



STAFF REPORT

DATE: May 25, 2021

TO: City Council

FROM: Joshua McMurray, Interim City Manager

SUBJECT: Burroughs Rezone (RZ 01-21) and Vesting Tentative Map (TM 01-21) - An application requesting approval of a Rezone (RZ 01-21) and Vesting Tentative Map (TM 01-21) to rezone the property from the A-3 (Heavy Agriculture) District to the Planned Development (P-1) District and to subdivide the approximately 43.24-acre project site into 208 single-family residential lots with associated site improvements and amenities. The project site is designated Single-Family High (SH) in the Oakley 2020 General Plan and Zoned A-3 (Heavy Agriculture). The Project is located at the northeast corner of E. Cypress Rd. and Knightsen Ave. (APN's: 032-081-026 and 032-081-025)

Summary and Recommendation

This is a public hearing on an application by Westgate Ventures requesting approval of a Rezone (RZ 01-21) and Vesting Tentative Map (TM 01-21) to rezone the property from the A-3 (Heavy Agriculture) District to the Planned Development (P-1) District and to subdivide the approximately 43.24-acre project site into 208 single-family residential lots with associated site improvements and amenities. The project site is designated Single-Family High (SH) in the Oakley 2020 General Plan and zoned A-3 (Heavy Agriculture). The Project is located at the northeast corner of E. Cypress Rd. and Knightsen Ave. (APN's: 032-081-026 and 032-081-025).

There is also an agreement that needs to be entered into with the Contra Costa Water District, which will be discussed in more detail later in this report. Staff has provided a Draft Resolution that would allow the City to enter into the agreement.

Staff recommends the City Council:

- Adopt the Mitigated Negative Declaration (included as a finding in the proposed Rezone ordinance and Vesting Tentative Map resolution);

- Waive the first reading and introduce an Ordinance approving the Rezone, as conditioned;
- Adopt a resolution approving the Vesting Tentative Map and Design Review, as conditioned; and
- Adopt a resolution authorizing the City Manager to enter into the Contra Costa Water District Abstract of Memorandum of Agreement and Supplement to the North Dutch Slough Properties Memorandum of Agreement.

Background

History of the Dutch Slough Properties

Prior to incorporation of the City, Contra Costa County designated approximately 1,500 acres owned by the Emerson, Gilbert, and Burroughs families (the "Dutch Slough area"), for urban development and executed Development Agreements (DAs) with the land owners. Upon incorporation, the DAs with the County became binding upon the City.

In fall of 2001, the Dutch Slough land owners submitted an application to the Cal-Fed Delta Program to sell the properties north of the CCWD/USBR Canal to create the Dutch Slough Tidal Marsh Restoration Project. On September 2002, the City Council approved a Memorandum of Understanding ("MOU") between the City and the Dutch Slough land owners summarizing the terms of basic understanding regarding the disposition of the northern and southern portions of the properties and the future planning for the southern portions. In August 2003, the MOU was supplemented by DAs between the City and the Dutch Slough land owners to formalize and secure the rights created in the MOU, General Plan, and the Department of Water Resources (DWR) transaction.

In March of 2005 the City Council approved a collaborative planning processing for the Dutch Slough area. A group of five developers and the City developed the Dutch Slough Planning Framework Study to guide the development of the three properties made up of the Emerson, Gilbert and Burroughs properties. After the completion of the Dutch Slough Planning Framework Study, the City began processing the Tentative Maps for the three properties and one Environmental Impact Report for the Dutch Slough project area. This cooperative framework went away during the recession and the Emerson and Gilbert properties have now developed separately. Emerson Ranch has been mostly built out with Neighborhoods 1-5 being developed and Neighborhood 6 is under construction and the commercial parcel has a project proposed which will be scheduled for an upcoming City Council meeting. The Gilbert property (Delaney Park) is currently under construction with four active home builders.

The Burroughs property is comprised of two parcels. APN 032-081-026, which is approximately 17.90-acres, is owned by the Burroughs Family and APN 032-081-025, which is approximately 27-acres, is owned by the City. The City received the 27-acres as part of the transaction discussed above between the State and parcel owners. In addition to the 27-acres, the City also received the land for the 55-acre regional park at the end of Sellers Avenue, some land off of Jersey Island road and some “seed” money to fund the initial design of the regional park.

The Burroughs property was never entitled with a subdivision map, although there is a Development Agreement as mentioned previously that was first approved in 2003 and amended in 2015. That Development Agreement is only for the portion of the property owned by the Burroughs family and not the City owned portion of the project site.

It has long been envisioned that the proceeds from any land sales of the City owned parcel would go to benefit the 55-acre regional park site at the end of Sellers Avenue. While Staff has been diligent in seeking and applying for grant monies, this alternative revenue source would go to help fund the first phase of the park along with grants and other funding sources not yet identified.

Cooperative Agreement with Westgate Services

On December 10, 2019, the Oakley City Council approved the Cooperative Agreement between the City and Westgate Services for the entitlement and Preparation for Sale of this property. There are significant economies of scale to plan, entitle and develop both the Burroughs' 18 acres and the City's 27 acres together. The planning and entitlement work would include geotechnical analyses, biological consultants, civil engineering, preliminary architectural and other related consultancy. It is also believed that the sales proceeds on the sale of the jointly-planned parcels to be much higher than if planned, entitled and sold separately.

The Cooperative Agreement set forth the terms and conditions of the proposed arrangement with WestGate. The key provisions include:

- WestGate overseeing the various consultants and professionals needed to plan, entitle and sell the property.
- Unless a particular consultant is only needed for the Burroughs Property, or the City's property, all costs of consultants will be shared equally. (Price proposals/bids will be jointly reviewed by WestGate and the City and be mutually agreed upon).
- Communication and coordination between WestGate and the City will focus on the main goal of maximizing value of the properties.

- WestGate will process all entitlement documents with the City to include, any General Plan Amendment (not being proposed), Tentative Map, Design Review, etc.
- WestGate will assist with the marketing and sale of the City property to a merchant homebuilder and will receive 2.5% of the sales price as commission.
- WestGate would also receive upon sale of the property a \$30,000 a fee for coordinating the work of the consultants and entitlement process.
- The City would not charge for City staff time for this development; however, costs to the City by outside parties providing services needed to process the development application would be billed to the development.

Project Description

Surrounding Uses

The 43.24-acre Burroughs project site is located at the northeast corner of E. Cypress Rd. and Knightsen Ave. (APN's: 032-081-026 and 032-081-025). It is bordered on the west by the Delaney Park, on the south by land within the unincorporated area of the County, to the north by the Contra Costa Canal, and to the east by the Contra Costa Canal and Jersey Island Road. Properties within the East Cypress Corridor Specific Plan are east of Jersey Island Road.

Figure 1. Vicinity Map



General Plan and Zoning

General Plan: The project site is designated “Single Family High” in the Oakley 2020 General Plan. The “Single Family High” designation allows for a gross density range of 3.8 – 5.5 dwelling units per acre. The proposed project density falls within the middle of the range at 4.8 dwelling units per acre. The project includes a request to rezone the site from the A-3 (Heavy Agriculture) District to the Planned Development (P-1) District. The project site has long been envisioned to contain residential uses and the rezone application will clean up the zoning inconsistency in that the project will change the zoning from an old Contra Costa County Zone, A-3, that existed at incorporation to a zone district that is compatible with the current land use designation. The Planned Development (P-1) District is compatible with the “Single Family High” General Plan designation.

Zoning: The project is proposing a Rezone to the Planned Development (P-1) District. The P-1 District allows for project specific development regulations, including minimum lot sizes, setbacks, and uses, as specified in [OMC section 9.1.1002](#).

Proposed Rezoning

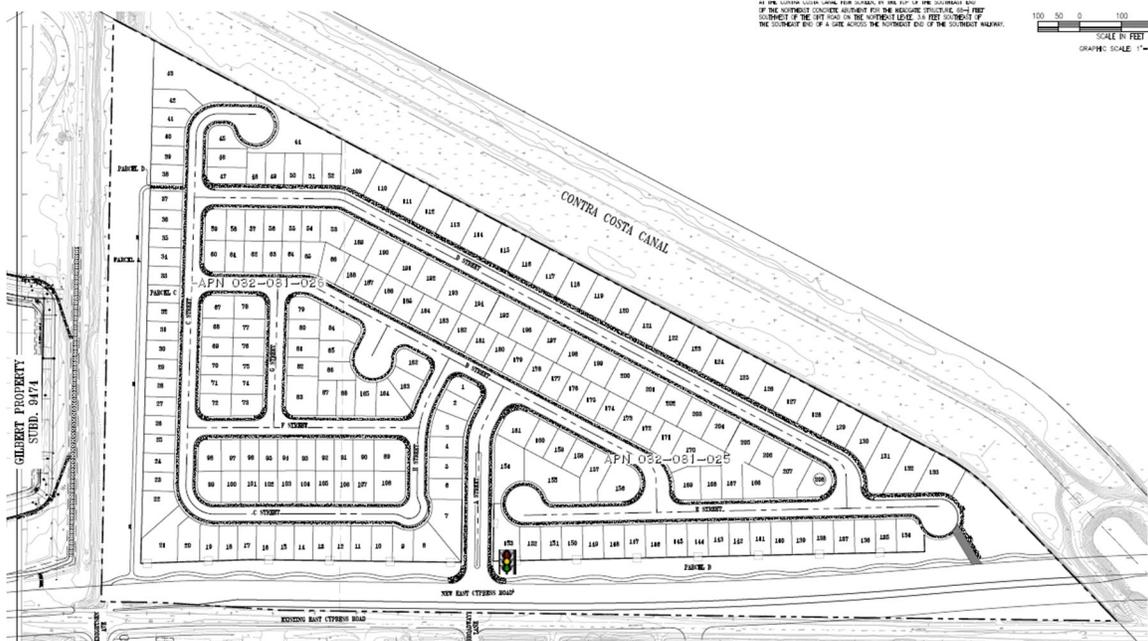
A Rezone ultimately needs to be compatible with the underlying General Plan Land Use Designation of a property. When evaluating a Rezone, the General Plan/Zoning compatibility matrix (Table 2-6 in the Oakley General Plan 2020) gives guidance on what zoned districts are compatible with a particular land use designation. In the case of this project, the underlying land use designation is Single Family-High and the zoning districts found to be compatible with SH include Single-Family Residential (R-6) District, Single-Family Residential (R-7) District, Single-Family Residential (R-10) District, or Planned Unit Development (P-1) District. The P-1 District allows for any land uses permitted by an approved final development plan which are in harmony with each other, serve to fulfill the function of the planned unit development, and are consistent with the General Plan. The applicant has proposed the Planned Unit Development (P-1) District, which in this case would allow for the proposed project.

Proposed Vesting Tentative Map

The project proposal includes a Vesting Tentative Map to subdivide the 43.24-acre site consisting of 2 parcels into 208 single-family lots.

The Vesting Tentative Map Exhibit is depicted as Figure 2 on the following page:

Figure 2. Vesting Tentative Map Exhibit



Central Valley Project Inclusion

Water is provided to the project site by the DWD, and untreated water is provided to Diablo Water District (DWD) by the CCWD. Per CCWD's 2015 Urban Water Management Plan (UWMP), DWD's primary water supply for its distribution system is treated surface water from the United States Bureau of Reclamation's Central Valley Project (CVP) purchased from the CCWD.

The proposed project site would need to obtain water inclusion into the CVP through CCWD and the Bureau of Reclamation. The application would be submitted through CCWD and would be processed by the Bureau. The proposed six-lane Cypress Road in this location would continue through the Burroughs Project and would **not** be considered as part of the Bureau's CVP Inclusion Review. In addition, ground disturbance on the Burroughs property would not take place until such time as the CVP Inclusion review is completed.

As noted above, the proposed project and the project specific roadway improvements to E. Cypress Road would not infringe upon any CCWD or Bureau land. An exhibit has been prepared to show the improvements that need to be constructed and how the improvements are solely within the City of Oakley right-of-way. Roadway improvements are necessary for the Cypress Preserve project to the east of the Burroughs project site.

The roadway improvements do take place on CCWD/Bureau land by the Grand Cypress Preserve project to the east within the East Cypress Corridor Specific Plan and that project has already received inclusion into the CVP and all associated environmental permits that allow for that road construction have been obtained.

The Agreements and Attached Resolution authorizing the City Manager to sign the Agreements are necessary in order to formally kick-off CCWD and the Bureau with the inclusion process. The Agreement's do require the payment of fees and Staff has communicated with CCWD that we do not intend to develop the site as the City and that when the land is sold to a builder, those fees would then be paid. CCWD is comfortable with that arrangement.

Analysis

Rezone

To revisit the project description section, the Planned Unit Development (P-1) District is compatible with the Single-Family Residential, High Density (SH) land use designation and would allow for a single-family residential use as a permitted use. The project, as conditioned, is well thought out and will allow the site to be developed in the vision of the applicant in a manner consistent with the Single-Family Residential, High Density (SH) land use designation.

Vesting Tentative Map

The Vesting Tentative Map has been reviewed against all applicable codes including the Subdivision Map Act and the Zoning Ordinance. The applicant has proposed the Planned Unit Development (P-1) District which allows the project to develop its own unique development standards. The Zoning Requirements Plan lists the specific zoning standards applicable to this project. The minimum lot sizes proposed in this development range from 3,375 square feet to 5,200 square feet. As there is not a design review application proposed at this time, the Zoning Requirements Plan and lotting exhibits in the attached project plans are meant to demonstrate that the lots proposed are adequate for housing and will be able to accommodate a wide range of housing footprints. The Vesting Tentative Map as proposed meets all applicable codes and regulations. A breakdown of the lots, Burroughs versus City, and minimum lot sizes is below.

LOT COUNT TABLE			
LOT SIZE	BURROUGHS PROPERTY	CITY OF OAKLEY	SUB TOTAL
45'x 75'	93		93
50'x 80'		71	71
65'x 80'		44	44
TOTAL LOTS			208

The 208 lot subdivision will be accessed through its primary entrance off East Cypress Road and directly north of the existing Broadway Lane, which is in the unincorporated area of the County. This intersection will be signalized and is part of the project and has been conditioned as such. The main entry leads to a series of loop roads and cul-de-sacs that provide for multiple neighborhoods within the larger subdivision. The project is conditioned to construct roadway improvements along the project's frontage, to include 6 travel lanes, curb, gutter, sidewalk, landscaping and lighting. Because the frontage of the project is approximately split between 25% Burroughs and 75% City, the City will plan to construct the full improvements as part of a Capital Improvement Project (CIP). The project is also conditioned to require whoever builds the project to enter into a cost-sharing agreement with the City to account for the 25% that will not be funded by the City.

The overall project site has multiple constraints which attributed to the overall design of the subdivision. Although the constraints add to the overall project costs and reduce the developable area of the site, the subdivision as designed is well thought out and consistent with the type of subdivisions currently being constructed to the project's west in Emerson Ranch and Delaney Park. The first constraint deals with the overall elevation of the site and the need to bring that base elevation out of the floodplain. Typically, and what was done on both projects to the west, a levee would be constructed around the project's perimeter to provide flood protection. That was first considered for this project but during the initial planning, it was found that the project site would be required to connect to the Delaney Park storm water pond. That pond will provide the site both water treatment and provide capacity in the event of a large storm. With that connection, the site will need to be raised several feet to accommodate for gravity flow. The connection for that and most utilities will be through a jack and bore under Little Dutch Slough, in order to connect to the stub outs at the east end of Delaney Park. With the fill required to raise the site to accommodate utilities, the need for the levee system went away as the site will be raised above the elevation needed to provide for flood protection. One of the unique features that was not originally planned, but as a result, is that the lots that back up to the north end of the project site will all have view lots, looking over the Contra Costa Canal and DWR restoration project land further north. These lots are also the largest lots in the subdivision with all the view lots being at least 6,000 square feet or larger. The provided landscape plans show enhanced view fencing that will allow for open views to the north. This fence will require CCWD approval and the project has been conditioned as such.

Another site constraint has to deal with the irregular shape of the project site. This is further exacerbated by the 75-foot environmental setback from Little Dutch Slough at the west property line of the site. That constraint has led to a pretty unique trail opportunity that has been incorporated into the project design. If a levee was going to be part of this project, Staff would have required a trail on top of the crown of the levee. Since a levee is not required, we have still worked with the applicant to provide a loop trail. The loop follows the project frontage and will utilize the sidewalk

along East Cypress Road (to be constructed with this project). From the project frontage, the trail extends north within the environmental setback. This area will be planted with native vegetation and trees to provide a unique setting. Those plantings have already been reviewed and approved by the Habitat Conservancy and the long term maintenance of this area will be funded through the Community Facilities District that the project is conditioned to annex into. The trail then extends to the east and follows the frontage of lots 47-52, and lots 109-133. This area of the trail features a detached, widened 8-foot asphalt path in front of those lots. This widened path will help activate the subdivision and will provide for a much different experience than your standard 5-foot monolithic sidewalk. The trail then heads south to the sidewalk on East Cypress Road, just south of lot 133. An Emergency Vehicle Access area also exists in this location in the event the Fire District or any other emergency personnel need access to the site, alternative from the primary access, north of Broadway Lane.

California Environmental Quality Act (CEQA)

An Initial Study and Mitigated Negative Declaration (“MND”) have been prepared for this project pursuant to the California Environmental Quality Act (CEQA). The Notice of Intent to Adopt a MND and Initial Study was circulated for public review and comment from April 9, 2021 to May 10, 2021 and was filed with the County Clerk and Governor’s Office of Planning and Research State Clearinghouse. A copy of the MND and Initial Study are attached. The City Council must adopt the MND in order to approve the project. Adoption of the MND is included as a finding in the proposed Rezone ordinance and Vesting Tentative Map resolution.

The City did receive comment letters during the public review period from the California Department of Transportation, East Contra Costa Fire Protection District, and the Central Valley Water Quality Control Board. The comment letters and the responses to the comments are contained in Attachment 5. If changes were needed to the MND, those have been identified in the Errata at the end of Attachment 5.

Citizen Planning Advisors

The Oakley Citizen Planning Advisors received copies of the Applicant’s Plans via email on November 1, 2017. Per City Council Resolution 15-14, which established the Citizen Planning Advisors, Staff did not receive any comments from the Citizen Planning Advisors.

Findings

Draft findings are included in the attached ordinance and resolution.

Recommendation

Staff recommends the City Council:

- Adopt the Mitigated Negative Declaration (included as a finding in the proposed Rezone ordinance and Vesting Tentative Map resolution);
- Waive the first reading and introduce an Ordinance approving the Rezone, as conditioned;
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- Adopt a resolution authorizing the City Manager to enter into the Contra Costa Water District Abstract of Memorandum of Agreement and Supplement to the North Dutch Slough Properties Memorandum of Agreement.

Attachments

1. Vicinity Map
2. Public Hearing Notice
3. Project Plans
4. Initial Study with Mitigated Negative Declaration
5. Initial Study with Mitigated Negative Declaration Response to Comments and Errata
6. Proposed Rezone Ordinance with Exhibit "A"
7. Proposed Tentative Map Resolution with Exhibit "A"
8. Contra Costa Water District Abstract of Memorandum of Agreement
9. Contra Costa Water District Supplement to the North Dutch Slough Properties Memorandum of Agreement
10. North Dutch Slough Memorandum of Agreement dated April 10, 2006
11. Draft Resolution Authorizing Signature of the two CCWD Agreements
12. PowerPoint Presentation