



Agenda Date: \_\_\_\_\_

Agenda Item: \_\_\_\_\_

Date: May 5, 2008  
To: Planning Commission  
From: Alison Thornberry, Assistant Planner

Approved and Forwarded to Planning Commission

\_\_\_\_\_  
**Rebecca Willis**  
**Community Development Director**

Project: Request for approval of a Rezone from General Agriculture (A-2) to Single Family Residential (R-40), Vesting Tentative Subdivision Map 9052 to subdivide a 5.97 acre parcel into five parcels and adoption of a Mitigated Negative Declaration. The site is located at 4761 Live Oak Road (APN 041-090-008).

Applicant: John Mederos and Don Mederos; 4071 Walnut Drive, Pleasanton, CA 94566.

### Summary

This application includes requests for:

- Rezone
- Vesting Tentative Subdivision Map

Since this project includes a rezoning (a legislative act), the Planning Commission is being asked to review the project and make a recommendation to the City Council on the Mitigated Negative Declaration, Rezoning, and Vesting Tentative Subdivision Map.

This project is a residential hillside development, that takes advantage of the naturally sloped terrain of the site to minimize grading of the hillside and to create approximately one-acre estate lots for future development.

The proposed project is in compliance with the General Plan, proposed zoning (R-40 District), Subdivision Ordinance, and Residential Design Guidelines. The mitigation measures included in the Initial Study/Mitigated Negative Declaration reduces all potentially significant environmental impacts to a less than significant level.

Staff is recommending adoption of the Mitigated Negative Declaration and approval

### **Background**

The proposed project site encompasses 5.97 acres with one single-family residence located in the eastern portion of the property. The topography of the site varies across the site from a low of approximately 37 feet above mean sea level (msl) at the southeast corner of the planned Lot 4 to a high of approximately 69 feet above msl at the south side of lot 4, a grade difference of 32 feet. This is a large slope creating a natural location for a hillside development with views of the city. The existing house is a small, one-story house with outbuildings and horse corrals located behind the house. There are several farm animals on the property, ornamental trees around the house and an abandoned orchard across the property. Currently there is a septic tank and leach field near the northwest corner of the house, that will be removed prior to the Final Map. The project is bordered by Live Oak Road to the east, rural single-family residences located to the north, south and west.

### **Project Description and Analysis**

The proposed project will create five estate size parcels which will blend with the rural neighborhood. The applicant is not proposing a development plan, as the lots will be sold as estate lots. Staff will ensure any new dwelling conforms to the Residential Design Guidelines, through the review and approval of building permits (See Condition #26).

The applicant submitted a tree survey which identified a cluster of protected trees, Coastal Live Oaks, on Lots 2 and 5. The applicant is proposing to maintain the trees on site. The construction of the projects streets will not infringe on the habitat of the trees. However, staff has conditioned the applicant to comply with the Tree Preservation Chapter 9.1.1114 of the City's Zoning Code which states, the applicant shall not trench, grade or fill within the dripline of the protected trees without a tree permit and arborist report to ensure the preservation of all protected trees on site (See Condition #17).

The evaluation of the proposed Rezone and Subdivision is based upon the applicable development standards within the City's General Plan, Residential Design Guidelines, Zoning Ordinance and Subdivision Ordinance. The following analysis and discussion is based on the standards and guidelines as set forth in these documents.

### **REZONE**

The applicant is requesting to rezone the property from General Agriculture (A-2, minimum lot size 5-acres) to Single Family Residential (R-40 with a minimum lot size of 40,000 sq. ft.). The General Plan designation on the property is Single Family Very Low (SV – Maximum Density of 1 unit per acre). The purpose of the R-40 zoning district is to provide for large-lot residential development. The sizes of the proposed parcels will range from 40,002 sq. ft to 45,856 sq. ft. Small farming activities are to be permitted on the new lots; albeit with restrictions in accordance with the R-40 Zoning District Regulations (Section 9.1.404 of the Zoning Code).

### ***Development Standards***

The existing home on Lot 5, as well as the new structures will be required to meet the setback standards contained in the R-40 zoning district. New dwellings will be reviewed by staff during the building permit process and shall be required to meet the Residential Design Guidelines (See Condition # 26).

### Rezone Analysis

The proposed R-40 designation is consistent with the General Plan designation of Single Family Very Low (SV). The average density for this project is 0.8 dwelling units per acre. The proposed minimum lot size would not allow any of the new lots to be further subdivided, which will ensure future consistency with the adjacent developments. The proposed zone change will further the public health, safety and general welfare of the City by providing rural estate sized lots with ample open space and development standards that reflect the rural nature of the project. (General Plan Policy 2.2.7).

### **SUBDIVISION**

The proposed subdivision consists of 5 lots with a cul-de-sac located on the southern portion of the site. Lots 3, 4 and 5 will take access from the cul-de-sac and lots 1 and 2 will be accessed via a private driveway easement located on the northern portion of the site. The applicant worked with staff to take advantage to the naturally sloped terrain to work in harmony with hillside development. Staff wanted to avoid a situation where the cul-de-sac ran up the hillside with the cul-de-sac bulb at the top of the knoll, resembling a helicopter pad. As a result, the cul-de-sac ends between Lots 3 and 4, prior to reaching the highest point of the hill. The private drive is along the northern most property line to allow the future home sites to be situated along the top of the hill, providing a views for the future homes. The applicant has proposed this unique design to accent the naturally sloped, hillside terrain.

### *Vehicular Circulation Plan*

The proposed subdivision would extend El Lago Drive to the west of Live Oak Avenue and continue along the south side of the proposed subdivision. As stated earlier, the standard cul-de-sac ends between lots 3 and 4. The proposed driveway easement will be 20-ft wide and is conditioned to have a minimum of 5-ft of landscaping on both sides of the road which will increase the width of the easement to 30-ft. (See Condition #16).

### *Road Improvements*

Live Oak Avenue is designated as a collector street in the City's General Plan and as a Class I Bicycle Route<sup>1</sup> in the County's Transportation Plan. The City's Parks and Trails Master Plan designated the west side of Live Oak for a 4-ft equestrian trail that connects to a city-wide trail system. The project will be conditioned to construct it's portion of the frontage improvements along Live Oak Avenue to City standards which will include curb, gutter, sidewalk, trail and associated landscaping. Staff has added a condition that requires the applicant to analyze the existing pavement section of Live Oak and reconstruct the roadway to a minimum width of 28-ft if the section is found to be less then standard (see Condition #42). The applicant will not be reimbursed for this work, if it is required, because it is not included in any City fee program and there is no source for the reimbursement.

The applicant shall be required to dedicate and construct all project streets both public and private. The subdivision contains one project street/cul-de-sac and will consist of a 36-ft

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<sup>1</sup> Class I Bike facilities provide a completely separated right of way for the exclusive use of bicycles and pedestrians with crossflow minimized.

roadway within a 56-ft right-of-way. The applicant has worked diligently with Staff to create this unique design for the proposed subdivision to minimize the disturbance of the natural grade of the hillside and to keep the rural, large lot feeling that surrounds the project site. Staff recommends omitting the sidewalk and streetlights on this street to keep rural feeling of the neighborhood (See Condition #22). The center line of the project street requires right-of-way acquisition from the Westbury property (041-090-009) to keep the street aligned with El Lago Drive. The street was designed to jog to the north to minimize the right-of-way take from the Westbury property.

*Gateway Entry/Fencing*

The proposed project is conditioned to have a neighborhood entry identified by accent paving, and accent planting at the southwest corner of Live Oak Avenue and the project street (Refer to Landscape Plan, and Condition #20).

The applicant is proposing to install a 6-ft., wrought iron fence with decorative pilasters, along the Live Oak Avenue frontage to accentuate the large estate lots within this subdivision. The applicant is conditioned to work with the neighboring properties to the south of Lots 4 and 5 and to the north of Lots 1, 2 and 3 on appropriate fencing styles to meet the needs of the neighborhood (See Condition #19). Staff recommends open fencing for this area, similar to a split rail style to retain the rural nature of this neighborhood.

*Park Dedication Requirement*

Subdivision applicants may meet park dedication requirements in one of three ways: (a) dedication of land for an *onsite* park which meets the adopted standard of 5 acres per 1,000 persons for projects subject to the Quimby Act; (b) dedication of land for an *offsite* park which meets the same minimum standard; or (c) payment of an in-lieu park dedication fee which is used by the City to purchase park land. Staff recommends the payment of an in-lieu park fee for this subdivision.

**Development Impact Fees**

Table 1 below shows the City-collected impact fees that apply to the project. All fees shown are the current fee amounts. Unless otherwise noted, this project will be required to pay the fees in place at the time building permit applications are deemed complete.

**Table 1 – Current Development Impact Fees per Parcel**

<b>Fee Amount</b>	<b>Type of Fee</b>
\$11,479.00	Traffic Impact Fee (local transportation improvements)
\$16,801.00	Regional Transportation Development Impact Mitigation (regional transportation improvements)
\$8,179.00	Park acquisition and improvement fee
\$400.00	Childcare
\$749.00	East County Fire Protection District
\$300.00	General Plan Fee (per gross acre)
\$2,502.00	Public Facilities Fee
Total does not include storm drain impact fee	

\*The project is in Drainage Area 29H. The fee for the entire project site and actual fees shall be calculated by Contra Costa County Flood Control District.

\*\*This project is not subject to the HCP.

### **Environmental Review**

An initial study and mitigated negative declaration have been prepared for this project pursuant to the California Environmental Quality Act (CEQA). The notice of intent to adopt a mitigated negative declaration and initial study were filed with the County Clerk and Governor's Office of Planning and Research State Clearinghouse and the review ended on November 6, 2007. A copy of the Mitigated Negative Declaration and Mitigation Monitoring Plan are included as Attachments 4 and 5.

### **Findings**

Draft findings are included in the attached resolution.

### **Conditions of Approval**

Draft conditions of approval are included in the attached resolution.

### **Recommendation**

Staff recommends the Planning Commission adopt the attached resolution recommending to the City Council approval of the Rezone, and Tentative Subdivision Map 9052 and certification of the Mitigated Negative Declaration.

### **Attachments**

1. Vicinity Map
2. Vesting Tentative Subdivision Map 9052
3. Landscape and Fencing Plan
4. Proposed Mitigated Negative Declaration
5. Mitigation Monitoring Program
6. Draft Resolution

**CITY OF OAKLEY**  
**PLANNING COMMISSION**  
**RESOLUTION NO. \*\*-08**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OAKLEY  
MAKING FINDINGS AND RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A  
REZONE FROM A-2 TO R-40, VESTING TENTATIVE SUBDIVISION MAP (9052) TO  
SUBDIVIDE ONE 5.97 ACRE PARCEL INTO FIVE LOTS AND CERTIFICATION OF A  
MITIGATED NEGATIVE DECLARATION LOCATED AT 4761 LIVE OAK AVENUE (APN  
041-090-008).**

**FINDINGS**

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

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

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

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

WHEREAS, On November 23, 2005, John and Donny Mederos (Applicant) submitted an application to the City requesting approval of a Major Subdivision and Rezone for 9052, a request to subdivide a 5.97 acre parcel into 5 single family lots; and

WHEREAS, On August 6, 2007 the Rezone and Subdivision was deemed complete by Staff; and

WHEREAS, The Project site is designated Single-Family Very Low (SV) in the Oakley 2020 General Plan. The proposed density for the Project is consistent with those General Plan designations.

WHEREAS, The City prepared a Mitigated Negative Declaration dated October 2007, 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 October 8, 2007. The Mitigated Negative Declaration was circulated for the required 30-day public review period, from October 8, 2007 through November 6, 2007.

WHEREAS, The Notice of Public Hearing for the Project was duly noticed in the Contra Costa Times, a newspaper of general distribution on April 25, 2008, and mailed out to all owners of property within 300 feet of the Project site on April 24, 2008. The Notice of

Public Hearing was posted at the Project site, Oakley City Hall, Freedom High School, and at 204 2nd Street (City Annex).

WHEREAS, On May 5, 2008 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 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.

WHEREAS, These Findings are based on the City's General Plan, the City's Zoning and Subdivision Ordinances, and the information submitted to the Planning Commission at its May 5, 2008 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 and the entire Record, the Planning Commission recommends that the City Council make the following additional findings in support of the recommended approvals:

1. The change in zoning from General Agricultural (A-2) District to Single Family Residential (R-40) District will comply with the General Plan in that:
  - a. **Rezoning the property from General Agriculture (A-2) to Single-Family Residential (R-40) will further the public health, safety and general welfare.** That the site for the proposed use is adequate in size and shape to accommodate the use, spaces, walls and fences, landscaping and other features required by this title to adapt the use with land and uses in the neighborhood. The proposed project as conditioned features a quality design that is compatible with residential lots in the vicinity and will provide additional housing opportunities within the City.
  - b. **The Rezone is consistent with the General Plan (and any applicable specific plan).** The rezone to Single-Family Residential (R-40) is consistent with the General Plan designation of Single-Family Very Low Density. The R-40 District is intended to provide for large-lot residential development, which maintains the rural character. These lots typify an estate lot, but are not associated with commercial agriculture or husbandry, with the exception of limited number of horses or livestock.
2. Regarding the approval of Vesting Tentative Subdivision Map 9052, the Planning Commission recommends the City Council find that the proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan.
  - a. **The proposed subdivision, together with the provisions of its design and improvements, is consistent with the Zoning Code and General Plan.** The proposed Tentative Map is consistent with the Oakley General Plan in that it allows for orderly rural residential development in a residential area. The proposed Tentative Map meets all of the applicable development standards in the Oakley zoning ordinance and R-40 (Single-Family

Residential) District, which governs large-lot residential development on the subject site. The proposed site plan and conceptual landscape plan meet the intent and goals of the Oakley General Plan.

- b. ***The subdivision includes conditions of approval which are deemed necessary to protect the public health, safety and general welfare. Conditions include.*** The proposed subdivision consists of five single-family residential lots configured in a rectangular manner with appropriate access. The proposed subdivision is conditioned to build all improvements prior to the issuance of the first building permit as mandated by Section 66411.1 (b) of the Subdivision Map Act. The proposed density for the project is 0.8 units per acre which is under the maximum 1.0 unit per acre.

3. 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 Planning Commission recommends that, subject to the conditions listed below, the City Council take the following actions:

- Rezone the Project property from A-2 (General Agriculture) to Single Family Residential (R-40 with a minimum lot size of 40,000 sq. ft.);
- Approve the Tentative Subdivision Map;
- Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan

BE IT FURTHER RESOLVED THAT, on the basis of the above Findings and the Record, the Planning Commission recommends approving the Applicants' request for the rezoning of the Property, and approval of Vesting Tentative Subdivision Map 9052 with the following conditions:

### **CONDITIONS OF APPROVAL**

Applicant shall comply with the requirements of Municipal Code. Any 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 April 2, 2008.

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE NOTED:

#### ***Planning Division Conditions***

General:

1. This Tentative Subdivision Map is approved, as shown on the revised plans, date stamped by the Community Development Department on April 02, 2008, 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 pulling a building permit and if not effectuated shall expire on \_\_\_\_\_. Prior to said expiration date, the applicant may apply for an extension of time pursuant to the provisions of the Zoning Code.
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 \_\_\_\_\_.
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. 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 and times may be modified on prior written approval by the Community Development Director.
6. 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.
7. All mitigation measures addressed in the environmental document shall be complied with and addressed as outlined in the Mitigation Monitoring Program approved for this project (incorporated as Exhibit A), per the review and approval of the Community Development Director.
8. 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).
9. Design of drainage facilities shall meet with the approval of both the City Engineer and the Contra Costa County Flood Control and Water Conservation District prior to the issuance of grading permits.

**Development Standards:**

10. Any development for this project site shall meet all setbacks and all other zoning regulations of the R-40 District.
11. Single Family Dwellings shall be meet the City's Residential Design Guidelines.

## **Parks and Landscaping:**

12. A mix of evergreen and deciduous trees as well as shrubs and ground cover shall be planted along the Live Oak Avenue street frontage as specified in the Residential Design Guidelines per the review and approval of the Community Development Director.
13. A landscaping and irrigation plan for all areas shown on the landscape plan shall be submitted for review and approval of the Community Development Director prior to the issuance of building permits. 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 mix of fifteen-gallon and 24" box; all shrubs shall be a minimum five-gallon size, except as otherwise noted.
15. All landscaped areas not covered by shrubs or groundcover shall be covered with bark or acceptable alternative as reviewed and approved by the Community Development Director. On slopes greater than 3 to 1, the applicant shall use an alternative to bark per the review and approval of the Community Development Director.
16. The private access drive easement shall consist of 20-ft wide pavement with minimum of 5-ft of landscaping on both sides for a total width of the easement to 30-ft.
17. There are several large Oak trees that shall remain in the subdivision. The applicant shall comply with the Tree Preservation Chapter 9.1.1114 of the City's Zoning Code which states, the applicant shall not trench, grade or fill within the dripline of the protected trees without a tree permit and arborist report to ensure the preservation of all protected trees on site.
18. A street tree plan shall be submitted for review of the Community Development Department prior to issuance of Building Permits.

## **Fences and Walls:**

19. Wrought iron fencing with decorative pilasters shall be installed along the subdivision frontage on Live Oak Avenue.
20. The applicant shall work with the neighboring properties to determine the appropriate fencing for the internal street and private access drive, per the review and approval of the Community Development Director.

**Subdivision Design:**

- 21. The neighborhood entry shall be identified by accent paving and accent planting per the review and approval of the Community Development Director.
- 22. Driveway openings shall be a maximum 18' in width or up to 25% of a lot's frontage (except on cul de sacs).
- 23. The street names shall be approved by the Community Development Department and the East Contra Costa Fire District.

**Subdivision Disclosures:**

- 24. 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.

- 25. 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 zon 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.

- 26. The following statement shall be recorded at the County Recorder's Office for each parcel to notify the future owners of the parcel that they are within the Antioch School District and shall be prominently displayed in sales office's for the public to view:

This document shall serve as notification that you have purchased land within the Antioch Unified School District. Properties located within Antioch Unified School District boundaries are subject to Mello Roos tax. Potential property owners should be fully aware of this at the time of purchase.”

**Design Review:**

- 27. All new dwellings shall conform to the City’s Residential Design Guidelines, and shall be approved through the review and approval of building permits

**Energy Efficiency:**

- 28. Water heaters shall provide an energy efficiency factor of 0.62 or better.
- 29. Dual zone air conditioning shall be provided on all two-story residential units.
- 30. Air conditioning condenser units shall be located to take advantage of natural shade. Condensers should not be placed on the west or south elevation of a home, unless shade is provided. The location of the condenser shall be added to all plot plans for review and approval of the Community Development Director.
- 31. Subdivisions design shall take into consideration passive solar energy and house orientation should take advantage of this.
- 32. High efficiency furnaces shall be used with a 90% AFUE and compressors shall have a SER rating of greater than 13 per the review and approval of the Community Development Director.
- 33. Low E glass windows should be used with wood, fiberglass or vinyl frames per the review and approval of the Community Development Director.

***Building Division Conditions***

- 34. Plans shall meet the currently adopted Uniform Codes as well as the newest T-24 Energy Requirements per the State of California Energy Commission. To confirm the most recent adopted codes please contact the Building Division at (925) 625 – 7005.
- 35. An Automatic Life Safety Sprinkler System shall be required in all new residential occupancies pursuant to Ordinance 22-06. The Automatic Life Safety Sprinkler Systems in one-family and two-family dwellings and attached and detached garages shall be designed and installed to the standards and requirements found in the most recent version of the NFPA (National Fire Protection Association), Standard 13D. A minimum of two sprinkler pilot heads shall be installed in a dwelling’s attic area, if applicable.
- 36. Prior to requesting a *Final Inspection* from the Building Division all Conditions of Approval required for occupancy must be completed.

## ***Public Works and Engineering Conditions***

### **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, 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 and pay appropriate fees in accordance with the 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 pay appropriate processing costs in accordance with the 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 pay appropriate processing costs in accordance with the 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.

### **Roadway Improvements:**

43. Construct the frontage of Live Oak Road to City public road standards for half-width of a 56-foot wide roadway within a 88-foot right of way, including curb, six-foot detached sidewalk (parallel to the curb face and offset from the face of curb by six feet), right of way landscaping, necessary longitudinal and transverse drainage, pavement widening to a minimum of 28 feet, and conforms to existing improvements. The face of curb shall be located 28 feet from the centerline and any conforms to existing improvements must take place outside of the limits of the project. As part of the design of the frontage improvements, the applicant shall collect core samples of the existing pavement and determine if the pavement section is capable of handling the anticipated traffic loads for the roadway. The existing pavement shall be reviewed by the City Engineer and, if found to be

inadequate, the applicant shall reconstruct the pavement to a minimum width of twenty eight feet from the east face of the west curb.

44. Construct the project streets to City public road standards and as shown on the Tentative Map 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.
  - B. 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.
45. Install traffic control devices such as stop signs and other signing and striping on the project streets to the satisfaction of the City Engineer.
46. Design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act.
47. 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.

**Road Alignment/Sight Distance:**

48. Submit a preliminary plan and profile to the City Engineer for review showing all required improvements to Live Oak 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 ± beyond the limits of the proposed work.

**Road Dedications:**

49. Convey to the City, by Offer of Dedication, the right of way for the project streets.
50. Convey to the City, by offer of dedication, the required off-site road rights of way for Live Oak Road. Alternatively the applicant can enter into an agreement with the City to fund the City efforts to obtain the off-site rights of way including all staff, legal, consultant, administrative, and acquisition costs.
51. Relinquish abutter's rights of access along all street frontages to the satisfaction of the City Engineer.
52. 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.

## **Street Lights:**

53. Install streetlights along the project Live Oak Road frontage. 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 along Live Oak Road shall be General Electric spun aluminum "cobra head" style.

## **Grading:**

54. 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.
55. 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.
56. Dust control measures shall be provided for all stockpiling per the review and approval of the City Engineer.
57. 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.
58. Submit a dust and litter control plan to the City Engineer prior to beginning any construction activities.
59. Submit a haul route plan to the City Engineer for review and approval prior to 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.
60. 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.

61. 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.
62. Grade all pad elevations or install levees to satisfy Chapter 914-10 of the City's Municipal Code, including the degree of protection provisions.
63. The burying of any construction debris is prohibited on construction sites.

**Utilities/Undergrounding:**

64. Underground all new and existing utility distribution facilities, including those along the frontage of Live Oak Road. 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 as a part of the Improvement Plan submittals for the project. The composite drawings and/or utility improvement plans shall be signed by a licensed civil engineer.
65. 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.
66. Above ground utility boxes shall be camouflaged per the review and approval of the City Engineer.

**Drainage Improvements:**

67. Collect and convey all stormwater entering and/or originating on this property, 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 consistent with the plans for Drainage Area DA 29H as prepared by the Contra Costa County Flood Control and Water Conservation District.
68. Submit a final hydrology and hydraulic report including 10-year and 100-year frequency event calculations for the proposed drainage system and stormwater pond to the City Engineer for review and approval.
69. Design and construct all storm drainage facilities in compliance with the Municipal Code and City design standards.
70. Prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.



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

**Landscaping in the Public Right of Way:**

72. Install public right of way landscaping along Live Oak Road and . along the project streets concurrent with construction of frontage improvements.

73. 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):**

74. 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, the Regional Water Quality Control Board (Central Valley - Region IV), including the Stormwater C.3 requirements as detailed in the Guidebook available at [www.cccleanwater.org](http://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/Assessments:**

75. 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 or any future alternative regional fee adopted by the City (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);
- F. Child Care Facilities "In Lieu" Fee (adopted by Ordinance No. 18-99 and 23-99);
- G. Fire Facilities Impact Fee, collected by the City (adopted by Ordinance No. 09-01);
- H. General Plan Fee (adopted by Resolution No. 53-03)
- I. East Contra Costa County Habitat Conservation Plan Fee (adopted by Resolution No. 112-07 & 124-07)

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.

- 76. 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 Game's filing fee.
- 77. 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. 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 to process the annexation. All costs of annexation shall be paid by Applicant.
- 78. 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 to process the annexation. All costs of annexation shall be paid by Applicant.

79. 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 to process the annexation. All costs of annexation shall be paid by Applicant.
80. 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.
81. Participate in the formation of a mechanism to fund the operation and maintenance of the storm drain system, including storm water quality monitoring and reporting, stormwater ponds and any proposed pump stations, as well as any levees proposed to be maintained by the City. 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 any final or parcel map, and the project proponent shall fund all costs of the formation.
82. Applicant shall comply with the drainage fee requirements for Drainage Area DA 29H as adopted by the County Board of Supervisors. The applicant shall pay the fee in effect at the time of building permit issuance. Certain improvements required by the Conditions of Approval for this development or the 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 they might be eligible. Any credit or reimbursements shall be determined prior to filing the final map or as approved by the Flood Control District.
83. Participate in the assessment district to fund parks, including any off-site parks that will serve this development.

#### 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 Oakley Municipal 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.

PASSED AND ADOPTED, the foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Oakley held on the 5th day of May, 2008, by Commissioner \_\_\_\_\_, who moved its adoption, which motion being duly seconded by Commissioner \_\_\_\_\_, was upon voice vote carried and the resolution adopted by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

\_\_\_\_\_  
PLANNING COMMISSION CHAIRPERSON

ATTEST:

\_\_\_\_\_  
SECRETARY TO THE PLANNING COMMISSION