1. This Rezone, Subdivision, Design Review and Tree Permit are approved, as shown on the exhibits (dated February 17, 2006) and attachments, and as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.
2. This Subdivision, Design Review and Tree Permit approval shall be effectuated within a period of three (3) years from this date and if not effectuated shall expire on (three years from City Council approval). 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 three years from (three years from City Council approval).
3. All conditions of approval and mitigation measures 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 work with the City's Park and Recreation Director and City Engineer to determine the feasibility of constructing a well in the neighborhood park.
5. The applicant shall revise Plan 4 to incorporate a single two-car garage door on the front elevation.

Development Standards

6. The plans submitted for the subdivision shall be consistent with the P-1 development standards for the Duarte Ranch subdivision, as follows:
 - Minimum lot area: 6,000 square feet;
 - Minimum lot frontage: 30 feet at front of lot (in situations of cul-de-sac or knuckles)
 - Minimum lot width: 60 feet on average;
 - Minimum depth: 90 feet;
 - Minimum front yard setback: 20 feet, 15 feet to any single story porch elements;
 - Minimum side yard setback: 5 feet minimum, sum of both sides 15 feet; corner lots shall maintain a street side yard setback (secondary frontage) of 10 feet;
 - Minimum rear yard: 15 feet;
 - Maximum wall/fence height: 8 feet.

Final plot plans will be subject to review by the Planning Division for consistency with the Development Plan, dated February 17, 2006, conditions of approval as stated herein, and the City's Residential Guidelines.

Vesting Tentative Map

7. The applicant shall be responsible for coordination of an approved set of final park plans, consistent with the City's Master Plan for Parks and Recreation, for review and approval by the City's Parks and Recreation Director.
8. The 2.1 acres of parkland developed as part of this subdivision shall be used towards the park requirement for the subdivision. The park shall be developed turnkey and shall be completed prior to the issuance of the 58th building permit for the subdivision.
9. The neighborhood entry shall be identified by accent paving and a monument sign, as indicated on the Duarte Ranch landscape plans at the southeast corner of Laurel Road and Rose Avenue and at the entry at Rose Avenue and Duarte Ranch Way. Landscape plans with entry features shall be submitted for final review and approval by the Community Development Director. Accent paving and sound wall and retaining walls shall be indicated on both the improvement plans and landscape plans.

Landscaping and Fences

10. A final landscape and irrigation plan, consistent with the preliminary plans dated February 17, 2006, shall be submitted, prior to issuance of building permits. The landscape area between the sound wall and Laurel Road shall be landscaped consistent with the Residential Design Guidelines. Landscaping shall include a mix of low growing shrubs and groundcover within the parkway and between the sidewalk and the sound wall, shrubs and groundcover as well as vines shall be planted along the based of the sound wall.
11. Within the subdivision good neighbor fences shall be constructed of six-foot tall wood fences with steel posts or acceptable alternative as reviewed and approved by the City of Oakley. Fences at corner lots with secondary frontages and front facing connector fences (between houses), visible from the street, shall be

constructed with a 2-foot tall lattice top panel, consistent with the landscape plans submitted for the project.

12. An 8-foot tall masonry wall shall be constructed along the Laurel Road and Rose Avenue (wrapping to Duarte Ranch Way) frontage of the site, as indicated on the plans. Wall design with the ledgerstone stone pilasters. Design shall be reviewed and approved by the Community Development Director.
13. Landscaping shall conform to the Oakley Landscape Guidelines and 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.
14. California native drought tolerant plants shall be used as much as possible. All trees shall be a minimum fifteen-gallon size and all shrubs shall be a minimum five-gallon size, except as otherwise noted. At least 50% of the trees along Laurel Road, shall be 24-inch box trees or as indicated on approved plans.
15. Each lot shall have a minimum of two different types of trees along the street frontage, with the exception of corner lots, which shall have four.
16. The applicant shall maintain all landscaping until occupancy and shall annex the site into a landscaping and lighting district. The applicant is required to annex to a lighting and landscaping district and notify future homeowners by deed, notice of the fact that the land is within a landscaping and lighting district.

Tree Permit

17. a) The applicant shall retain trees 15-17 on-site per the recommendations included in the Tree Report, dated July, 2005. Recommendations for retaining these trees shall be implemented including meandering of the sidewalk along Laurel Road in such a manner that the walk is furthest as feasible from the tree trunk. Heritage trees (15, 16, 17) shall be replaced at a 3:1 ratio at 24-inch box in size or pay an in-lieu fee of \$75 per inch of trunk diameter, pursuant to the Zoning Ordinance, Tree Preservation Chapter 5-D-3B. Any tree replacement shall be above and beyond the street trees and park trees required for the development.

b) In phase 2, should the applicant determine that Trees 15, 16 or 17 require removal, the applicant shall prepare and submit a supplemental arborist report to examine the feasibility of transplanting one or all of the trees to the project corner at Laurel Road/Rose Avenue or at the Duarte Ranch park site."

Design Review

18. Final Design Review for this project shall be brought performed by Planning Staff at the time of building permit to confirm consistency with approved plans, the P-1 development standards for the project and Residential Design Guidelines.
19. The architectural and site plans shall be modified such that 40% of the garage doors shall have windows.

20. The use of stone and brick veneer shall be carried to the fence line per the review of the Community Development Director.
21. Trim shall be provided around all doors and windows.
22. Additional articulation shall be provided on the side and rear elevations of Plans 3-5 when adjacent to Laurel Road and Rose Avenue, per the review of the Community Development Director.
23.
 - a) No more than 25% of the units within the subdivision shall have the same two story plan.
 - b) The applicant shall examine replacing a few of the Plan 1 units with a few single story plus loft (Plan 2) units on the corner lots to accommodate a wider 15-foot exterior side yard setback.
24. A revised development plan shall be submitted to the Planning Division prior to the release of Building Permits,
25. Media niches are not allowed within the five foot side yard setback.
26.
 - a) Front yard setbacks shall vary from those of adjacent lots by at least 5 feet, for every three lots. Minimum setbacks may not be reduced to accommodate the variation in setbacks.
 - b) The applicant shall modify the architectural plans to specify concrete tile roofs. The applicant shall provide Planning staff with updated color boards, specifying the roof materials, style and color for each of the color schemes, for review and approval by the Planning Division, prior to submittal of building permits.

General

27. 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 City, State and Federal Holidays. The restrictions on allowed working days may be modified on prior written approval by the Community Development Director.
28. 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.
29. A State-certified lead-based paint (LBP) and asbestos professional shall perform a LBP and asbestos survey on the residences for testing and confirmation of asbestos within and around the structure, and proper removal shall be completed, prior to approval of the demolition permit through the Building Division.

The abatement contractor shall provide confirmation of the removal prior to issuance of the demolition permit.

30. Pre-construction surveys for burrowing owls, consistent with Department of Fish and Game protocol, shall be conducted prior to construction by a qualified biologist prior to the start of any work on-site and a report submitted to the Planning Division.
31. The applicant shall ensure that the terminus of Lateral 7.1 is protected and replaced before any construction begins at the site. Plans shall be routed by the applicant to CCWD for review, prior to construction at the site. Modifications to the line shall be included on the improvement plans for review and approval by the Public Works and Engineering Division.
32. Prepare and submit a supplemental memo from geotechnical engineer indicating the results of subsequent soil testing (using two borings, approx. 40 feet down) in the limited area of elevated phosphorous levels to confirm that phosphorous levels have been reduced since the earlier testing and report, prior to obtaining grading permit.
33. The street names shall be approved by the Community Development Department and the East Contra Costa Fire District.
34. The following statement 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 zori 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."

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.

35. 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."

36. The applicant shall indemnify, defend, and hold harmless the City of Oakley, the City Approving Authorities, and the officers, agents, and employees of the City from any and all claims, damages and liability (including, but not limited to, damages, attorney fees, expenses of litigation, costs of court).

Public Works and Engineering Conditions

Applicant shall comply with the requirements of City Municipal Code. Any Code exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan received by the Community Development Department on February 21, 2006.

The following conditions of approval shall be satisfied prior to filing any final map unless otherwise noted:

General:

37. Submit improvement plans prepared by a registered civil engineer to the City Engineer for review and approval and pay the appropriate processing costs in accordance with the Municipal Code and these conditions of approval. The plans shall be consistent with the Stormwater Control Plan for the project including treatment areas such as drywells to be incorporated in the front yards if necessary, or other alternatives as approved by the City Engineer. The plans shall include the drawings and specifications necessary to implement the required stormwater control measures and be accompanied by a Construction Plan C.3 Checklist as described in the Stormwater C.3 Guidebook.
38. Submit a final map prepared by a licensed land surveyor or qualified registered civil engineer to the City Engineer for review and approval and pay processing costs in accordance with the Municipal Code and these conditions of approval.
39. Submit grading plans including erosion control measures and revegetation plans prepared by a registered civil engineer to the City Engineer for review and approval and pay appropriate processing costs in accordance with the Municipal Code and these conditions of approval.
40. Submit landscaping plans for publicly maintained landscaping, including planting and irrigation details, as prepared by a licensed landscape architect to the City Engineer for review and approval and pay appropriate processing costs in accordance with the Municipal Code and these conditions of approval.
41. Execute any agreements required by the Stormwater Control Plan which pertain to the transfer of ownership and/or long term maintenance of stormwater treatment mechanisms required by the plan prior to the final inspection of the first house within the subdivision.

42. Building permits for house construction shall not be issued until the subdivision streets serving the lots have been paved.

On-Site Roadway Improvements:

43. Construct the frontage of Laurel Road to City public road standards for an eighty-two foot curb to curb roadway within a one hundred and thirty-eight foot right of way including a sixteen foot wide landscaped median, curb, six-foot detached sidewalk (meandering within the landscape area so that the minimum landscape width is no less than six feet), parkway strip, right of way landscaping, necessary longitudinal and transverse drainage, pavement widening, and conforms to existing improvements. The face of curb shall be located 41 feet from the centerline. The Laurel Road improvements adjacent to Phase 2 shall be constructed as part of Phase 1, and the vertical alignment of Laurel Road shall be in accordance with the Laurel Road Precise Alignment as adopted by the City Council via Resolution 63-03. Any conforms to existing improvements must take place outside of the limits of the project. The center median and inside lane are included in the City's Traffic Impact Fee Program and may be eligible for credit or reimbursement subject to a future reimbursement agreement. At this time it is the City's intent to use the Traffic Impact Fees from the project to offset any credit or reimbursement, but any such agreement must be approved by the City Council prior to approving the final map for the costs to be creditable or reimbursable.
44. Construct the frontage of Rose Avenue to City public road standards for a forty foot wide curb to curb roadway within a seventy six foot right of way, including curb, gutter, six-foot detached sidewalk (separated from the face of curb by six feet), landscaped parkway, right of way landscaping behind the sidewalk, necessary longitudinal and transverse drainage, pavement widening, and conforms to existing improvements. The face of curb shall be located twenty feet from the existing centerline. Any conforms to existing improvements must take place outside of the limits of the project. The applicant shall reimburse the City and/or the developer of Subdivision 8541 for any frontage improvement costs expended prior to final map approval for this project.
45. Reimburse the developer of Subdivision 8541 for any frontage improvement costs for the north side of Barn Dance Way expended prior to final map approval for this project pursuant to Condition of Approval 46.B of Resolution 82-03.
46. Construct the planned traffic signal at the intersection of Laurel Road and Rose Avenue. The construction of the signal shall be supported by a traffic signal warrants analysis to be completed in conjunction with the improvement plans for the project and the analysis is subject to the review and approval of the City Engineer. If the warrants analysis does not conclude that the traffic signal is needed at that time the developer shall not be required to construct the signal but shall install conduits and other necessary appurtenances to allow the signal to be constructed at a later date with minimal impacts. The design and construction of the traffic signal is subject to the review and approval of the City Engineer and the signal may be required to allow for future interconnection with other traffic signals in either corridor. The construction of the traffic signal may be eligible for credits or reimbursements from the City's Traffic Impact Fee Program, future development, or previously collected deposits subject to the policies, procedures, and eligible

projects of the Program. When placement of curb returns, poles and equipment is not feasible at the ultimate location the improvements will not be eligible for Traffic Impact Fee credits.

47. Construct a bus turnout on the south side of Laurel Road just east of Rose Avenue. The turnout shall be consistent with Tri Delta Transit and City standards and shall include any necessary shelters and appurtenances. The right of way adjacent to the turnout shall be widened so that the landscaping width is consistent with the remainder of the frontage.
48. Construct the project streets to City public road standards and as shown on the Tentative Maps with the following exceptions:
 - A. The minimum street grade may be lowered from the standard 1% to 0.75% provided that the project proponent demonstrates that the City's drainage standards can be achieved.
49. Submit a turning radius exhibit to the City Engineer for review and approval to illustrate that the ninety-degree turns of project streets can accommodate the largest expected vehicle to use the streets without the inclusion of City standard elbows. If the exhibit illustrates that elbows are necessary to accommodate the expected traffic then they shall be included in the improvement plans.
50. Install traffic control devices such as stop signs and other signing and striping on the project streets to the satisfaction of the City Engineer.
51. The applicant shall work with the City Engineer regarding traffic calming.
52. Install standard street barricades at the Phase 1 terminus of Mosswood Drive and Rose Hollow Drive. The barricades shall include a sign notifying residents that the streets are planned to be extended in the future, and a deed notification shall be recorded for Lots 1, 2, 3, 75, 76, 77, 101, 102, and 103 advising those owners of the possibility for future extension.
53. Submit a phasing plan for the project streets to the City Engineer for review if the street improvement will be phased. The plan shall include provisions for emergency vehicle access, temporary turn-around facilities, and access to the occupied lots.
54. Design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act.

Off-Site Roadway Improvements:

55. Construct the north side of Laurel Road from the west side of the Rose Avenue intersection to Mellowood Drive to City public road standards for an eighty-two foot curb to curb roadway including a sixteen foot wide landscaped median, curb, necessary longitudinal and transverse drainage, pavement widening, streetlights, and conforms to existing improvements. The face of curb shall be located forty-one feet from the centerline, and the half-width right of way shall be forty-six feet. The

vertical alignment of Laurel Road shall be in accordance with the Laurel Road Precise Alignment as adopted by the City Council via Resolution 63-03. Any conforms to existing improvements must take place outside of the limits of the project. The center median and inside lane are included in the City's Traffic Impact Fee Program and may be eligible for credit or reimbursement subject to a future reimbursement agreement. At this time it is the City's intent to use the Traffic Impact Fees from the project to offset any credit or reimbursement, but any such agreement must be approved by the City Council prior to approving the final map for the costs to be creditable or reimbursable. The outside lane and curb would be required if the adjacent parcels were to develop in the future, so the applicant will be required to fund the work and if an application for development on any of the parcels has been filed prior to construction the City reserves the right to require future developments to pay the applicant back their pro-rata share of the construction costs. Otherwise the City shall credit or reimburse the applicant for the eligible costs subject to a future agreement that must be approved by the City Council prior to approving the final map.

56. Construct the west side of Rose Avenue from Laurel Road to Longhorn Way to City public road standards for a forty foot curb to curb roadway including curb, a six-foot wide parkway, a six-foot wide detached sidewalk, necessary longitudinal and transverse drainage, pavement widening, streetlights, and conforms to existing improvements. The face of curb shall be located twenty feet from the centerline, the half-width right of way shall be thirty-two feet, and the right of way landscaping behind the sidewalk will not be required with this project. Any conforms to existing improvements must take place outside of the limits of the project. These improvements would be required if the adjacent parcels were to develop in the future, so the applicant will be required to fund the work and if an application for development on any of the parcels has been filed prior to construction the City reserves the right to require future developments to pay the applicant back their pro-rata share of the construction costs. Otherwise the City shall credit or reimburse the applicant for the eligible costs subject to a future reimbursement agreement that must be approved by the City Council prior to approving the final map.

Road Alignment/Sight Distance:

57. Submit a preliminary plan and profile to the City Engineer for review showing all required improvements to Laurel Road. 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 and Easement Dedications:

58. Convey to the City, by offer of dedication, the right of way for the planned ultimate half width of sixty-nine feet along the Laurel Road project frontage, including any necessary widening for the required median and bus turnout. In addition the applicant shall acquire the necessary off-site right of way along the north side of Laurel Road to accommodate the forty-six foot half-width. Portions of the off-site right of way are included in the City's Traffic Impact Fee Program and may be eligible for credit and reimbursement subject to a future agreement. At this time it is

the City's intent to use the Traffic Impact Fees from the project to offset any credit or reimbursement, but any such agreement must be approved by the City Council prior to approving the final map for the costs to be creditable or reimbursable. The acquisition of off-site rights of way shall be in accordance with Section 66462.5 of the Government Code. If the City is required to acquire the property rights the applicant will enter into an agreement with the City regarding the City efforts including all staff, legal, consultant, administrative, and acquisition costs.

59. Convey to the City, by offer of dedication, the right of way for Rose Avenue for the planned ultimate width of thirty-eight feet along the project frontage. In addition the applicant shall acquire the necessary off-site right of way along the west side of Rose Avenue to accommodate the thirty-two foot half-width.
60. Convey to the City, by Offer of Dedication, the right of way for the project streets.
61. 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, utility and drainage improvements.
62. Relinquish abutter's rights for non-primary frontages to the satisfaction of the City Engineer.

Street Lights:

63. Install streetlights along all project streets, Laurel Road and Rose 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. The lights on the project streets and Rose Avenue shall be decorative per City standards and the lights along Laurel Road shall be General Electric double mast arm "cobra head" style and located within the median.

Grading:

64. Submit a geotechnical report to the City Engineer for review that substantiates the design features incorporated into the subdivision including, but not limited to grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections.
65. At least one week prior to commencement of grading, the applicant shall post the site and mail to the owners of property within 300 feet of the exterior boundary of the project site notice that construction work will commence. The notice shall include a list of contact persons with name, title, phone number and area of responsibility. The person responsible for maintaining the list shall be included. The list shall be kept current at all times and shall consist of persons with authority to indicate and implement corrective action in their area of responsibility. The names of the individual responsible for noise and litter control shall be expressly identified in the notice. The notice shall be reissued with each phase of major grading activity. A copy of the notice shall be concurrently transmitted to the City Engineer. The notice shall be accompanied by a list of the names and addresses of the property owners noticed, and a map identifying the area noticed.

66. Grade any slopes with a vertical height of four feet or more at a slope of 3 to 1. Retaining walls that may be installed to reduce the slope must be masonry and comply with the City's building code.
67. Grade all pads so that they drain directly to the public street at a minimum of one percent without the use of private drainage systems through rear and side yards.
68. Submit a dust and litter control plan to the City Engineer prior to beginning any construction activities.
69. Submit a haul route plan to the City Engineer for review and approval if grading activities require importing or exporting any material from the site. The plan shall include the location of the borrow or fill area, the proposed haul routes, the estimated number and frequency of trips, and the proposed schedule of hauling. Based on this plan the City Engineer shall determine whether pavement condition surveys must be conducted along the proposed haul routes to determine what impacts the trucking activities may have. The project proponents shall be responsible to repair to their pre-construction condition any roads along the utilized routes.
70. Prior to commencement of any site work that will result in a land disturbance of one acre or more; the applicant shall provide evidence to the City Engineer that the requirements for obtaining a State General Construction Permit have been met. Such evidence may be a copy of the Notice of Intent letter sent by the State Water Resources Control Board. The WDID Number shall be shown on the grading plan prior to approval by the City Engineer.
71. Submit an updated erosion control plan reflecting current site conditions to the City Engineer for review and approval no later than September 1st of every year while the Notice of Intent is active.
72. Grade all pad elevations or install levees to satisfy Chapter 914-10 of the City's Municipal Code, including the degree of protection provisions.

Utilities/Undergrounding:

73. Underground all new and existing utility distribution facilities, including those along the frontage of Laurel Road and Rose Avenue. 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.
74. All utility boxes shall be installed underground and all wires and cables must be installed in conduits. Compliance with this condition shall be at the discretion of the City Engineer.

Drainage Improvements:

75. Collect and convey all stormwater entering and/or originating on these properties, without diversion and within an adequate storm drainage facility, to an adequate natural watercourse having definable bed and banks, or to an existing adequate public storm drainage facility that conveys the storm waters to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code.
76. Submit a final hydrology and hydraulic report including 10-year and 100-year frequency event calculations for the proposed drainage system to the City Engineer for review and approval.
77. Design and construct all storm drainage facilities in compliance with the Ordinance Code and City design standards.
78. Prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
79. Dedicate a public drainage easement over the drainage system that conveys storm water run-off from public streets.
80. Convey to the City, by offer of dedication, Parcel B for open space and park development.

Landscaping in the Public Right of Way:

81. Install public right of way landscaping along the Laurel Road and Rose Avenue frontages prior to issuance of the 58th building permit.
82. Maintain all landscaping within the public right of way until such time that the adjacent roadway improvements have been accepted for maintenance.

National Pollutant Discharge Elimination System (NPDES):

83. Comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (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 IV), including the Stormwater C.3 requirements as detailed in the Guidebook available at www.cccleanwater.org.

Compliance shall include developing long-term best management practices (BMP's) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long-term BMP's in accordance with the Contra Costa Clean Water Program for the site's storm water drainage:

- Offer pavers for household driveways and/or walkways as an option to buyers.
- Minimize the amount of directly connected impervious surface area.
- Delineate all storm drains with "No Dumping, Drains to the Delta" permanent metal markers per City standards.

- Construct concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
- Distribute public information items regarding the Clean Water Program to buyers.
- Other alternatives as approved by the City Engineer.

Fees and Assessments:

84. 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. Regional Transportation Development Impact Mitigation Fee (authorized by Ordinance No. 14-00, adopted by Resolution No. 73-05);
- 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); and
- F. Child Care Facilities "In Lieu" Fee (adopted by Ordinance Nos. 18-99 and 23-99).
- G. Fire Impact Fee collected on behalf of the East Contra Costa Fire Protection District (adopted by Resolution No. 09-01)
- H. South Oakley Infrastructure Master Plan Fee (adopted by Resolution No. 52-03).
- I. General Plan Fee (adopted by Resolution No. 53-03).

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.

85. 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. The assessment 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. Any required election and/or ballot protest proceedings shall be completed prior to approval of the final 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.

86. 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. The assessment 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. Any required election and/or ballot protest proceedings shall be completed prior to filing of the Final 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.
87. 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. The assessment 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. Any required election and/or ballot protest proceedings shall be completed prior to filing of the Final 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.
88. 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 final 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.
89. Participate in the formation of an assessment district for the construction of off-site improvements should the City deem such a mechanism necessary. The assessment district shall be formed prior to the filing of any final or parcel map, and the project proponent shall fund all costs of formation.
90. Participate in the formation of a mechanism to fund the operation and maintenance of the storm drain system, including Citywide stormwater management and discharge control activities. 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 final map, and the project proponent shall fund all costs of the formation.

91. Applicant shall comply with the drainage fee requirements for Drainage Area 30A 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 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.
92. Participate in the City's South Oakley Infrastructure Master Plan both by cooperating with the City's consultant team in the design and implementation of specific infrastructure projects and by providing this project's fair share contribution to the costs of preparing the study. The fair share contribution shall be paid in accordance with Resolution 52-03.

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.

Fire District

- 1. The conditions included in Exhibit B.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 8th day of May, 2006, by the following vote:

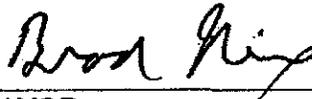
AYES: Anderson, Connelley, Nix, Rios, Romick

NOES: None

ABSTENTIONS: None

ABSENT: None

APPROVED:



MAYOR

ATTEST:


CITY CLERK

RESOLUTION NO. ___-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING THE ELIMINATION OF CONDITIONS OF APPROVAL NUMBER 55 AND 56 OF CITY COUNCIL RESOLUTION NUMBER 76-06 (SUBDIVISION 9027, DUARTE RANCH) AND MODIFICATION OF CONDITIONS NUMBER 41, 42, 46, 58 AND 59

WHEREAS, the City Council approved with conditions Subdivision 9027 on May 6, 2006 through the adoption of City Council Resolution 76-06; and

WHEREAS, Heartwood Communities, Inc. was the applicant; and

WHEREAS, Discovery Builders, Inc. acquired the project in 2007; and

WHEREAS, Condition of Approval Number 41 requires the applicant to execute any agreements related to long term maintenance of facilities required by the Stormwater Control Plan; and

WHEREAS, Condition of Approval Number 42 states "Building permits for house construction shall not be issued until the subdivision streets serving the lots have been paved"; and

WHEREAS, Condition of Approval Number 46 requires the applicant to build the signal at the intersection of Rose Avenue and Laurel Road unless traffic signal warrants analysis does not find the signal is needed in which case applicant will need to install electrical conduits and other necessary appurtenances; and

WHEREAS, Condition of Approval Number 55 requires the applicant to construct the north side of Laurel Road across from the subdivision project; and

WHEREAS, Condition of Approval Number 56 requires the applicant to construct the west side of Rose Avenue across from the subdivision project; and

WHEREAS, Condition of Approval Number 58 requires the applicant to dedicate the right of way along the north side of Laurel Road across from the subdivision project; and

WHEREAS, Condition of Approval Number 59 requires the applicant to dedicate the right of way along the west side of Rose Avenue across from the subdivision project; and

WHEREAS, Discovery Builders, Inc. has requested the revision of Condition of Approval Number 41 to add the following text, "This could include forming and annexing to a CFD to allow the City to maintain these facilities"; and

WHEREAS, Discovery Builders, Inc. has requested the revision of Condition of Approval Number 42 to allow permits for model homes to be excluded from the requirement to have paved streets as long as the Fire Department approves it; and

WHEREAS, Discovery Builders, Inc. has requested the revision of Condition of Approval Number 46 to replace the existing text with, "Developer shall have a traffic study prepared for the subdivision by a competent traffic engineer and, based on the final number of trips generated by the project, shall pay a proportionate share of the cost of the signal" as fulfilling the existing requirements of Condition of Approval Number 46 would be onerous since acquisition of necessary right of way from two adjacent property owners would likely require a condemnation action and existing Western Area Power Administration facilities would likely have to be moved; and

WHEREAS, Discovery Builders, Inc. has requested the elimination of the requirements of Conditions of Approval Number 55 and 56 as the construction of improvements on the opposite sides of adjacent streets from subdivision development projects is not normally required and would make this project cost prohibitive; and

WHEREAS, Discovery Builders, Inc. has requested the revision of Conditions of Approval Number 58 and 59 to eliminate the requirements to dedicate the right of way along the north side of Laurel Road and the west side of Rose Avenue that would be needed to construct the improvements described in Conditions 55 and 56;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that Condition of Approval Number 41 is revised to include, "This could include forming and annexing to a CFD to allow the City to maintain these facilities", Condition of Approval Number 42 is revised to allow issuance of building permits for model homes prior to paving of streets provided approval is granted by the Fire Department, Condition of Approval Number 46 is revised to replace the existing text with, "Developer shall have a traffic study prepared for the subdivision by a competent traffic engineer and, based on the final number of trips generated by the project, shall pay a proportionate share of the cost of the signal", Conditions of Approval Number 55 and 56 of City Council Resolution 76-06 are hereby eliminated and that Conditions of Approval Number 58 and 59 are revised to eliminate the requirement to dedicate right of way along the north side of Laurel Road and along the west side of Rose Avenue. The remaining conditions of approval in Resolution 76-06 shall remain in full force and effect.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 10th of November, 2015 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTENTIONS:

APPROVED:

Doug Hardcastle, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date