



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

STAFF REPORT

TO: PLANNING COMMISSION
HEARING DATE: SEPTEMBER 18, 2017

GENERAL INFORMATION

APPLICATION TYPE & NUMBER: Vesting Tentative Tract Maps 8296 and 8297 – PLN2015-00180

OWNER / APPLICANT: D Street Investments, LLC / Marc Crawford, President

PROPOSAL: Application to subdivide seven parcels into thirty-one (31) single family residential lots by two separate Vesting Tentative Tract Maps (8296 and 8297), each with its own separate public street and easements for utility and access requirements. Tract Map 8297 would include three separate access easements to individual properties bordering the subdivision.

ADDRESS AND SIZE OF PARCEL: 3231, 3247, 3289 and 3291 D Street, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Numbers: 417-0240-001-00; 417-0240-006-00; 417-0250-021-00; 417-0240-004-00; 417-0240-012-04; 417-0240-005-00 and 417-0250-001-00. Combined area: 426,017 square feet (9.78 acres).

ZONING: R-1-B-E (Single Family Residence, 10,000 sq. ft. Minimum Building Site Area) District, and further subject to *Fairview Area Specific Plan* requirements.

GENERAL PLAN DESIGNATION: *Fairview Area Specific Plan*, a part of the Alameda County General Plan (Eden Area Plan), adopted September 4, 1997.

ENVIRONMENTAL REVIEW: Pursuant to the California Environmental Quality Act (CEQA, 1970, as amended), a Draft Environmental Impact Report (DEIR) was prepared, which was made public on January 31, 2017 for a 45-day comment period ending March 16, 2017. A Final EIR has been completed, containing responses to comments and minor changes and corrections to the Draft EIR, and was made public on September 6, 2017. The DEIR identified potentially significant impacts of the Project on air quality, potentially undiscovered subsurface archaeological resources, biological resources, noise, and land use policies related to topography and land forms. Potential impacts on aesthetics, water quality, cultural resources and traffic, were also addressed in the DEIR. The Final EIR is a composite of the DEIR and the response to comments document, to be used by the Planning Commission in its considerations, to approve or deny the proposed Tract Maps.

RECOMMENDATION

Staff recommends that the Planning Commission review the staff report, a draft Resolution, draft Findings required to be adopted by CEQA, take public comment on the Final EIR and the Project and the draft Resolution, then certify the EIR, adopt the Mitigation Monitoring and Reporting Program and approve Vesting Tentative Tract Maps 8296 and 8297.

PARCEL ZONING HISTORY

August 11, 1956, the 107th Zoning Unit designated properties in the Hayward Hills and Lower Castro Valley areas to various zoning districts.

May 3, 1975, the 1175th Zoning Unit redesignated various properties in the Fairview area from the R-1-B-E (Single Family Residential, 20,000 square feet minimum building site area) district to the R-1-L-B-E (Single Family Residential, 5-acre minimum building site area) district.

July 25, 1981, the 1476th Zoning Unit redesignated various R-1 properties in the Fairview area to a variety of other zoning districts, including the subject site which was designated as R-1-B-E (Single Family Residential, 10,000 square feet minimum building site area).

September 4, 1997, *Fairview Area Specific Plan* adopted, designating the site and vicinity in the R-1-B-E (Single Family Residence, 10,000 sq. ft. Minimum Building Site Area) District, subject to the policies and regulations of the *Plan*.

The seven parcels associated with the project also have a lengthy record of planning applications over the course of 50-plus years, including use permits, variances, boundary adjustments and prior subdivision proposals. One of the houses on the upper site was approved in late 1992 to be used as an administrative office for the convalescent home that lies between the two Project sites; however, the use of the house as such was discontinued over ten years ago. None of the prior permits have relevance to the subject Project.

SITE AND CONTEXT DESCRIPTION

Project Site: The Project site consists of two main areas separated by a long-established convalescent care home (Hilltop Care, or the Bassard Convalescent Homesite, 3269 D Street), which actually connects to D Street at only one point, with no actual street frontage (the care home will be granted an access easement across a project parcel). The westerly group of three parcels (APNs 417-250-2-0, 417-250-21-0, and 417-240-1-0) comprise a total area of 4.61 acres, towards Fairview Avenue, referred to as Fairview Meadows. The remaining four parcels, further uphill and east of the care home (APNs 417-250-12-4, 417-250-4-0, 417-250-5-0, and 417-250-6-0) are referred to as Fairview Orchards, and have a total area of 5.17 acres. Two of the Meadows parcels contain single family homes built respectively in 1925 and 1952, but are otherwise vacant lots with fewer than ten trees, and slopes of between 10 and 25 percent. The Orchards parcels contain similar slopes with some isolated, small areas of around 30 percent slope, and also contains two homes, built respectively in 1877 (per County records) and 1940. There are a similar number of trees on the site, primarily concentrated at the southern edge in a single line, but also has numerous smaller bushes and shrubs along the eastern side of the site.

Surrounding Area: The sites are east of Fairview Avenue, approximately 200 feet east of Maud Avenue and about 700 feet northeast of the Hansen/Vista Lane roundabout. The surrounding area is characterized by a mixture of residential subdivisions, rural residential uses and a number of undeveloped properties of between one and ten acres such as the Project site. The largest single use in the vicinity is the 34-acre Lone Tree Cemetery, to the southwest of the Hansen/Vista Lane roundabout on Fairview Avenue. The site is separated, by an undeveloped wedge-shaped parcel, from the partially-developed Tract 6102, also known as the Jelincic subdivision, which extends over about 18 ½ acres south of the Project sites. North of the Orchards site is a subdivision of about 30 homes along Machado Court, that has access from D Street. North of the Machado Court subdivision are three large, mostly wooded parcels of between 2 and 12 acres with access from Old Quarry Road (at the eastern terminus of D Street), that contain a few single residential uses, and which are designated for one-acre minimum lot sizes.

PROJECT DESCRIPTION

The Project is a proposal to subdivide the two sites into 31 single family residential parcels, with access by public streets (cul-de-sacs) in each of the two subdivisions, extending south from D Street. The 15 residential lots proposed on the Meadows site (Tract 8296) would range in size from 10,013 to 14,042 square feet, with an average lot size of 10,068 square feet. On the Orchards site (Tract 8297), the 16 proposed lots would be similar in size, ranging from 10,019 to 15,209 square feet, with an average of 11,713 square feet. A small remainder parcel (Parcel "A") would be created on the Orchards, due to the required alignment of the cul-de-sac, which would have two roughly L-turns and a maximum slope of 10.74 percent.

The 31-lot Project would have a net density of 3.2 units per acre of gross developable site area, as defined by the *Fairview Area Specific Plan* for single family residential development and as summarized in the table to the right. The gross developable site area includes nearly all of each lot area, because there are only trace amounts on the sites with 30% slopes which would be excluded from being counted under the Specific Plan. For areas in the R-1-B-E district with a 10,000 square foot minimum building site area, and in hillside areas (with over 10 percent average slope or gradient), the maximum allowed density for single family residential use is 3.5 units per acre, thereby allowing up to 34 units (3.5 times 9.78, the total lot area of both sites).

Calculation of Gross Developable Site Area

	Acres
Gross Site Area	9.78
Slope of 30% or greater	- 0.05
Unservable areas and riparian or wetland areas	- 0.0
Gross Developable Site Area	= 9.73

The 10,000-plus lot size minimum is compliant with the *Specific Plan* designation of the area for 10,000 square foot lot minimum lot sizes (R-1-B-E zoning). The minimum median lot width (measured at the mid-point between the front and rear property lines) would be 70 feet, also compliant with the zoning. Each lot would provide the minimum 15-foot side and 30-foot front yard setbacks required by the R-1-B-E zoning, together with two-car driveway aprons, and a minimum 1,000 square feet of designated usable open space, as required by the Specific Plan. However, for most of the lots on the uphill side of the Meadows subdivision cul-de-sac, the majority of the rear yards would consist of a 2:1 (50%) slope, so only the side yards would provide usable open space. Additional details of the Project proposal are in the Draft EIR.

GENERAL PLAN

The Project site is within the *Fairview Area Specific Plan*, which is part of the Alameda County General Plan (Eden Area Plan), adopted by the Board of Supervisors originally in 1980 and amended in 1997. The *Plan* area is designated generally as "Conventional Single Family Development" and divided by its zone districts, which includes R-1, allowing a minimum parcel size of 5,000 square feet; various R-1-B-E districts requiring minimum lot sizes of between 6,000 and 20,000 square feet, PD districts (Planned Development, for townhouse and condominium developments, and for secondary dwelling units), and A (Agriculture) districts. The subject site is designated as R-1-B-E with a 10,000 square foot minimum lot size requirement, and due to slopes that average over 10%, is designated as a hillside area allowing a maximum density of 3.5 units per gross developable site area. Other general principles, policies and guidelines in the *Plan* also apply to the Project.

ENVIRONMENTAL REVIEW

The Planning Commission first took up consideration of the Project in March 2016 at a public hearing on the Notice of Preparation, which provided the opportunity for the Commission and the public to comment on the scope of analysis in the Draft Environmental Impact Report (DEIR). The Project sponsor subsequently commissioned studies regarding aesthetics, air quality, biological resources, cultural resources, hydrology & drainage, geotechnical considerations, noise and traffic (in alphabetical order, as in the Draft EIR). The Draft

EIR incorporated these studies and also addressed hazardous materials, land use policy, housing and population, public services and utilities, and recreation. The Draft EIR was completed and began public circulation for the required 45-day review period on January 31, 2017 (ending March 16, 2017). On February 21, 2017 the Planning Commission held a public hearing to take public comments (February 21, 2017). The Final EIR/Response to Comments document was completed and made public on September 6, 2017. Large excerpts of the Draft EIR (Chapters 1, 2 and 3) were attached to the staff report for the February public hearing, including the Introduction, Executive Summary and the Project Description. The Draft EIR identified the following potentially significant impacts and mitigation measures (in the order presented in the DEIR):

- *Construction-Period Dust and Equipment Vehicle Emissions.* To mitigate these impacts, the Project sponsor will be required to incorporate both “Basic” and “Enhanced” construction practices recommended by the regional air quality control district. Basic measures include watering exposed soil, wet power vacuuming mud and dirt off adjacent public roads, limiting idling of equipment and providing dust complaint contacts on on-site signage. Enhanced measures include specific soil moisture standards, wind breaks, using fast-germinating grass seed in disturbed areas once finished grades are established, and other steps.
- *Disturbance of Special Status Plant Species.* Certain protected plant species may be present on the sites that would require a pre-construction survey and if necessary salvage and relocation in coordination with the California Department of Fish and Wildlife.
- *Disturbance of Special Status Animal Species.* The sites may contain dispersing individuals of the protected Alameda whipsnake (AWS) species, which would require a pre-construction survey, wildlife exclusion fencing, exclusion funnels to permit these and other terrestrial species to vacate the Project sites, and other measures to avoid adverse effects during construction.
- *Disturbance of Nesting Birds.* Because construction could interfere with nesting birds (that are protected by the federal Migratory Bird Treaty Act and the state Fish and Game Code), a pre-construction survey of the sites by a qualified biologist will be required, and if active nests are found specific protocols must be followed and buffers established.
- *Disturbance of Potential Paleontological, Archaeological, or Tribal Cultural Resources, and/or Human Remains.* Construction supervisors will be required to be informed of the potential for discovery of such resources and to follow the appropriate and applicable procedures in the event of a discovery, such as contacting the County coroner, retaining a professional archaeologist or other suitable specialist or Native American descendants.
- *Conflict with Land Use Policies Adopted to Preserve Topography as a Natural Characteristic.* The grading of the Project sites would conflict with certain policies and guidelines adopted to avoid substantial changes to the topography of the Project sites, which is recognized as an environmental quality and natural characteristic. Providing split elevation pads instead of flat pads on four lots or custom grading with the same effect, on lots 1, 2, 8 and 15 of Tract 8297, would reduce the extent of topographical alteration to a less-than-significant level.
- *Construction Noise.* In addition to requiring compliance with Noise Ordinance limitations on hours of construction, the grading and building contractors will be required to use mufflers, avoid idling, build sound walls where feasible and effective, and apply other strategies to reduce and avoid excessive noise. The list of steps includes designating a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise.
- *Construction Vibration.* The potential for severe or disturbing groundborne vibration to be experienced by sensitive residential uses (including the residential care home) would be avoided, minimized or compensated for by avoiding use of certain equipment near shared property lines, conducting surveys of off-site buildings less than 25 feet from the exterior property lines, and coordinating prevention of vibration with neighbors and repairing sensitive structures if necessary.

- *Traffic Disruption by Construction Vehicles.* A Construction Operations Plan would be required that would describe in detail the schedule of trips by construction equipment, workers, delivery of equipment and materials during each stage of Project development, to be reviewed and approved by the County (Director of Public Works and the Planning Director).

Certain topic areas, for which CEQA requires a basic level of analysis, were addressed in the DEIR in limited detail due to their inapplicability, such as agricultural and forestry resources, or exposure to seiche or tidal waves. Many of these topic areas, for which no significant impacts were expected, were consolidated into a single chapter (Chapter 13: Other Less than Significant Effects of the Project) in which these and other issues could be addressed. However, these included some major topic areas, such as geotechnical considerations, hazards and hazardous materials, population and housing, and public services. For most of these effects, the conditions of approval, established regulatory requirements and best management practices monitored by County staff or other agencies would ensure that no significant impacts on the environment would result.

In addition, although stormwater management was addressed in a separate chapter (Chapter 8, Hydrology and Water Quality), the analysis resulted in a determination that the Project design would avoid downstream flooding, protect water quality and in other respects, comply with the existing state water quality regulatory framework. As such, while no additional mitigation measures are required, the Draft EIR described in detail the measures and strategies that will be utilized during construction and installed permanently for the long-term management of stormwater. A somewhat similar approach also applies to the issue of traffic generated by the Project, in that except for potential effects of construction, no significant adverse traffic impacts were identified in the Draft EIR (or subsequently, in the Final EIR). However, the traffic analysis recommended two measures to minimize potential traffic and pedestrian safety concerns near the Project intersections with D Street, including limiting parking on the Project frontage for sight distance safety (i.e., visibility of vehicles near the intersections) and adding sidewalk ‘bulbouts’ to improve pedestrian safety.

The Mitigation Monitoring and Reporting Program (MMRP, included with this staff report and which requires approval by the Planning Commission), includes two sections, firstly measures that address the impacts identified as potentially significant for the purposes of CEQA (i.e., those listed above), and secondly, those measures that would be required by existing regulations, and recommended measures to address other concerns that were raised in the Draft EIR or by the public. These are also described in the Executive Summary in both the Draft and Final EIR, and include the following (in the order listed in the MMRP):

- Limiting lighting to appropriate levels, with standard conditions of approval;
- Complying with the latest requirements and standards of the California Building Code for protection of buildings and development from seismic and soil hazards;
- Carrying out Best Management Practices to ensure that the use of hazardous materials during construction (e.g., fuel, paints, pesticides, etc.) conforms to applicable regulations and safe use;
- Comply with the Construction General Permit requirements of the National Pollutant Discharge Elimination System (NPDES, part of the federal Clean Water Act) to meet state water quality standards, implement construction control measures, and use best management practices during construction;
- More specifically under the NPDES program, meet Municipal Regional Permit requirements for a Storm Water Pollution Prevention Plan (SWPPP), such as designing installing drainage features before grading activity, clearing land only before it is actively being graded or under construction, and temporarily stabilizing disturbed soils;
- Ensure detention of increased stormwater flows, in compliance with the Section C.3 requirements of the Municipal Regional Permit to avoid increases in peak stormwater flows in downstream creeks and avoid streambank erosion;

- Designing and building homes and pavements to comply with the most recent version of the California Building Code related to protection from seismic and soil condition hazards, including:
 - Over-excavation of fill, soft soils deposits and residual soils from the area of Lots 4 thru 6 in Tract 8297;
 - Where level building pad grades are established by the placement of fill, using a foundation system of drilled, cast-in-place reinforced concrete piers extending into underlying bedrock materials;
 - Where level building pads are placed on excavated sites of exposed bedrock materials at the surface, utilize conventional strip footing foundations that are structurally integrated to slab-on-grade floors;
 - Using concrete slabs-on-grade for garage and patio areas, subject to the detailed recommendations of the Geotechnical Investigation Report, to reduce the potential for slab cracking;
 - Applying specific design parameters to ensure stability of each type of retaining wall;
- Paying required school impact fees to the Hayward Unified School District;
- Implement measures to ensure interior noise levels comply with the County’s Noise Ordinance, by providing forced-air mechanical ventilation for the two Project homes bordering D Street (in Tract 8296), to allow windows to be kept closed if or when D Street traffic noise, as measured in the noise analysis, exceeds County standards;
- Restricting parking on the Project frontage to enhance sight distance between vehicles turning out of the two Project streets and other vehicles on D Street (a total distance of approximately 300 feet);
- Improve pedestrian circulation and safety by providing sidewalk “bulbouts” to reduce the curb-to-curb roadway width to 24 feet across the Project streets;

Final EIR/Response to Comments. The Draft EIR was made public on January 31, 2017 for a 45-day comment period ending March 16, 2017, during which time the Planning Commission held a public hearing to take public comments (February 21, 2017). After the close of the comment period on March 16, 2017, the environmental consultant (Lamphier-Gregory & Associates, and affiliated sub-consultants) and Planning Department staff prepared the Final EIR/ Response to Comments document, which was made public on September 6, 2017. The Final EIR includes about a dozen letters and e-mails, a record of comments received at the public hearing, and separate chapters providing firstly “Master Responses” and then individual responses. The Master Responses address the most frequent comment topics, which included: consistency with the *Fairview Area Specific Plan*; traffic issues (especially vehicle and pedestrian safety); and construction-period impacts (noise, dust, harmful air pollutants). A fourth master response responds very briefly to the numerous comments that were more generally about the merits of the Project and did not address specific environmental concerns or the analysis of such in the Draft EIR. Some key issues and responses in the Master Responses were as follows:

- *Consistency of the Project with the Fairview Area Specific Plan (Plan).* The applicant’s legal representative questioned the determination in the Draft EIR that there was an environmental impact due to the conflict with the policies to preserve existing topography, and the basis for requiring mitigation. The comment emphasizes that it is up to the Planning Commission to make such a determination.

The Draft and Final EIR reflect the CEQA direction that such an impact results only when the policy is adopted to protect environmental quality, and if there would be an adverse environmental change. In this case, the Draft and Final EIR observed that the Project would result in a “sharp conflict” with *Plan* policies to protect topography, which is clearly recognized in the *Plan* as an essential environmental quality. More specifically, the Draft EIR finds that the Project would result in: 1) substantial regrading of existing topography; 2) deep excavations that do not blend with natural land forms; 3) mass site grading on slopes of greater than 20% instead of individual lot grading; and 4) no custom grading where it would be more suitable. Furthermore, the County has the authority to define its own thresholds of significance.

However, it is agreed that the Planning Commission ultimately decides (on the preponderance of evidence) if an impact is significant, including any determination that a conflict with the *Plan* policies is significant. Additionally, the determination of significance is to be made in light of the *Plan* as a whole, and the EIR also does not presuppose or pre-establish the County's or the Planning Commission's discretion to assess consistency with the *Plan*. The Planning Commission will be further informed by this staff report and its recommendations and assessment of the project's merits, independently of the EIR and of CEQA.

The Draft EIR identified as mitigation the use of split pads or custom foundations on 4 of the 31 lots, and conceived Alternative C to avoid or lessen the extent of cut and fill throughout both tracts and be more fully consistent with the policies of the *Plan*. The Draft EIR determined that Alternative C would be the environmentally superior alternative (other than the No Project Alternative, which would avoid all potential impacts but would not meet any of the project objectives).

- *Traffic Issues.* Several public commenters questioned the trip generation rates used in the draft EIR and asserted that the new homes would have larger households with multiple cars and greater than predicted traffic impacts as a result. The authors of the EIR, and specifically the traffic analysis consultants for the EIR, assert that the rates are highly representative, being based on the widely accepted rates for single family homes developed by the Institute of Traffic Engineers (ITE). Other data indicates that household size has increased only slightly of late, from 2.71 in 2010 to 2.78 persons per household in a 2015 survey.

Due to several comments that the traffic effects were in some way understated in the Draft EIR (in part due to inaccurate trip rates), a Master Response reiterated that the Project would generate only 1 to 2 trips per minute during the PM peak hour at the nearest intersections. Accounting for future development in this area of Fairview, the trip effects would be similar.

Additional comments focused on safety related to the narrow width of D Street (about 30 feet, where 36 feet is the standard), which may leave only about 15 feet in width between parked vehicles for vehicles traveling in opposite directions. Given that the traffic volumes on D Street east of Fairview Avenue are so relatively low – 170 vehicles total under maximum cumulative conditions, with Project trips and other potential development in the immediate area – the response indicates little potential for conflict.

Several comments criticized the lack of sidewalks on the nearest portions of D Street that would not be improved with Project construction. The analysis in the Draft EIR did not find that the Project would conflict with County policies on pedestrian facilities, and did not identify any mitigation other than a recommendation for bulbouts at the Project street intersections.

Planning staff has recommended as a condition of approval, separate from the Final EIR, that the applicant utilize the maximum proportion of the required Countywide Traffic Impact Mitigation (CTIM) fees, estimated at approximately \$70,000, for improving off-site sidewalks bordering the Project sites, towards Fairview Avenue. Such use of funds is expected to provide an appropriate benefit on D Street, where there are several obstacles and missing sections of sidewalks within the public right-of-way.

- *Construction Effects.* Many comments were received related to the noise, air quality, dust and other air contaminants that Project construction would be expected to cause. The Master Responses to these subjects described the mitigation measures that were in the Draft EIR, and concludes that they will be adequate to reduce the overall effects to a less than significant degree. Although the County Noise Ordinance exempts construction activity from certain noise standards, it retains limits on excessive noise from equipment. Separately from the Final EIR/Response to Comments, a condition of approval would limit construction on weekends except for limited activities between the hours of 11:00 a.m. and 5:00 p.m. necessary or appropriate for the suburban environment.

The Draft EIR evaluated three Project Alternatives, , including a No-Project Alternative, a Reduced Density Alternative (a 25% reduction, to a total of 23 lots), and a “Greater Consistency with the Specific Plan Policies” Alternative in which the extent of grading of the two Project sites would be substantially limited,

and generally only to the extent needed to meet County standards. The third option, Alternative C, would avoid deep excavations and grading on 20 percent slopes or greater, and would minimize creation of new 2:1 slopes with heights greater than 10 feet, or distances greater than 20 feet, primarily on the Orchard site, where it would reconfigure the new street to more closely follow existing contours and avoid the degree of mass grading required for the Project. Few comments were submitted by the public regarding any of the Alternatives, however.

The No Project Alternative would have no impacts as it does not propose any change to the site. The No Project Alternative would be environmentally superior to the Project because it would completely avoid the Project's potentially significant adverse impacts; however, the No Project alternative would fail to satisfy the most basic of the primary Project objectives. Alternative B, the Reduced Density Alternative, would have almost identical development impacts as the Project, and only reduce post-development effects on traffic, air quality and noise in modest and relative terms, with limited potential for reduced effects on stormwater and runoff quality, and would not eliminate any specific impact or need for a particular mitigation measure. The "Greater Consistency" Alternative (Alternative C) is identified in the Draft EIR as the environmentally superior alternative. However, Alternative C is more of a general concept that has not been developed in detail. Instead of flat lots, many more would be developed on pier and grade beam or custom foundations that would greatly slow or complicate the construction of the Project, and result in a more irregular housing development pattern. One of the policies of the *Plan* is to complete build-out in one construction season; this alternative could preclude that level of construction efficiency. The applicant expressed strenuous opposition to further consideration of Alternative C due to the expectation that it would greatly increase development costs (due to more intricate foundation design and construction), accommodate only custom homes and could take ten or more years to complete construction.

PLANNING CONSIDERATIONS

The overall purpose of the current hearing is to consider the Project on its merits, and on the basis of the Final EIR (including the Draft EIR and the Final EIR/Response to Comments document), the draft Resolution and proposed conditions of approval, the Mitigation Monitoring and Reporting Program (MMRP), and the proposed Findings of Significant Impacts, approve (or deny) the Project as proposed, conditioned and mitigated. The Commission is expected to take public comment on the Final EIR/Response to Comments document, deliberate on the merits of the Project, certify the EIR, adopt the MMRP, and approve the draft Resolution for the two Vesting Tentative Tract Maps (8296 & 8297). The draft Resolution incorporates all of these necessary approvals into a single document.

Planning staff consider the Project to be substantially consistent with the *Fairview Area Specific Plan*, in its density and consideration of the environmental constraints. The Project site is well-suited to the proposed development in that it has few major constraints of creeks, wetlands, wooded areas or steep topography. The CEQA review process (i.e., preparation and public review of the Draft and Final EIR) has served its purpose of enabling extensive community input and comment, as well as providing for a careful review of the Project's relative conformity to the *Plan's* policies and guidelines. The EIR and standard agency review procedures have also conjoined to help develop a set of conditions of approval that will further the intent of the *Plan* and its policies. Where the Project was found to be inconsistent with the *Plan* policies or its guidelines, mitigation measures or conditions of approval have been prepared to minimize or resolve such conflicts, such as avoiding the deepest grading cuts to the existing site topography on a number of individual proposed lots, or by requiring site development review to finalize the design of homes and pedestrian facilities.

Planning staff also consider the proposal as in compliance with the *Plan* requirement for lot size consistency with the surrounding neighborhood, based on its average lot size of over 10,000 square feet and average lot

width of over 70 feet. Adjacent development to the east and west of the Project sites have very similar lot sizes, and are generally smaller on the west side of the sites, towards Fairview Avenue.

It is recognized that the community has important concerns about the effects of the Project during its construction and in the long term. Earlier concerns about drainage and downstream flooding appear to have been less of a concern, whereas construction noise, dust and traffic, and following construction, traffic and pedestrian facilities. A petition submitted to the Planning Director in February 2017 by Cathy Langley and signed by an estimated 90 persons expresses opposition to approval of the Project on the basis of the identified inconsistencies with the *Plan* and traffic concerns. Although Planning Department staff believe the statements on the petition cover letter are inaccurate and do not represent the whole of the Draft EIR and the Project as proposed and described and mitigated in the Draft EIR, it is acknowledged that many area residents are anxious that the Project will adversely impact their quality of life, both during construction and in the future.

In response to community interest in the Project and a desire by area residents to meet with County staff and with the developer for a better understanding of the Project and its effects, the applicant sponsored a community meeting on June 6, 2017 at the Stonebrae Country Club, attended by County staff, the EIR consultant, Ms. Langley and several others who had commented on the Draft EIR. The meeting primarily focused on traffic issues, similar to the concerns addressed in the Final EIR, including trip generation rates, parking demand along D Street, lack of sidewalks, and lack of mitigation to reduce expected traffic delays. In addition, the applicant described his expected timeline of home construction in two main phases between late 2018 and the end of 2019, and conveyed his strongly held belief that Alternative C as conceived in the Draft EIR (to be more consistent with the principles and guidelines of the *Plan* regarding preservation of existing natural land forms and topography) would require a ten-year buildout period, and appear more similar to the

The DEIR also identifies as a potentially significant impact, the substantial grading and excavation required on the Orchards site, and proposes as mitigation the use of split pads on four specific lots. It should be recognized that the identification of this impact is based on Staff's assessment that the excavation to a depth of 20 feet over approximately half an acre represents an adverse effect on topography. Although topographic changes are not a specified environmental impact in CEQA, the *Plan* identifies preservation of topography as a key objective and criterion for evaluation of proposed development. Furthermore, it should be recognized that the Project grading as proposed on the Orchards site (upper, ridgeline site) would result in new homes that would be sited roughly 20 feet below the existing ridge or knoll that is that site's highest elevation. Alternative C or the Project's mitigation measure of more split pads would result in new homes placed closer to the existing grade elevation, and therefore have a more prominent placement within the surrounding area (though less so with Project mitigation only). It is possible that the Planning Commission could find that the effect is not adverse or significant, in which case it could alter the findings and find instead that, as the applicant and his legal counsel represent in the comments on the Draft EIR, the effect is not adverse.

Planning staff, as reflected in the Final EIR and in this analysis, consider the potential conflicts with the *Plan* to have been substantially resolved with the proposed mitigation and conditions of approval. Existing patterns of driving behavior and traffic volumes are perceived as severe in comparison to the record and analysis of actual vehicle delay, which are characterized as "level of service" (LOS) C or better at all nearby intersections, and only LOS D or E at the intersection of D Street and Foothill Boulevard. Intersection delay for LOS C conditions is typically between 20 and 35 seconds per vehicle, where an occasional or periodic green phase may not allow all queued vehicles to pass through. It should be noted also that the County's standard of acceptable LOS is LOS D. However, the proposed conditions of approval include a measure (no. 19) to require a \$15,000 fund to be paid to the Public Works Agency exclusively for implementing safety measures or improvements to address speeding, pedestrian safety, sidewalk improvements

and/or enforcement of traffic laws. These funds could be applied directly to the nearest intersections of D Street at Fairview Avenue and Maud and Fairview Avenues, or to conditions on D Street east of Fairview Avenue.

The site is proposed to be graded to create relatively flat building sites for ease and efficiency of the construction phase and for marketing effectiveness. However, Planning staff consider the extensive grading involved to be discouraged by the *Plan*. The Planning Commission will have to weigh the objectives of the *Plan* with the unintended consequences of prolonging the length of construction time and accommodating the applicant's objectives. The proposed mitigation measures to promote more split pads are intended to reconcile the conflict and strike a reasonable balance between these competing goals.

RECOMMENDATION

Staff recommends that the Planning Commission review the staff report, a draft Resolution, draft Findings required to be adopted by CEQA, take public comment on the Final EIR and the Project and the draft Resolution, then certify the EIR, adopt the Mitigation Monitoring and Reporting Program and approve Vesting Tentative Tract Maps 8296 and 8297.

Attachments

Graphics, Plan Sets, draft Resolution, Proposed Findings and Mitigation Monitoring and Reporting Program (Complete Draft and Final EIR documents provided previously to Commissioners and to interested parties).

PREPARED BY: Andrew Young

Senior Planner

REVIEWED BY: Albert Lopez

Planning Director

H:\APPLICATIONS - 2015\PLN2015-00180\Staff Reports\PLN2015-00180 PC staff report 9-18-17_final.docx



PLN2015-00180

OBLIQUE AERIAL PHOTOGRAPH AND PROJECT SITE BOUNDARIES

Alameda County Community Development Agency / Planning Department



PLN2015-00180

OBLIQUE AERIAL PHOTOGRAPH WITH STREETS AND SURROUNDING AREA

Alameda County Community Development Agency / Planning Department



View to Northeast towards Hilltop Care home



View to East and rear area of 3231 D Street



View to Southwest (rear of 3231 D Street)



View to West from behind 3247 D Street.

PLN2015-00180

SITE PHOTOGRAPHS – “MEADOWS” (LOWER SITE, TRACT 8296)

Alameda County Community Development Agency / Planning Department



Residence at 3289 D Street



View to West across Hilltop Care parking lot



Shed on upper hill, east of 3289 D Street



Portion of 3291 D Street, looking east

PLN2015-00180

SITE PHOTOGRAPHS – “ORCHARD” (UPPER, TRACT 8297) SITE

Alameda County Community Development Agency / Planning Department