OAKLEY
CALIFORNIA

AGENDA

REGULAR JOINT MEETING OF THE OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY AND SPECIAL MEETING OF THE OAKLEY PUBLIC FINANCING AUTHORITY

Tuesday, September 27, 2022
6:30 PM
Oakley City Council Chambers located at 3231 Main Street, Oakley, California 94561

MISSION STATEMENT: The City of Oakley will create a resilient future that fosters and attracts a vibrant and evolving community that welcomes and values all people.

VISION STATEMENT: The City of Oakley celebrates our unique Delta lifestyle and small-town feel where we ***Live*** in a safe, dynamic community, ***Work*** together to build the future, and ***Play*** in our own backyard.

Agendas are posted in Oakley at Oakley City Hall-3231 Main Street, outside the gym at Delta Vista Middle School-4901 Frank Hengel Way and outside the Library at Freedom High School-1050 Neroly Road. Agendas are also posted on the City's Internet Website www.ci.oakley.ca.us.

A complete packet of information containing staff reports and exhibits related to each item is available for public review prior to an Oakley City Council and/or City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority meeting at Oakley City Hall, 3231 Main Street, Oakley, CA 94561. Any writings or documents provided to a majority of the Oakley City Council, Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency or Oakley Public Financing Authority regarding any item on this agenda will be made available for public inspection, during regular business hours, at the front counter in the Main Lobby of the Oakley City Hall located at 3231 Main Street, Oakley, CA 94561. Agendas may be picked up at the Oakley City Hall located at 3231 Main Street, Oakley, CA 94561 for no charge. To request information regarding placement on the City's agenda e-mail distribution list, please contact us at (925) 625-7000.

The City of Oakley provides social media options to stay connected to City Hall through Facebook, Twitter, Next Door and Instagram. Other opportunities to connect with City Hall include Engage In Oakley, Oakley OnDemand on the City's website, and by emailing info@ci.oakley.ca.us.

If you have a physically challenging condition and require special accommodations, please call the City Clerk's office at (925) 625-7000.

Please keep cell phones/electronic devices turned off during the meeting. Please be advised that City Council meetings are video recorded and attendees may appear on video.

Information Regarding Public Comment

Members of the public may address the Council on items of interest that are within the City's jurisdiction. In compliance with State law, the council may not take actionor have discussion on any item that is not specifically listed on the agenda. Public comment on items not listed on the agenda will be heard under the Public Comments section of the agenda. Public comments on items listed on the agenda will be heard as the Mayor calls the items. In compliance with State law, the Council may not take action on an item that is not specifically listed on the agenda. If you would like to speak on any agenda item, please fill out a public speaker card available in the lobby and submit it to the City Clerk seated in the Council Chamber **prior to the agenda item being called.** The Mayor will call you by name to the podium to hear your comment. PUBLIC COMMENTS ARE LIMITED TO THREE (3) MINUTES. Online public comments are accepted until 5 p.m. the day of the meeting and can be submitted at https://www.ci.oakley.ca.us/online-public-comment-card/.

1.OPENING MATTERS

1.1 Call to Order and Roll Call of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency and Special Meeting of the Oakley Public Financing Authority

1.2 Pledge of Allegiance to the Flag

1.3 Reading/Presentation of Proclamation 1. Peripheral Artery Disease Month (PAD) (RoseMarie Laguna, Sutter Delta Advanced Wound Care Center Program Director)

Peripheral Artery Disease (PAD) Proclamation

2.PUBLIC COMMENTS

At this time, the public is permitted to address the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority on non-agendized items. PUBLIC COMMENTS ARE LIMITED TO THREE (3) MINUTES. In accordance with State Law, however, no action or discussion may take place on any item not appearing on the posted agenda.

3.CONSENT CALENDAR

Consent Calendar items are typically non-controversial in nature and are considered for approval by the Oakley City Council/ Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority with one single action. Members of the audience, Staff or the Oakley City Council/ Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority who would like an item removed from the Consent Calendar for

purposes of public input may request the Mayor remove the item. Members of the public should submit any Speaker Cards related to the Consent Calendar in advance of the Consent Calendar being considered.

3.1 Approve Minutes from the Regular Joint City Council/City Council Acting as the Successor Agency/Public Financing Authority Meeting held September 13, 2022 (Libby Vreonis, City Clerk)
Minutes 09-13-22

3.2 Approve Minutes from the Special City Council Meeting held August 25, 2022 (Libby Vreonis, City Clerk)
Minutes 08-25-22

3.3 Accept Report Out of Closed Session Memo (Derek Cole, City Attorney)
Memo

3.4 Waive the Second Reading and Adopt an Ordinance to Amend Oakley Municipal Code Chapter 4.31 (Water-Efficient Landscape Requirements) to Adopt the State of California's Model Water Efficient Landscape Ordinance as Amended by Diablo Water District's Regulation No. 8 which Prohibits New Installation of Non-Functional Turf (Ken Strelo, Planning Manager)

Ordinance

3.5 Adopt a Resolution to authorize execution of the Joint Community Facilities Agreement between the City of Oakley and East Contra Costa County Habitat Conservancy for Community Facilities District No. 2022-1 (HCP/NCCP Services) (Kevin Rohani, P.E., Public Works Director/City Engineer)
Staff Report
1. Resolution
1a. Joint Community Facilities Agreement

4. PUBLIC HEARINGS

4.1 AB 1276 Single-Use Foodware Accessories and Condiments - Introduction of an Ordinance Adding Chapter 4.38 (Single-Use Foodware Accessories and Condiments) to the Oakley Municipal Code (Ken Strelo, Planning Manager)

Suggested Action: Staff Recommendation: 1) Receive the Staff Report, 2) Receive Questions from the City Council, 3) Open the Public Hearing, 4) Receive Public Testimony, 5) Close the Public Hearing, 6) Deliberate, 7) Summarize the Deliberation 8) Waive the First Reading and Introduce the Ordinance
Staff Report
1. Notice of Public Hearing

2. Assembly Bill 1276 Fact Sheet - California Department of Public Health
3. Proposed Ordinance

4.2 Golden Oak Subdivision 9580 Tentative Map (TM 02-22) and Variance (VA 01-22) – Request to subdivide an approximately 2-acre site into eight (8) single-family residential lots and a variance request on meeting the minimum lot requirements for four (4) of the eight (8) lots. (APN: 035-090-082). (Ariana Ruiz, Planning Technician)

Suggested Action: Staff Recommendation: 1) Receive the Staff Report, 2) Receive Questions from the City Council, 3) Open the Public Hearing, 4) Receive Comments from the Applicant, 5) Receive Public Testimony, 6) Close the Public Hearing, 7) Deliberate, 8) Summarize the Deliberation 9) Adopt the Resolution

Staff Report
1. Vicinity Map
2. Notice of Public Hearing
3. Applicant's Plans
4. Traffic Memo
5. Draft Resolution
6. Planning Commission Staff Report dated August 2, 2022
7. Planning Commission Resolution No. 05-22

4.3 Approve the Formation of the City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services), hold a Public Hearing and Special Landowner Election, Declare the Results of the Election and Introduce an Ordinance to Levy a Special Tax for Community Facilities District No. 2022-1 (HCP/NCCP Services) (Kevin Rohani, P.E., Public Works Director/City Engineer)

Suggested Action: Staff Recommendation: 1) Receive the Staff Report, 2) Receive Questions from the City Council, 3) Open the Public Hearing, 4) Receive Public Testimony, 6) Close the Public Hearing, 7) Deliberate, 8) Summarize the Deliberation 9) Adopt the Resolution 10) Waive the First Reading and Introduce the Ordinance

Staff Report
1. CFD Report
2. Resolution of Formation
3. Resolution Calling Election
4. Resolution Declaring Results of Election
5. Ordinance

5.REGULAR CALENDAR

5.1 Adopting a Resolution Amending the Fiscal Year 2022/2023 Budget and Authorizing the City Manager to Execute the Contract for the Preparation of an Economic Development Work Plan Update (Harumi Murata, Economic Development Analyst)

Staff Report
1. Draft Resolution
2. Chabin Concepts Proposal (August 22, 2022)

5.2 Authorize for the City Manager to Execute a Purchase and Sale Agreement with Roy and Erica Pantle for the sale of real property located at 3980 Empire Avenue (APN: 034-010-033) (Joshua McMurray, City Manager)

Staff Report
1. Vicinity Map
2. Draft Purchase and Sale Agreement
3. Draft Resolution CC
4. Draft Resolution Successor Agency
5. Chapter 8 of Title 2 of the Oakley Municipal Code

5.3 Waive the First Reading and Introduce an Ordinance Amending Sections 2.9.002 through 2.9.010 of the City of Oakley Conflict of Interest Code to Adopt and Incorporate by Reference the Terms of 2 California Code of Regulations Section 18730 and Any Amendments to it Duly Adopted by the Fair Political Practices Commission (FPPC), and Repeal Sections 2.9.012 through 2.9.020 of the Oakley Municipal Code, and Adopt a Resolution Providing Disclosure Categories and updating Designated Positions, to become the 'Appendix' of the City of Oakley Conflict of Interest Code (Libby Vreonis, City Clerk and Kim Snodgrass, Deputy City Clerk)
Staff Report
1. Biennial Notice
2. Proposed Ordinance
3. Proposed Resolution
4. Proposed Disclosure Categories and Updated Designated Positions

5.4 Adopt a Resolution declaring one property as "Surplus" and direct Staff to provide the notices required by AB 1255 and AB 1486 (Joshua McMurray, City Manager)
Staff Report
1. Resolution
2. Aerial maps of the property location

6.REPORTS

6.1 CITY MANAGER
(a) City Manager
(b) Policy Regarding Future Agenda Requests
(c) Policy Regarding Ad Hoc Committees

6.2 OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY

(a) Reports from Council Liaisons to Regional Committees, Commissions and Boards AND Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency

(b) Requests for Future Agendas

7.WORK SESSION

8.CLOSED SESSIONS

8.1 CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION-SIGNIFICANT EXPOSURE TO LITIGATION
Pursuant to Government Code Section 54956.9(d)(2). One potential case.

9.ADJOURN

Proclamation

Peripheral Artery Disease Month (PAD)

September 2022

WHEREAS, Peripheral artery disease (PAD) is a disease of the blood vessels outside the heart. This condition is caused by a narrowing of the vessels that carry blood away from the heart to other parts of the body; and

WHEREAS, the term "PAD" is recommended to describe this condition because it includes venous in addition to arterial disorders. PAD stems from structural changes in the blood vessels resulting from fatty buildup in the inner walls of the arteries. These deposits hinder and block normal blood flow; and

WHEREAS, in the most common type of PAD, lower extremity PAD, blood flow is reduced to the legs and feet; and

WHEREAS, left untreated, PAD can lead to gangrene and limb amputation. Patients with PAD are at heightened risk for death from both heart attack and stroke. PAD can result in poor kidney circulation, leading to high blood pressure or blood pressure that is difficult to control with lifestyle changes and medications. In some cases, blockage of the kidney arteries may progress to loss of kidney function or kidney failure; and

WHEREAS, the most common symptom of PAD is "claudication," which is cramping, fatigue, aching, pain or discomfort in the legs and buttocks caused by poor blood circulation. Claudication can often decrease the distance you can walk, and negatively affect your ability to function at home and at work; and

WHEREAS, nearly 10 million people in the United States are living with PAD. The risk factors for PAD include a family history of the disease, older age (>65 years). 1 in 5 people over age 60 have PAD; and

WHEREAS, 40% of those living with PAD may not experience symptoms or leg pain and 25% of people with late-stage PAD may require an amputation within one year; and

WHEREAS, non-healing wounds require specialized care because underlying, complex conditions prevent the wound from going through the expected healing stages. Sutter Delta Advanced Wound Care Center can provide specialized care to help wounds heal faster; and

WHEREAS, the purpose of wound care is to help you heal faster so you can get back to your life. Sutter Delta Advanced Wound Care Center is one of the nation's experts in wound healing, we can change lives every day through world-class healing and prevention practices.

NOW THEREFORE BE IT RESOLVED that I, Randy Pope, Mayor of the City of Oakley, on behalf of the City Council, do hereby proclaim September, 2022, as "Peripheral Artery Disease Month" in the City of Oakley.

September 27, 2022

_____

Randy Pope, Mayor

Minutes of the Joint Meeting of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority held September 13, 2022

1) OPENING MATTERS

1.1 Call to Order and Roll Call of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority

Mayor Randy Pope called the meeting to order at 6:31 p.m. in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. Vice Mayor Meadows and Councilmember Anissa Williams and George Fuller were in attendance. Mayor Pope announced Councilmember Higgins is out of state and would not be in attendance.

1.2 Pledge of Allegiance to the Flag (Angelina Gilbo, 5th Grade Student at Vintage Parkway Elementary School)

Vintage Parkway Elementary School 5th grade student Angelina Gilbo led the Pledge of Allegiance to the Flag.

1.3 Reading/Presentation of Proclamations

Mayor Pope presented the following proclamations:

1. **Library Card Sign up Month (Lisa Cano-Loomis, Contra Costa Library Manager)**

   Contra Costa Library Manager Lisa Cano Loomis accepted the proclamation for Library Card Sign Up Month and shared current and upcoming programs. She introduced Lorena Campos, President of Friends of the Oakley Library. She provided library card applications, stickers and bookmarks.

2. **Falls Prevention Week (Allen Perry, Oakley Seniors)**

   Oakley Seniors President Allen Perry accepted the proclamation. He mentioned Oakley Seniors are accepting memberships for new members and they provide free grocery give away every Thursday.

3. **National Hispanic Heritage Month (Annalouisa Gonzalez-Ortega, Freedom High School Latinos Unidos Club Advisor)**

   Freedom High School Latinos Unidos Club Advisor Annalouisa Gonzalez-Ortega accepted the proclamation along with Latinos Unidos Club President Maria Rafael, Club Vice President Naomi Romero, and Club Treasurer Jose Ordonez. Ms. Gonzalez-Ortega mentioned they hold two meetings each month, share cultural events, and fundraise for scholarships for students to use post-high school.

4. **Suicide Prevention + Action Month (Gigi Crowder, Contra Costa Chapter National Alliance on Mental Illness)**
   Contra Costa Chapter National Alliance on Mental Illness (NAMI) Executive Director Gigi Crowder accepted the proclamation. She pinned Mayor Pope with a mental health awareness ribbon. She mentioned it is important to know the signs of mental health concerns and provided additional ribbons. She announced NAMI will hold an event on September 17 at Contra Loma Park to release doves for loss of young ones to mental illness.

5. **Patriot Day (Dave Watson, Con Fire Assistant Chief)**
   Con Fire Assistant Chief Dave Watson accepted the proclamation for Patriot Day. He thanked everyone in Oakley for becoming part of Con Fire. He shared he is part of a team that responds to disasters like 9/11, and Oakley fire members will also be part of that team.

6. **National Service Dog Month - Councilmember Fuller**
   Councilmember Fuller accepted the proclamation with his Norwegian Elkhound service dog, Ivar. He requested the proclamation be displayed in the foyer of City Hall.

   The following proclamations were entered into the record:

7. **Labor Day**

8. **Disabled American Veterans Day**

2) PUBLIC COMMENTS

Patrick Dorn shared he plays disc golf plays 3-4 days a week with people of various ages. He requested Oakley consider a disc golf course in one of its parks. He mentioned materials would have to be purchased but he can get free labor. He added that Brentwood and Walnut Creek have it and all people of all abilities can play.

Gary Marquez submitted a written comments indicating disc golf could increase revenue for local businesses.

John Gutierrez submitted a written comment requesting a disc golf course in Oakley as it is growing in popularity and is getting crowded in Antioch and Brentwood.

Conan Moats commented that disc golf brings value to the community. He shared it is currently offered in Brentwood and Antioch, all ages can play, it is low cost for upkeep, and fosters camaraderie.

Mayor Pope mentioned direction has already been given to staff to research possibilities.

Mr. McMurray mentioned an agenda item will be brought to the Council for consideration.

Stephen Sandler commented he is a resident at The Oaks Apartments and spoke before the Council approximately 10 years ago. He shared that people living in the building do not feel safe. He requested a meeting with a Councilmember or City Attorney to discuss the physical

barrier that was supposed to be put in place between the senior and regular housing complexes. He indicated Mr. McMurray informed him about a 10-year agreement which has expired. He inquired about oak trees that are no longer nearby and cameras that do not exist.

Mayor Pope commented he recalls some of the oak trees were diseased and that cameras were part of the conditions of approval for the project. He inquired if the City still has legal recourse to hold them accountable for the conditions of approval.

Mr. McMurray responded that some oak trees were diseased, but the project mitigated for the loss of oak trees and many new trees were planted. He mentioned the City verified the improvements for the project and he will prepare a future update to the Council.

Bud Chaddock mentioned he attended a fishing meeting where a Restore The Delta presentation was provided regarding bloom and algae. He mentioned it was shared during the presentation that spores can cause heart disease caused by stagnant water, Discovery Bay has the third poorest water quality in the state, animals get sick and die from this, there has been a 26% rise in algae in one year causing problems with desalination, and he knows people who got lesions from being in the water around Big Break kayaking. He suggested a presentation be brought to the Council and mentioned it is a problem the City should pay attention to when building to maintain a nice open area.

Randi Adler commented on June 27th she filed a complaint against an officer, the next day there was a fire in her backyard, the Police came into her house without reason and said she was unstable and hurt her so bad she has been hospitalized four times and has had surgery. She shared she was released 45 minutes after being taken to the hospital in restraints. She congratulated Councilmember Fuller for bringing an issue before the Grand Jury regarding the former City Manager stealing money from the City and indicated Mayor Pope said it was debt paid off, but it was actually pardoned. She mentioned City Attorney Derek Cole told everyone not to talk to her because he feared she would sue, and she has turned him in because he prepared the paperwork. She suggested Council term limits and to vote in the next Mayor. She mentioned she has been sexually abused by Oakley Police for years and she is tired of their comments. She indicated she would do personal citizens' arrest on Mr. Cole since he told them to reject the Police report and videos and she will make sure he is prosecuted. She mentioned she is a better friend than an enemy and she ran for City Council twice and learned about her rights.

Liz Elias requested improved street lighting at Main Street and Rose Avenue for safety.

Public Works Director/City Engineer Kevin Rohani mentioned he will investigate it.

3) CONSENT CALENDAR

3.1 Approve Minutes from the Regular Joint City Council/City Council Acting as the Successor Agency to the Redevelopment Agency/Public Financing Authority Meeting held 07/12/2022 (Libby Vreonis, City Clerk)

3.2 Approve Minutes from the Regular Joint City Council/City Council Acting as the Successor Agency to the Redevelopment Agency/Public Financing Authority Meeting held 08/09/2022 (Libby Vreonis, City Clerk)

3.3 Accept Report Out of Closed Session Memo (Derek Cole, City Attorney)

3.4 Annexation No. 33 (Elm Lane Apartments) to the City of Oakley Community Facilities District No. 2015-2 (Parks, Streetlight, Landscape and Stormwater Services) (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.5 Ratify Election: Adopt Ordinance No. 07-22 Authorizing the Levy of a Special Tax on Parcels of Land within Tax Area Zone 184 within the Oakley Special Police Tax Area for Police Protection Services for the Wendy?s project located approximately 295 feet east of the northeast intersection of Bridgehead Road and Main Street (APN 037-040-021) (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.6 Ratify Election: Adopt Ordinance No. 08-22 Authorizing the Levy of a Special Tax on Parcels of Land within Tax Area Zone 185 within the Oakley Special Police Tax Area for Police Protection Services for the Elm Lane Apartments project (APNs 051-210-019 and 051-220-005) (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.7 Award of Construction Contract to Sun Light & Power for the construction of the City Hall Rooftop Solar Power Project, Capital Improvement Project (CIP) Number 286 (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.8 Authorize the City Manager to Enter into a one-year Agreement with Townsend Public Affairs, Inc. for On-Call Grant Writing Services (Joshua McMurray, City Manager)

3.9 Award of Construction Contract to Day's Generator Service Co. for the installation of the Recreation Center Emergency Generator Project, Capital Improvement Project No. 249 (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.10 Consideration of a Resolution Amending the City of Oakley Fiscal Year 2022/2023 Budget, Awarding a Contract to Affordable Landscaping Services Corporation for the Site Preparation and Installation of Turf around the Lake at the Delaney Park Subdivision and Authorizing the City Manager to Execute the Agreement (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.11 Approval of Contract with Universal Site Services, Inc. (USS) for Porter Maintenance Services for Various City of Oakley Parks and Facilities (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.12 Adopt a Resolution Ratifying the Fifth Amendment to the Agreement with Cole Huber, LLP for City Attorney (Jeri Tejeda, Human Resources Director)

3.13 Approval of Consulting Services Agreement by TRB and Associates, Inc. for On-Call services related to Code Compliance Plan Review and Inspection Services (Brent Smith, Community Development Director)

3.14 Reject all bids and authorize staff to re-bid the Senior Center Roof and HVAC Repair and Replacement Project Capital Improvement Project (CIP) Number 288 (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.15 Review of Proclamation Requests for Future Agendas (Libby Vreonis, City Clerk)

Items 3.1, 3.2 and 3.3 were pulled.

It was moved by Vice Mayor Meadows and seconded by Councilmember Fuller to approve the remainder of the Consent Calendar. Motion was unanimous and so ordered. (4-0)

Items 3.1 and 3.2
City Clerk Libby Vreonis read amendments to the minutes into the record, as follows:

July 12, 2022 Minutes: Page 30, Item 4.1, "He expressed he wants to see the site at Oakley Road removed…"

August 9, 2022 Minutes: Page 44, Item 5.4, "…seconded by Councilmember Higgins…" and Section 9, "… the meeting was adjourned at 10:50 p.m."

It was moved by Vice Mayor Meadows and seconded by Councilmember Fuller to approve the minutes as amended. Motion was unanimous and so ordered. (4-0)

Item 3.3

Councilmember Fuller expressed he thought the direction of the Council was for the Human Resources Director to discuss any salary adjustments.

City Attorney Derek Cole indicated it has been their practice for negotiating adjustments for compensation to involve the City Manager, Mayor, Vice Mayor and City Attorney. He mentioned there is an item tonight to address any possible matters.

Councilmember Fuller mentioned the documentation to support the Mayor and Vice Mayor on the negotiating team is from 12 years ago and was valid for one year.

Mr. Cole indicated as a practical matter, he acts as the main conduit between the Council and City Manager; acting with the full Council's purview.

Councilmember Fuller expressed he does not support that policy and will make a future agenda request for that policy to address the selection of ad hoc committees.

It was moved by Vice Mayor Meadows and seconded by Councilmember Williams to accept the Report Out of Closed Session memo. AYES: Meadows, Pope, Williams. NOES: Fuller (3-1)

4) PUBLIC HEARINGS

4.1 Water-Efficient Landscape Requirements Update - Introduction of an Ordinance to Amend Oakley Municipal Code Chapter 4.31 (Water-Efficient Landscape Requirements) to Adopt the State of California's Model Water Efficient Landscape Ordinance as Amended by Diablo Water District's Regulation No. 8 which Prohibits New Installation of Non-Functional Turf (Ken Strelo, Planning Manager)

Ken Strelo presented the staff report and PowerPoint presentation.

Councilmember Fuller inquired about existing artificial turf in Oakley.

Mr. Strelo explained non-functional turf in place prior to this ordinance would be allowed; future non-functional turf would be subject to the new ordinance.

Councilmember Williams inquired if it is 500 square feet for each lot or the development for landscaping in new developments and she inquired about the impact on water conservation.

Mr. Strelo responded it is the entire project, all front yards combined. He mentioned developers will use drought tolerant landscape in new front yards and the impact on water conservation is about the same as now.

Mayor Pope opened the public hearing.

Public Comment
Randi Adler shared she notices people are not taking care of landscaping and she called Code Enforcement because neighborhood landscaping in her area is overgrown and they didn't return her calls, and the same for her call regarding her neighbor parking a giant RV in his driveway. She mentioned she will not call law enforcement; she was just told to leave by the Chief of Police after she told the Council she was sexually harassed by them.

Mayor Pope closed the public hearing.

Councilmember Fuller commented that the ordinance works for him.

Mayor Pope inquired if new developments are required to do a physical barrier for weeds.

Mr. McMurray mentioned there are strict landscape requirements for new homes to control weeds. He also mentioned anyone with concerns about landscaping or other matters can call Code Enforcement and they will investigate it and work with the property owner to bring the property up to code.

It was moved by Councilmember Fuller and seconded by Councilmember Williams to waive the first reading and introduce the ordinance. Motion was unanimous and so ordered. (4-0)

4.2 Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code ("Special Land Uses?") --Adding Four Subsections to Address Drive-Through Restaurants, Carwashes, Gas Stations, and Self-Storage (RZ 04-21) (Ken Strelo, Planning Manager)

Planning Manager Ken Strelo presented the staff report and PowerPoint presentation.

City Attorney Derek Cole mentioned there is no Brown Act issue here as mentioned in a comment letter. He explained the Council filled out a questionnaire that was provided to the City Clerk, it was presented to the Council and public at the same time, and the missing piece of the letter presented is that a majority of the Council must have communicated among each other and that didn't happen; there is nothing here outside of proper procedure and careful measures were taken. He requested time to take a deeper look into comments received and report back at the October 11, 2022 Council meeting.

Mayor Pope opened the public hearing.

Councilmember Williams inquired if this ordinance will only affect new entitlements or existing entitlements as well.

Mr. Strelo responded it will only affect new applications, not existing entitlements.

Councilmember Fuller inquired if this will impact the Council's decision already taken on the northwest corner of Laurel and O'Hara.

Mr. Strelo confirmed this ordinance will not affect any previous decisions.

Vice Mayor Meadows inquired how many properties at the 4 corners of Laurel & O'Hara are entitled.

Mr. Strelo responded that Laurel Plaza is entitled, but no other entitlements exist on the other three corners.

Mayor Pope inquired if there is a procedure for exceptions if an applicant's project doesn't satisfy one of the requirements.

Mr. Strelo mentioned it is not written in the ordinance now and it would be rare, but there is always an option for a variance if regarding a development regulation, i.e., set-backs, height, etc.

Public Comments

Four public comments were submitted to staff electronically from Matthew Francois, Rutan & Tucker, LLP, Andrew Sabey, Cox Castle Nicholson, William Mitchell, WT Mitchell Group, and Richard Randles.

Matthew Francois, Rutan & Tucker, LLP, legal counsel for Safeway, requested the Council to consider comments and make Safeway's requested changes prior to acting on the Zoning Amendments.

Andrew Sabey, Cox Castle Nicholson, legal counsel for O'Hara Properties, LLC, indicated that approval of the current amendments would expose the City to substantial legal liability and as the process has unfolded, approval following the City's actions to shield public review would violate the Brown Act.

William Mitchell, WT Mitchell Group, a commercial real estate developer evaluating sites in Oakley, supported the staff report with exception to Performance Standard 9.1.1240 c.3.

Richard Randles indicated the ordinance will hinder commercially zoned properties along Laurel and Main Street.

Randi Adler inquired if it is more profitable for the City to approve a new business if the City receives a franchise fee. She mentioned Comcast and Mt. Diablo Resource Recovery pay a franchise fee and that made garbage rates increase She inquired how far the City will go for franchise fees for car washes and fast-food at the expense of the health of its residents.

Natalie Mattei, Director of Real Estate for Safeway, introduced herself and Seth Burman. She mentioned the Council has received the letter submitted from Safeway's land use counsel regarding its 8.7-acre land on the northeast corner of Laurel and O'Hara. She shared Safeway doesn't have an immediate plan for this location but will develop. She expressed they have non-controversial comments on drive-throughs and car washes as entitlement have expired and they are neutral on car washes and self-storage. She commented that arterial streets and uses are clean ups and they support traffic studies for pedestrian and bicyclist safety. She mentioned they request clarification on standards. She mentioned it is not a matter of if they will develop, but when they will develop. She requested minor edits be incorporated into the ordinance and staff's recommendation to include these comments. She supported Mr. Cole's request for continuance.

Liz Elias commented that the City doesn't need any additional quantity of these uses; it has enough. She expressed the City needs more family friendly recreation, i.e., skate parks, roller rinks, things to do, other than underused parks.

Councilmember Fuller agreed with Ms. Mattei and expressed he would appreciate Mr. Cole's analysis of the letters.

It was moved by Councilmember Fuller and seconded by Vice Mayor Meadows to continue the items to October 11, 2022. Motion was unanimous and so ordered. (3-1)

5) REGULAR CALENDAR

5.1 Urgency Ordinance Imposing a Moratorium on the Permitting of Hydrocarbon Development within City Limits to Allow for Evaluation of the Public Health and Environmental Impacts and the Enactment of Further and Appropriate Regulations Concerning the Same (Ken Strelo, Planning Manager)

Planning Manager Ken Strelo presented the staff report and PowerPoint presentation.

City Attorney Derek Cole explained the urgency ordinance is premised under the Government Code, in the Planning and Zoning Code. He mentioned he received an email inquiry regarding why this is urgent and he directed it to the Council as a public comment. He explained urgency in this context of the ordinance doesn't mean means someone will put in an application tomorrow, but if the Council finds that someone could put in an application, the current ordinance is dated, changes in technology have taken place, and the Council doesn't want to take a chance in next 2 years to receive an application, but rather take time to develop the appropriate changes to the ordinance, that would meet requirements for an urgency ordinance and moratorium under Government Code 65858. He added that "urgency" is parlance used but in government doesn't always mean urgent. He mentioned a 4/5 vote is required to enact the urgency ordinance therefore with Councilmember Higgin's absence, it would require unanimous vote of members of the Council present.

Vice Mayor Meadows inquired if the State is currently working on regulations.

Mr. Cole responded he understands the State is well along in the process but can't say when they will have the regulations.

Councilmember Williams inquired if the City takes no action and the State comes out with regulations if State regulations would supersede the City's ordinance.

Mr. Cole indicated the issue of preemption is currently being reviewed by the State Supreme Court in the County of Monterey case and the City may have to change its ordinance once the Court's decision is issued.

Public Comments

Public comment was submitted to staff electronically by Mark, Emily, Elisabeth and Matthew Linde regarding the urgency of the ordinance and what legal requirements must be met.

Liz Elias commented she spoke to the Council in July during Public Comments regarding the oil drilling issue and the intent and focus have not changed but the Council's actions have changed with the issue shifting to an urgency ordinance. She mentioned climate changes are urgent; however, this vote and context are not urgent; the urgency clause skillfully, if not unethically skirted past a simple majority vote when the Council knows there are not enough votes to carry a motion. She indicated two Councilmembers will cast nay votes and have lost her respect. She urged the Council to do the right thing, pass the ordinance, and while in effect, work on a total ban.

Mike Moore expressed strong support for the moratorium for two reasons: public health and legislative action. He mentioned public health would be adversely impacted. He mentioned in Cal Gen's rulemaking that is currently underway, the scientific advisory panel concluded with a high level of certainty that the epidemiological evidence shows that the proximity of oil and gas drilling is associated with adverse perinatal and respiratory outcomes, supporting paragraphs C, E and F of the moratorium. He mentioned SB 1137 passed August 31st and is awaiting the Governor's signature; if signed, it will significantly change oil and gas drilling requirements to include a Notice of Intention to address sensitive receptor inventory and map, mandating a health protection zone of 3,200 feet around a sensitive receptor with certain exemptions, and requiring a leak protection plan to be submitted for wells within a health protected zone. He mentioned Oakley Municipal Code (OMC) Section 9.1.1.1216(f)(1)(i) provides setback distances of only 50-150 feet from various structures and dwellings. He mentioned SB 1137 would add Public Resource Code Section 3280 that defines sensitive receptors as much more than dwellings, including education centers, community centers, health care facilities, live-in housing, and businesses open to the public. He commented that both setbacks and dwellings need to be update in the OMC, therefore, the moratorium is warranted.

Allison Chiu commented the ordinance is important due to health impacts for current and future generations, i.e., cancer, heart disease, asthma, etc. She indicated the Council must protect its residents and should follow its neighbors of Antioch and Brentwood to ban oil and gas drilling.

Ian Cohen thanked Councilmembers Williams and Fuller for their votes as oil and gas drilling have no home in the Heart of the Delta. He asked Mayor Pope and Vice Mayor Meadows to consider how it has a home in Oakley. He mentioned with action taken now, these companies could not exist when he is 50 years old. He shared people are within 2.5 miles of drilling, creating risk of cancer. He urged the Council to follow its neighbors of Antioch and Brentwood; He asked Vice Mayor Meadows how he can invite families here with oil and gas wells, with oil companies making hundreds of billions of dollars of profit off us. He urged the Council to pass this urgency ordinance to get the ball rolling to protect its residents.

Alexi Lindeman requested the Council place a moratorium on oil and gas drilling and take climate action now. She mentioned drought, a year-round fire season and heat waves, have become expected and normal within the past 5 years and she is frustrated and disappointed to wait for something bad to happen for the Council to act or for the Council to act when it is too late. She asked the Council to consider one young person they know and how they can help shape the world they will live in. She urged the Council to take another step tonight in the right direction as it has the power and means to do it.

Councilmember Williams commented this moratorium provides her and Councilmember Higgins an opportunity to keep pushing forward and get some direction from state legislation. She mentioned the ordinance is outdated, there are potential health impacts, and it is hypocritical after the Council's work on the General Plan Update if the City does not pause with this moratorium to research the matter further.

Councilmember Fuller expressed every person at the dais has concern regarding climate control and the welfare of residents; they differ on how they go about change. He mentioned he will support a moratorium so they may review the ordinance and bring it up to date. He added a 150-foot buffer concerns him; he wants it reviewed. He shared he will address during item 5.2 why he doesn't support a local matter as it needs state and/or federal support.

Vice Mayor Meadows inquired how long it will take to review the ordinance.

Mr. McMurray responded the City's review of the ordinance could be relatively quick, but it would be premature to bring it forward before the Court and State have acted.

Mr. Cole commented he is not sure if there ever has been an application in Oakley and there are none at this time so the likelihood of application may be low. He mentioned the Court decision may not be until spring or summer next year followed by an administrative process at the State, therefore, staff may not have complete information until the later part of next year.

Vice Mayor Meadows expressed he does not support a moratorium but supports revising the City's current ordinance.

Mr. Cole explained if the Council approves, the ordinance would be effective 45 days and they would have to vote to extend during the second meeting in October (requires 4/5 vote) and if approved, it would extend 10 months and 15 days, to essentially this same time next year. He mentioned he wants to be sure the Council knows if it approves the ordinance tonight, it doesn't shut it down for 2 years.

Mayor Pope commented he spoke in detail last year and he is not in favor of a moratorium or outright ban but is in favor of looking at the current ordinance at a distance, without emotion. He mentioned there are no applications and no active wells. He provided an example of rolling blackouts in California; they didn't exist when he was younger because power stations existed and those are being shut down before there is a replacement source.

It was moved by Councilmember Williams and seconded by Councilmember Fuller to approve the moratorium for 45 days. AYES: Fuller, Williams. NOES: Meadows, Pope. The urgency ordinance did not pass. (2-2)

5.2 Resolution Approving a Letter of Support Addressed to the County Board of Supervisors to Ban all Future Oil and Gas Drilling Countywide and Shut Down Current Oil and Gas Drilling Operations (Ken Strelo, Planning Manager)

Planning Manager Ken Strelo presented staff report and PowerPoint presentation.

Councilmember Fuller inquired if mineral rights of submerged oil are the property of a property owner in California.

Mr. Cole explained that it varies; throughout the state there were reservations of mineral rights in the early 20th Century and in many cases there was a practice of severing of mineral and surface estates.

Vice Mayor Meadows commented that someone still owns the mineral rights though.

Mr. Cole responded that someone may own them, but they may not know.

Vice Mayor Meadows commented that a title search would reveal it.

Mr. Cole provided an example that Kern County has well-known and well-understood mineral right holders, but in an urban county, there may be people who own mineral rights and do not know it. He mentioned there is a process to terminate dormant mineral rights; people have the right to exploit minerals but can't do it in such a way to disrupt property. He added that a property mineral right owner in a paved subdivision property may choose not to exploit minerals.

Vice Mayor Meadows commented there are ways to get in with amazing technology. He shared that in Contra Costa County, individuals have made a lot of money off gas rights.

Public Comment

Mike Moore requested the Council adopt a resolution to support the letter. He mentioned there is no pressing need to currently extract oil and gas in Contra Costa County. He explained that the State is on a path to reduce fossil fuel usage. He shared AB 32 (2006) plans to reduce GHGs generated by burning fossil fuels. He mentioned the 2022 scoping plan updates the goal to achieve carbon neutrality by 2045 and would reduce petroleum usage by 91%. He mentioned SB 100 (2021) joint agency report describes pathways how California will achieve 100% electric retail sales and state loads from renewable and zero carbon sources by 2045. He mentioned concerns were raised at the August 9 meeting over the availability of natural gas and mineral rights. He mentioned unincorporated Contra Costa County is required to have building permits issued after June 1, 2022, for construction on all residential, retail, office, and hotel buildings to be all electric with no natural gas allowed. He suggested Oakley consider all electric for all new buildings. He shared that he checked his grant deed and found the 41 lots in Heartwood Estates have no right to drill on their property. He mentioned a pool lease was executed in 1978 (last active 1981-1986). He mentioned Oakley has 95 capped and abandoned wells and one idle well; the last new well was started in 2005 and the last production well was in 2015. He mentioned the value of mineral rights is very small. He shared that while the decision is awaited on *Chevron v. Monterey,* SB 1137 provides more authority to ban oil and gas drilling and Section 3289(b) doesn't prohibit from counties or cities from imposing more stringent provisions on oil and gas development.

Alexi Lindeman echoed Mr. Moore's comments. She shared she lives by a current oil and gas well near Kaiser hospital and when oil is extracted, homes can sink, impinging costs on residents. She urged the Council to support the letter and follow neighboring cities of Antioch and Brentwood.

Ian Cohen echoed Ms. Lindeman's comments. He commented the County is under attack by oil companies; within 1/2 mile of Kaiser hospital there are 3 oil drilling sites, and in Shadow Lakes they are trying to drill 1,000 feet from homes. He mentioned a Stanford study focused on Kern County and the cancer risks associated with oil and gas drilling. He urged the Council to support the letter, within its full authority.

Randi Adler commented Vice Mayor Meadows will be Mayor soon and has an obligation to do the right thing. She inquired how much money he is making supporting gas companies and not looking after the people of Oakley. She suggested he should ask if it is it right for the people of Oakley or right for me. She commented Vice Mayor Meadows will destroy the city if he supports gas companies to drill in this area.

Bud Chaddock commented his brother's work deals with the Williston Basin and there is a need for fuel, but if sites are capped for many years, they should look to the reason they are not taking it out. He commented there may be subsidies and they are not paying taxes. He expressed the city doesn't need it here if all sites are capped.

Jaime Spohn commented this area could be similar to Kern County as oil and gas sites are historic in Oakley and other surrounding areas. She shared oil and gas reservations exist in many properties in East County, including one that Nunn Farms recently wanted to reopen under a very large neighborhood. She suggested it would behoove the Council to become educated on oil and gas rights and further evaluate existing capped sites because they are probably off-gassing. She mentioned they shouldn't be deceived that because the rights are not exercised that they couldn't be. She inquired if Vice Mayor Meadows has family ties that would be impacted by the moratorium that may require him to recuse himself. She expressed she hopes the City will consider the moratorium to become better educated on what exists in East County. She mentioned the Nunn family has an existing gas pool across the street from Diamond Hills that is still active.

Vice Mayor Meadows commented he has no gas rights in Oakley or elsewhere and is not aware of any family members that own them. He asked speakers supporting the letter if they are willing to pledge to give up petroleum products such as their cell phones. He mentioned if they do away with petroleum before sustainable alternative sources of energy are available, when power outages occur and everything is all-electric, people would not have means to heat water or cook. He commented that people don't want it in their backyard, but some residents have mineral rights with the property they own. He mentioned it has been years since the last site was active and this is not a pressing issue to him. He expressed he does not support sending the letter.

Councilmember Fuller commented he understands pollution from hydrocarbons and shared his personal health impact with sulfur and other pollution of air. He mentioned our national defense uses a tremendous amount of fuel, especially during 9/11 when aircraft had to be in the air 3-5 days to protect our nation. He commented he doesn't see electric engines for jets and bombers coming around soon. He also commented that the concept of electric vehicles is great but people that are economically and socially marginalized will be even more so because they won't be able to buy electric vehicles. He inquired how people will get to work if oil and petroleum are

taken away. He expressed oil and gas exploration, and development needs to be a coordinated effort between federal and state; the Council can't just pull the plug at the local level. He mentioned he is opposed to remove mineral rights at the local level because he doesn't want to remove it arbitrarily. He expressed opposition to the letter.

Councilmember Williams commented it would be hypocritical to send the letter. She expressed that government agencies should listen to people who voted them in; change don't always happen at the state level if people don't make a stance at the local level. She mentioned it would also be hypocritical of her to preach about local control for housing decisions yet say that is for state or federal to take on. She expressed she is frustrated with the conversations happening and it is hypocritical to have someone give up their property under eminent domain but think it is different for mineral rights. She mentioned it is the right thing to do and taking a stand is how you make change. She shared that Cal Cities' Public Policy is focused on housing and climate and it disappoints her that the City is not going to have involvement in it with this issue. She expressed she in favor of sending the letter.

Mayor Pope commented that all-electric building mandates by government is idiotic; if everything is electric and the power goes out, people can't have hot water or cook because there is no heat. He mentioned until sufficient green renewal energy exists to supply everyone, these mandates will take us back to 3rd world status. He commented there are sinking homes caused by water wells. He inquired if people should stop drinking water and irrigating farms or have more energy conservation items like dams. He mentioned Federal regulations oil and gas leases were frozen for extraction of resources two years ago; before then the nation was close to or was self-sufficient and now the nation id dependent on countries whose interests are not pro-American and our nation is enriching them by buying their oil when we could be supplying our own. He agreed with the comment that the Council and staff needs to be educated on oil and gas before it takes action.

Councilmember Williams motioned to approve the letter.

The motioned died for lack of a second and did not pass.

6) REPORTS

6.1 CITY MANAGER
(a) City Manager

City Manager Joshua McMurray announced the Heart of Oakley Festival will be held September 24, 2022 in Civic Center Plaza from 11am-5pm. He mentioned Main Street will be shut down between Vintage Parkway and Norcross.

6.2 OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY

(a) Reports from Council Liaisons to Regional Committees, Commissions and Boards AND Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency

Councilmember Fuller reported he viewed the recording of the Diablo Water District meeting and they have entered into an agreement with Ironhouse Sanitary District for reciprocal recycling agreements involving a transfer of funds at times, they are establishing principals of operation, they are in good financial shape operationally, and conserving water.

Councilmember Williams reported she attended the Cal Cities' Annual Conference in Long Beach. She mentioned Cal Cities is doing advocacy work to support local controls against AB 2011. She announced she will be attending the Tri-Delta ribbon-cutting ceremony tomorrow for the new Park and Ride in Oakley.

(b) Requests for Future Agendas

Councilmember Williams requested staff look into using ARPA funds for anti-displacement support, research crowd-funding to sponsor small business/economic development, and explore becoming a youth-friendly city by providing more leadership opportunities and recreational opportunities, i.e., skate parks, BMX parks, etc.

Councilmember Fuller requested staff revisit acquiring land at Laurel and O'Hara to expand the roadway to Main Street to relieve traffic onto Main headed toward East Cypress. He also requested a written policy for ad hoc committees and a policy regarding public comment to address matters of business (non-personnel issues) only.

7) WORK SESSIONS

8) CLOSED SESSION

8.1 CONFERENCE WITH LABOR NEGOTIATORS-Labor Negotiations with the City Manager
Pursuant to Government Code Section 54957.6(a)
City Designated Representatives: Randy Pope, Mayor, Aaron Meadows, Vice Mayor and Derek Cole, City Attorney
Unrepresented Employee: City Manager

8.2 CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Government Code Section 54956.8
Property: 63980 Empire Avenue, Oakley, CA, APN 034-010-033
Agency Negotiator: Joshua McMurray, City Manager
Negotiating Party: Roy and Erica Pantle
Under Negotiation: Price and term of payment

There was no reportable action. Direction was provided to staff.

9) ADJOURN

There being no further business, the meeting was adjourned at 9:55 p.m.

Respectively Submitted,

Libby Vreonis
City Clerk

Minutes of the Special Meeting of the Oakley City Council held August 25, 2022

1.Opening Matters

1.1 Call to Order and Roll Call of the Oakley City Council

Mayor Randy Pope called the Special Meeting to order at 6:30 pm in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. Vice Mayor Aaron Meadows and Councilmembers Anissa Williams, George Fuller and Sue Higgins were also in attendance.

1.2 Pledge of Allegiance to the Flag

Hadley Williams, 6th Grade Student at O'Hara Park Middle School, led the Pledge of Allegiance to the Flag.

2.Public Comments

None.

3.Regular Calendar

3.1 Adopt a Resolution accepting the City Clerk's notice of facts and options available under California Elections Code Section 10229 that there are not more candidates than offices to be elected in District 4 for the November 8, 2022 General Municipal Election in the City of Oakley as there is one nominated candidate and one seat available in District 4, and either make an appointment of the nominated candidate or direct an election to be held in District 4 (Libby Vreonis, City Clerk)

City Clerk Libby Vreonis presented the staff report.

City Attorney Derek Cole commented that staff is not making a recommendation one way or the other.

Councilmember Williams mentioned the election has already been budgeted. She inquired if there would be any impact with the Mayoral rotation.

Mr. Cole explained the current rotation process was enacted during an at-large system and involves a tie-break system based on number of votes that may disadvantage candidates now that are in different districts. He recommended staff present the process to the successor Council in a work session for discussion of a different process than a tie-break system as it does not work for district-based elections.

Councilmember Williams mentioned the candidate who was short a signature wants to be a write-in candidate. She inquired how the process works for write-in candidates.

Mr. Cole explained that voters can write anyone in on the ballot, but they must be qualified, be a registered voter, and live in the same district for votes to count. He mentioned formal write-in candidates must follow the same process as qualified candidates regarding FPPC and other papers that must be filed.

Councilmember Williams mentioned write-in candidates cannot have a candidate statement.

Mr. Cole confirmed write-in candidates do not get the benefit of being on the campaign material, but they can self-advertise.

Councilmember Higgins inquired if holding the election will cost the City an additional $20k.

Mr. Cole explained the $20k is associated with District 4 so technically there would be a savings of $20k if the Council does not direct the election.

Councilmember Higgins mentioned a candidate obtained signatures, had an appointment, and tried to file Friday afternoon but City Hall was closed.

Mrs. Vreonis responded that the candidate did not have an appointment and she had not heard from the candidate as of 4 p.m. Friday afternoon. She mentioned she reached out to the candidate regarding filing and when they connected, the candidate indicated she had decided not to file.

Councilmember Fuller requested Mrs. Vreonis review the process and dates for being a write-in candidate.

Mrs. Vreonis explained write-in candidates are currently allowed for District 2 because the election is being held for that district. She indicated if the Council directs to hold an election for District 4, write-in candidates would be allowed for that district as well. She mentioned the write-in period begins September 12 and ends October 25. She explained the write-in period is very much like the nomination period in that write-in candidates must pull and file papers within the deadline, with the exception that the candidate statement form, candidate statement and ballot designation worksheet would not be filed as the write-in candidate will not appear on the ballot. She further explained that the write-in candidate must qualify by obtaining a minimum number of 20 valid signatures on the write-in nomination paper.

Councilmember Fuller commented that interested write-in candidates should contact the City Clerk’s Office early on to make an appointment during the write-in period (September 12 through October 25).

Mrs. Vreonis commented it is better for write-in candidates to schedule earlier than later.

Councilmember Fuller asked Mrs. Vreonis to explain the process if a person signs a nomination paper on the Friday deadline and his/her/they voter registration card does not arrive to be processed until Wednesday of the following week, for example.

Mrs. Vreonis explained at the time a person is signing a nomination paper, they must be registered to vote and reside within the same district as the candidate they are signing for; if the person signs the nomination paper Friday afternoon and the registration card is not received until the following week, it is not going to count.

Mayor Pope inquired when the filing period opened.

Mrs. Vreonis responded it opened Monday, July 18 at 8 a.m.

Public Comment

An online public comment was submitted by Adam Gerhart explaining he was short 1 signature to qualify as a candidate for District 4. He requested the City Council consider allowing the democratic process to take place and allow write-in candidates rather than allowing a candidate to be placed on the City Council unopposed.

Councilmember Higgins commented she likes the idea of proving an opportunity for write-in candidates and when she was a candidate, she liked the idea of having her name and candidate statement on the ballot so that people knew what she was about, and she felt more fulfilled with that process.

Councilmember Williams expressed there is another level of validity and accountability to having a person's name on the ballot. She mentioned Mrs. Shaw has done everything she was supposed to do, and people will have a choice if write-in candidates are allowed. She mentioned she is in favor of having Mrs. Shaw's name on the ballot as she put in the effort and time to qualify, and she hopes voters will see that commitment. She also mentioned the election is already budgeted.

Councilmember Fuller thanked the City Clerk's Office for their work with elections and recalled when going through the process himself that they were very thorough and upfront about filing ahead of the deadline. He mentioned from an early age he was taught no one can take away your right to vote and believes that should apply here; District 4 should have the right to vote.

It was moved by Councilmember Fuller to adopt a resolution accepting the City Clerk's Notice of Facts and Options and directing an election to be held in District 4.

Vice Mayor Meadows commented that everyone on the Council and 3 qualified candidates in this election followed directions and did things properly. He mentioned he read the candidate's comments who missed qualifying by one vote and does not believe it was a technicality as he waited until the last minute to pull and file papers.

He questioned whether it is important to the candidate as he could not make it this evening due to another commitment and suggested the candidate should have put more effort into it. He mentioned he could go either way with the vote.

Mayor Pope shared he had two thoughts; one being that an election would provide the unqualified candidate another shot at the apple and why should he receive a special accommodation when Councilmembers and other candidates qualified by following the rules; the other being that write-in candidates are allowed for the other district. Mayor Pope questioned how passionate the candidate is about the election if he pulled two days before the deadline of the nomination period that was open for approximately one month and did not show tonight. He mentioned he does not feel like holding an election would be doing something special for this individual but rather providing the residents in District 4 the opportunity to vote.

Mayor Pope seconded the motion.

Councilmember Fuller commented that holding an election may provide a second bite at the apple for the candidate who did not qualify but it also allows a first bite at the apple for any other write-in candidates within District 4 and he would like to see that opportunity provided.

Councilmember Williams inquired if the qualified candidate for District 4 has had an opportunity to address whether she would like to have an election.

Mayor Pope mentioned she had an opportunity to speak during public comments. He added her answer either way may impact her candidacy.

Mayor Pope called for the vote. AYES: Fuller, Higgins, Meadows, Pope, Williams. Motion was unanimous and so ordered. (5-0)

4.Adjourn

There being no further business, the meeting was adjourned at 6:57 p.m.

Respectfully Submitted,

Libby Vreonis
City Clerk

OAKLEY
CALIFORNIA

MEMORANDUM

Office of the City Attorney

Date: September 21, 2022

To: Mayor and Members of City Council

From: Derek P. Cole, City Attorney

Cc: Joshua McMurray, City Manager

Subject: Closed Session Report-Out Memo

FOR CONSIDERATION AT THE CITY COUNCIL MEETING OF SEPTEMBER 27, 2022

Background and Analysis

The City Council considered the following closed session items during its regular meeting held September 13, 2022:

CONFERENCE WITH LABOR NEGOTIATORS-Labor Negotiations with the City Manager
Pursuant to Government Code Section 54957.6(a)
City Designated Representatives: Randy Pope, Mayor; Aaron Meadows, Vice Mayor; and Derek Cole, City Attorney
Unrepresented Employee: City Manager

CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Government Code Section 54956.8
Property: 63980 Empire Avenue, Oakley, CA, APN 034-010-033
Agency Negotiator: Joshua McMurray, City Manager
Negotiating Party: Roy and Erica Pantle
Under Negotiation: Price and term of payment

Direction was provided to staff and there was no reportable action for both items.

Fiscal Impact

None.

Recommendation

Receive and file this report.

Attachments

None.

ORDINANCE NO. 12-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY AMENDING OAKLEY MUNICIPAL CODE CHAPTER 4.31 (WATER-EFFICIENT LANDSCAPE REQUIREMENTS) TO ADOPT THE STATE OF CALIFORNIA'S MODEL WATER EFFICIENT LANDSCAPE ORDINANCE AS AMENDED BY DIABLO WATER DISTRICT'S REGULATION NO. 8 WHICH PROHIBITS NEW INSTALLATION OF NON-FUNCTIONAL TURF

Findings

WHEREAS, on February 9, 2010, the Oakley City Council adopted Ordinance No. 03-10, which created the City's Water-Efficient Landscape Requirements (Oakley Municipal Code ("OMC") Chapter 4.31) compliant with State law; and

WHEREAS, on April 1, 2015, Governor Edmund G. Brown Jr signed Executive Order B-29-15 amending the State's Model Water Efficient Landscape Ordinance; and

WHEREAS, in June 2021, Diablo Water District's ("DWD") Board of Directors updated the 2020 Urban Water Management Plan. That plan includes an Appendix E, referred to as "Regulation No. 8 (Water Use Efficiency)" that includes a condition that DWD work with local land us authorities to implement a non-functional turf prohibition.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLEY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 4.31 of the Oakley Municipal Code, titled, "Water Efficient Landscape Requirements" is hereby amended in its entirety as follows:

"CHAPTER 31
WATER-EFFICIENT LANDSCAPE REQUIREMENTS

4.31.102 Applicability.

The "Model Water Efficient Landscape Ordinance" of the state of California, as contained in California Code of Regulations Title 23 Waters, Division 2 Department of Water Resources, Chapter 2.7 Model Water Efficient Landscape Ordinance, Section 490 et seq., is hereby adopted by reference as the water efficient landscape ordinance of the City of Oakley, as the same may be amended from time to time, as if set out in full in this chapter. In addition to compliance with the State's MWELO, new installation of "non-functional turf" is prohibited for applicable projects.

4.31.104 Definition of Non-Functional Turf.

a. "Non-functional turf" means turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events. Non-functional turf

does not include sports fields and turf that is regularly used for human recreational purposes or for civic or community events."

SECTION 2. California Environmental Quality Act.

This project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15308, Actions by Regulatory Agencies for the Protection of the Environment, because the State Water Efficient Landscape Ordinance states the ordinance will result in improving California's environmental conditions and provide benefits and realize sustainability goals.

SECTION 3. Effective Date and Posting.

This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

PASSED, APPROVED AND ADOPTED this 27th day of September, 2022 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____ _____
Libby Vreonis, City Clerk Date

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: September 27, 2022

TO: Joshua McMurray, City Manager *Approved and Forwarded to the City Council*

FROM: Kevin Rohani, P.E., Public Works Director/City Engineer

SUBJECT: Adopt a Resolution to authorize execution of the Joint Community Facilities Agreement between the City of Oakley and the East Contra Costa County Habitat Conservancy corresponding to Community Facilities District No. 2022-1 for the financing of HCP/NCCP Services

---

Background and Analysis

Vesting Tentative Maps 9156, 9311, 9401, and 9404 within the East Cypress Corridor ("ECC") Specific Plan are collectively known as the Cypress Preserve (the "Project"). The Project area is within Planning Areas 1, 3, and 4 of the ECC Specific Plan and is expected to consist of a total of over 3,100 attached and detached single-family residential units at build-out. The Project encompasses existing Assessor Parcel Numbers 020-140-048, 020-150-003, 032-050-003, 032-082-001, 032-082-005, and 032-082-013 located along East Cypress Road on the eastern edge of the City.

The applicant for the Project, ACD-TI Oakley, LLC (the "Developer"), is conditioned to permanently protect the approximately 255-acre North Preserve (Planning Area 1) and its 76 acres of wetlands; create approximately 15 acres of new wetland habitat in the North Preserve; permanently protect the approximately 13-acre wetland area in the Project's southeast corner also known as the South Preserve (Planning Area 4); and permanently protect 43.1 acres of wetlands located within the Project but outside of the North and South Preserve areas.

In December of 2006, the East Contra Costa County Habitat Conservation Plan Association, which included Contra Costa County (the "County"), the City of Oakley (the "City"), and other local government entities, completed preparation of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan ("HCP/NCCP"). The purpose of the HCP/NCCP is to conserve species covered by the HCP/NCCP while allowing for compatible economic development and growth in east Contra Costa County and the cities of Brentwood, Clayton, Oakley, and Pittsburg (collectively the "Cities"). For this purpose, the HCP/NCCP includes a conservation strategy that will establish a system of habitat preserves

linked to existing protected land to form a network of protected areas (the "Preserve System"). The East Contra Costa County Habitat Conservancy (the "Conservancy") was established on April 16, 2007, pursuant to a joint powers agreement amongst the County and the Cities, to serve as the implementing entity for the HCP/NCCP responsible for overseeing the assembly and day-to-day operations of the Preserve System. The services provided by the Conservancy (the "HCP/NCCP Services") include, but are not limited to, program administration, management, maintenance, monitoring, and research associated with the Preserve System.

The Conservancy, the City, the Developer, and the Wildlife Heritage Foundation entered into an agreement on June 13, 2018, regarding the extension of authorization for the incidental take of certain covered species identified in the HCP/NCCP for the Project (the "Take Authorization Agreement"). The Take Authorization Agreement was subsequently amended on July 23, 2021. The amendment included revised terms for payment of the permanent impact mitigation fee amount due for the Project, including a reduction of $2,500,000 in Developer fees, on condition of the formation of an assessment district or community facilities district that will provide on-going revenue to offset the value of the reduction.

The Developer has requested the City assist with the formation of Community Facilities District No. 2022-1 (HCP/NCCP Services) ("CFD No. 2022-1") to satisfy the condition of the Take Authorization Agreement related to the formation of a community facilities district. Pursuant to Section 53316.2 of the California Government Code, the City may fund the proposed HCP/NCCP Services through CFD No. 2022-1 only pursuant to a Joint Community Facilities Agreement ("JCFA") between the City, as the public agency forming CFD No. 2022-1, and the Conservancy, as the public agency that will provide the HCP/NCCP Services. Executing the JCFA will allow the City to disburse the CFD No. 2022-1 special tax revenues, minus administrative costs associated with CFD No. 2022-1 incurred by the City, to the Conservancy each fiscal year beginning with FY 2023-24.

The Board of Directors for the Conservancy adopted a Resolution authorizing the Conservancy's Executive Director to execute the attached JCFA with the City at their August 22, 2022, Board meeting. The purpose of this agenda item is to receive City Council's authorization to execute the JCFA to ratify the agreement.

Consistency with the Oakley Strategic Plan 27+

This item is consistent with the Strategic Plan 27+ Park and Open Space and Finance and Fiscal Responsibility section goals.

Local Goals & Polices

On December 9, 2014, the City adopted Resolution No. 126-14, which amended the "City of Oakley's Statement of Local Goals and Policies and Appraisal Standards Concerning the Use of the Mello-Roos Community Facilities Act of 1982". In the future,

if it is determined that the "Amended and Restated Local Goals and Policies and Appraisal Standards Concerning the Use of Mello-Roos Community Facilities Act of 1982" need to be further amended, the Council has the authority to amend them at any time. The proposed formation of CFD No. 2022-1 complies with the City's "Amended and Restated Local Goals and Policies and Appraisal Standards Concerning the Use of Mello-Roos Community Facilities Act of 1982".

Fiscal Impact

The proposed CFD No. 2022-1 annual maximum special tax rate for Detached Single-Family Residential Parcels, in FY 2022-23 dollars, to fund HCP/NCCP Services and CFD administration is $119.66 per parcel. The Developer for the Project has funded all costs associated with the formation of CFD No. 2022-1.

If City Council does not adopt a resolution authorizing execution of the JCFA between the City and Conservancy corresponding to CFD No. 2022-1, the City cannot proceed with the formation of CFD No. 2022-1.

Staff Recommendation

Staff recommends that City Council adopt the Resolution to authorize execution of the Joint Community Facilities Agreement between the City and the Conservancy corresponding to CFD No. 2022-1 for the financing of HCP/NCCP Services.

If the City Council adopts the resolution to authorize execution of the JCFA between the City and the Conservancy corresponding to CFD No. 2022-1 for the financing of HCP/NCCP Services, the remaining process (Council meetings in bold) for the formation of CFD No. 2022-1 will be as follows:

September 27, 2022	**City Council holds Public Hearing and considers the following actions:** **1) Adopt Resolution of Formation of CFD;** **2) Adopt Resolution Calling Special Landowner Election for CFD;** **3) Conduct Election;** **4) Adopt Resolution Declaring Results of Special Landowner Election and Directing Recording of Notice of Special Tax Lien within CFD;** **5) Take First Reading of Ordinance Levying Special Tax within CFD.**
October 11, 2022	City Clerk files the Notice of Special Tax Lien with the County Recorder's Office (must be completed within 15 days of the adoption of the Resolution Confirming Results of Election and directing the recordation of the Notice of Special Tax Lien)

October 11, 2022	**Second Reading of Ordinance Levying Special Tax within CFD**
October 26, 2022	Publication of Ordinance (within 15 days after its passage)

Attachments

1) Resolution to authorize execution of the JCFA between the City of Oakley and the East Contra Costa County Habitat Conservancy corresponding to Community Facilities District No. 2022-1 for the financing of HCP/NCCP Services;
    a. Exhibit A - Joint Community Facilities Agreement
        i. Boundary Map
        ii. Rate and Method of Apportionment of the Special Tax

RESOLUTION NO. XX-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY ADOPTING JOINT COMMUNITY FACILITIES AGREEMENT

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code (the "Act"), the City Council (the "Council") of the City of Oakley (the "City") is authorized to establish a community facilities district and to act as its legislative body;

WHEREAS, the City is in the process of forming a community facilities district that is expected to be named "City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services)" (the "CFD") for the purpose of levying a special tax (the "CFD Special Tax") to finance certain services provided by the East Contra Costa County Habitat Conservancy (the "Conservancy") including, but not limited to, program administration, management, maintenance, monitoring, and research associated with the Preserve System (the "CFD HCP/NCCP Services");

WHEREAS, the Conservancy desires to provide the CFD HCP/NCCP Services;

WHEREAS, Pursuant to Section 53316.2 of the Act, the City of Oakley may finance the CFD HCP/NCCP Services through the CFD only pursuant to a joint community facilities agreement between the City of Oakley, as the public agency forming the CFD, and the Conservancy, as the public agency that will provide the CFD HCP/NCCP Services; and

WHEREAS, the City of Oakley and the Conservancy have determined that it would be of benefit to the residents of each of their respective jurisdictions to enter into a Joint Community Facilities Agreement to provide for the financing of the CFD HCP/NCCP Services by the City of Oakley through the CFD.

NOW, THEREFORE, the City Council of the City of Oakley resolves as follows:

1. Joint Community Facilities Agreement. This Council hereby authorizes and directs the Mayor, the City Manager, the Finance Director, and the City Attorney (each, an "Authorized Officer") to execute, and the City Clerk is directed to attest, on behalf of the City, the Joint Community Facilities Agreement attached hereto as Exhibit A, together with any changes therein or additions thereto deemed advisable by any Authorized Officer, whose execution thereof shall be conclusive evidence of the approval of any such changes or additions.

2. Effective Date. This resolution shall take effect upon its adoption.

PASSED,APPROVED AND ADOPTED this 27th day of September 2022 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____ _____
Libby Vreonis, City Clerk Date

EXHIBIT A

JOINT COMMUNITY FACILITIES AGREEMENT

JOINT COMMUNITY FACILITIES AGREEMENT

For

City of Oakley Community Facilities District No. 2022-1
(HCP/NCCP Services)

THIS JOINT COMMUNITY FACILITIES AGREEMENT (this "**Agreement**"), dated as of _____, 2022, is by and between the City of Oakley, a municipal corporation and general law city (the "**City**") and the East Contra Costa County Habitat Conservancy (the "**Conservancy**"), a Joint Powers Authority. The City and Conservancy are sometimes referred to herein collectively as the "**Parties**" and each individually as a "**Party**".

BACKGROUND

A. The Conservancy oversees the assembly and the management of the East Contra Costa County Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP) Preserve System. The purpose of the HCP/NCCP is to protect natural resources and to streamline the environmental permitting process for impacts on endangered species. The purpose of the Preserve System is to preserve major habitats, to manage habitats to enhance populations of covered species and maintain ecosystem processes, and to compensate for habitat loss.

B. The Conservancy, the City, the Wildlife Heritage Foundation, and ACD-TI Oakley, LLC, a Delaware limited liability company (the "**Developer**") entered into an agreement on June 13, 2018 (the "**Take Authorization Agreement**") regarding the extension of authorization for the incidental take of certain covered species identified in the HCP/NCCP for the Grand Cypress Preserve project (the "**Project**") in the City of Oakley. One of the terms in the Take Authorization Agreement is a reduction of two million five hundred thousand dollars ($2,500,000) in Developer fees (the "**Developer Reduction**"), on condition of the formation of a community facilities district that will provide on-going revenue to offset the value of the reduction. The Take Authorization Agreement was subsequently amended on July 23, 2021. The amendment included revised terms for formation of the community facilities district, under which the Developer Reduction is subject to the condition that the City of Oakley either form the community facilities district or adopt a resolution of intent to form a community facilities district for each part of the Project before take authorization is provided for that part.

C. The City is conducting proceedings for the establishment of a community facilities district, which the Parties expect to be named "City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services)" (the "**CFD**") under the Mello-Roos Community Facilities Act of 1982, as amended, Part 1 (commencing with Section 53311) of Division 2 of Title 5 of the California Government Code (the "**Act**"), with the Contra Costa County Assessor's Parcels associated with the Project as the boundaries of the CFD, as further described and depicted on the Boundary Map for the CFD attached hereto as Exhibit A.

D. The City is forming the CFD to levy a special tax (the "**CFD Special Tax**") to provide services in support of the HCP and NCCP. The services that may be provided include,

but are not limited to, (1) Program administration related to the HCP/NCCP; (2) Management and maintenance of the Preserve System as described in the HCP/NCCP; and (3) Monitoring, research, and adaptive management of the Preserve System as described in the HCP/NCCP (collectively the "**CFD Services**").

E. The City is conducting the proceedings to establish the CFD pursuant to a petition from the landlowner of the Grand Cypress Preserve. As twelve registered voters have not lived within the boundaries of the CFD within the last 90 days, the City intends to conduct a landowner election to form the CFD. Pursuant to Section 53313 of the Government Code, the CFD Services will be in addition to those provided in the territory of the CFD before the CFD was created, and the CFD Services will not supplant services already available within that territory when the CFD was created.

F. The CFD Services will be provided by the Conservancy.

G. Pursuant to Section 53316.2 of the Government Code, the City may finance the CFD Services through the CFD only pursuant to a joint community facilities agreement between the City, as the public agency forming the CFD, and the Conservancy, as the public agency that will provide the CFD Services.

H. The City and the Conservancy have determined that it would be of benefit to the residents of each of their respective jurisdictions to enter into this Agreement to provide for the financing of the CFD Services by the City through the CFD.

AGREEMENTS

In consideration of the mutual promises and covenants set forth herein, and for other valuable consideration, the sufficiency of which is hereby acknowledged, the City and the Conservancy agree as follows:

1. Agreement. This Agreement constitutes a "**Joint Community Facilities Agreement**", within the meaning of Section 53316.2 of the Government Code pursuant to which the CFD will be authorized to finance the CFD Services.

2. Determination of Annual Special Tax Levy. The initial maximum annual CFD Special Tax is $119.66 per detached single-family parcel, in Fiscal Year 2022-23 dollars, and will be increased annually by the change in the Consumer Price Index as permitted by the Rate and Method of Apportionment of the Special Tax, attached hereto as Exhibit B. Detached single-family parcels within the boundaries of the CFD will be levied the CFD Special Tax upon the City issuing a final inspection report approving the property for occupancy on or prior to June 30 of the preceding fiscal year in which the CFD Special Tax is to be levied. Each September 1, the City shall notify the Conservancy in writing of the total CFD Special Tax revenue placed on the property tax roll for the current fiscal year.

3. Allocation of Special Taxes.

(a) CFD Special Tax Revenues collected by the City each fiscal year shall be allocated as follows: (i) first to the City, in an amount to be determined by the City, to reimburse the City for administrative costs actually incurred or estimated to be incurred by the City in connection with the administration of the CFD, and (ii) second, the remainder to the Conservancy to pay for CFD Services. The City will annually transmit CFD Special Tax Revenues to the Conservancy,

commencing with Fiscal Year 2022-23, in a minimum amount of $109.66 per detached single-family parcel for which the CFD Special Tax was collected, increased each fiscal year by the change in the Consumer Price Index as permitted by the Rate and Method of Apportionment of the Special Tax, attached hereto as Exhibit B.

(b) The Parties acknowledge that, pursuant to Section 53313 of the Government Code, because the CFD Special Tax was approved by a landowner vote, the CFD Special Taxes may only finance the CFD Services to the extent that they are in addition to the services provided before the CFD was created, and the CFD Services may not supplant services already available when the CFD was created.

4. Payment of Developer Reduction. The Parties acknowledge that if the CFD Special Tax is terminated, or if for any other reason, the total CFD Special Tax Revenues collected and received by the Conservancy through Fiscal Year 2034-35 is less than the Developer Reduction amount of two million five hundred thousand dollars ($2,500,000), as adjusted in accordance with Section 6.5(d) of the amended Take Authorization Agreement, then the Developer shall, within sixty (60) days of the last payment of CFD Special Tax Revenues made to the Conservancy, pay to the Conservancy an amount equal to the difference between the total CFD Special Tax Revenues transmitted to the Conservancy through Fiscal Year 2034-35 and the Developer Reduction amount as adjusted in accordance with Section 6.5(d) of the amended Take Authorization Agreement.

5. Indemnification.

a. Indemnification by the City. The City shall assume the defense of, indemnify and save harmless, the Conservancy, its officers, employees and agents, and each and every one of them, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or resulting from, any act or omission of the City with respect to this Agreement; provided, however, that the City shall not be required to indemnify any person or entity as to damages resulting from negligence or willful misconduct of such person or entity or their officers, agents or employees.

b. Indemnification by the Conservancy. The Conservancy shall assume the defense of, indemnify and save harmless, the City, its officers, employees and agents, and each and every one of them, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or resulting from, any act or omission of the Conservancy with respect to this Agreement; provided, however, that the Conservancy shall not be required to indemnify any person or entity as to damages resulting from negligence or willful misconduct of such person or entity or their officers, agents or employees.

6. Term. Unless otherwise agreed in writing by the City and the Conservancy, this Agreement shall terminate upon the termination of the levy of the CFD Special Tax.

7. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

8. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. This Agreement may not be assigned by either of the Parties thereto.

9. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

10. Amendments. Amendments to this Agreement shall be made only by written instrument executed by each of the Parties hereto.

11. Notices. Under this Agreement, notices shall be sent by first class mail or messenger as follows:

If to the City:	City of Oakley 3231 Main Street Oakley, CA 94561 Attn: City Manager
If to the Conservancy:	East Contra Costa County Habitat Conservancy 30 Muir Road Martinez, CA 94553 Attn: Executive Director

12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first-above written.

CITY OF OAKLEY

By:_____

Its:_____

APPROVED AS TO FORM

By:_____
City Attorney

EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY

By:_____
Executive Director

APPROVED AS TO FORM

By:_____
Legal Counsel

EXHIBIT A

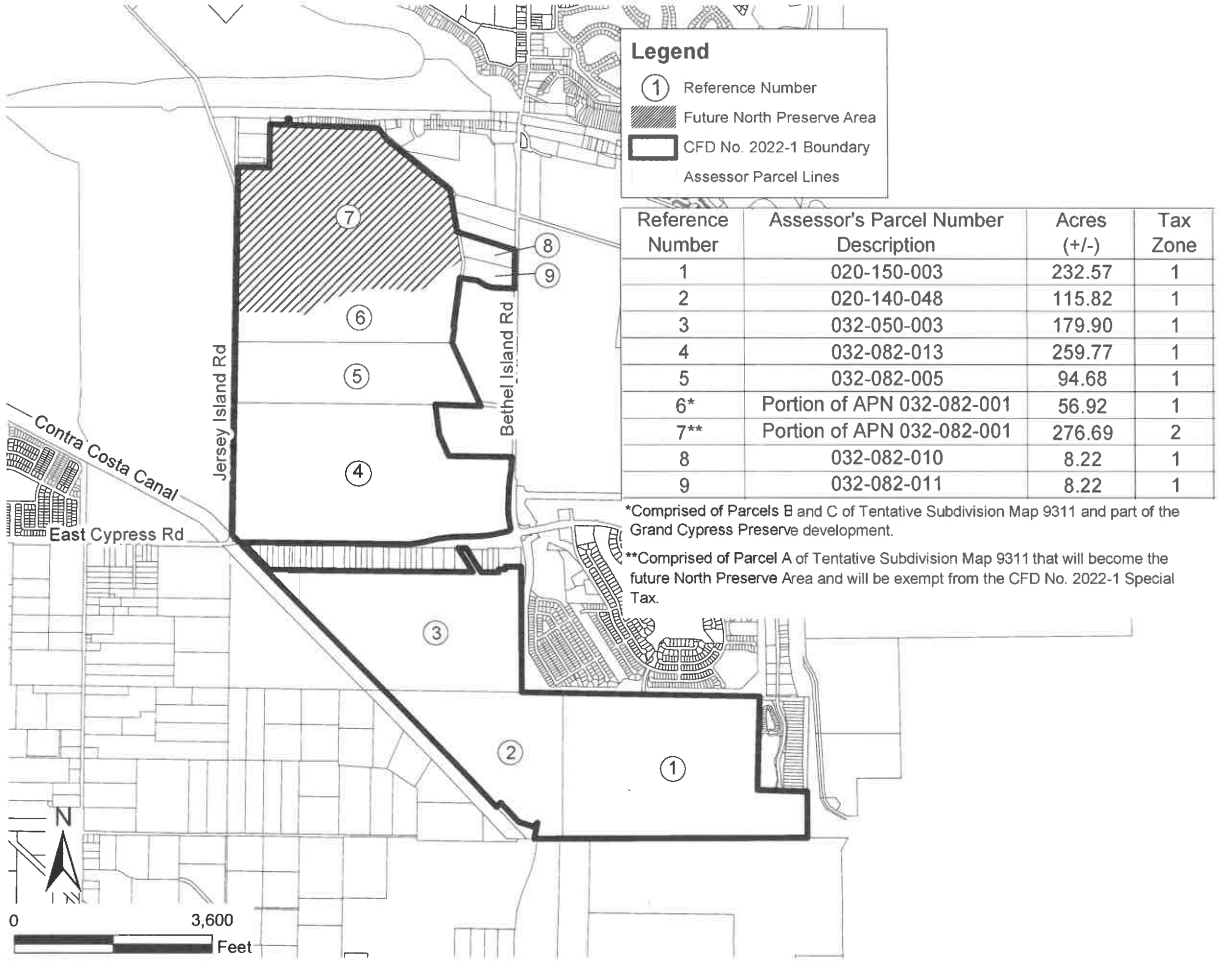
CITY OF OAKLEY
Community Facilities District No. 2022-1
(HCP/NCCP Services)

BOUNDARY MAP

PROPOSED BOUNDARY MAP

CITY OF OAKLEY COMMUNITY FACILITIES DISTRICT No. 2022-1 (HCP/NCCP SERVICES)

CITY OF OAKLEY
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA



Reference Number	Assessor's Parcel Number Description	Acres (+/-)	Tax Zone
1	020-150-003	232.57	1
2	020-140-048	115.82	1
3	032-050-003	179.90	1
4	032-082-013	259.77	1
5	032-082-005	94.68	1
6*	Portion of APN 032-082-001	56.92	1
7**	Portion of APN 032-082-001	276.69	2
8	032-082-010	8.22	1
9	032-082-011	8.22	1

*Comprised of Parcels B and C of Tentative Subdivision Map 9311 and part of the Grand Cypress Preserve development.

**Comprised of Parcel A of Tentative Subdivision Map 9311 that will become the future North Preserve Area and will be exempt from the CFD No. 2022-1 Special Tax.

Prepared by Francisco & Associates

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OAKLEY THIS _____ DAY OF _____, 2022.

_____
LIBBY VREONIS, CITY CLERK
CITY OF OAKLEY
CONTRA COSTA COUNTY
STATE OF CALIFORNIA

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF OAKLEY COMMUNITY FACILITIES DISTRICT No. 2022-1, CITY OF OAKLEY, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF OAKLEY, AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF_____, 2022, BY ITS RESOLUTION No. _____.

_____
LIBBY VREONIS, CITY CLERK
CITY OF OAKLEY
CONTRA COSTA COUNTY
STATE OF CALIFORNIA

FILED THIS _____ DAY OF _____, 2022, AT THE HOUR OF _____ __.M IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE _____, DOCUMENT No. _____ IN THE OFFICE OF THE COUNTY RECORDER IN CONTRA COSTA COUNTY, STATE OF CALIFORNIA.

_____
COUNTY RECORDER
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

ASSESSOR PARCELS WITHIN BOUNDARY: FOR PARTICULARS OF LINES AND DIMENSIONS OF PARCELS, REFERENCE IS MADE TO THE ASSESSOR PARCEL MAPS OF CONTRA COSTA COUNTY. MINERAL RIGHTS PARCELS ARE EXCLUDED FROM THE BOUNDARIES OF COMMUNITY FACILITIES DISTRICT No. 2022-1.

EXHIBIT B

CITY OF OAKLEY
Community Facilities District No. 2022-1
(HCP/NCCP Services)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes (as hereafter defined) in the City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services) (the "CFD" or "CFD No. 2022-1") shall be levied and collected each Fiscal Year according to the tax liability determined by the Administrator through the application of the appropriate Special Tax rate for Taxable Property, as described below. All property in CFD No. 2022-1, unless exempted by law or by the provisions of Section E herein, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2022-1, unless a separate Rate and Method of Apportionment of Special Tax is adopted for such annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accessory Unit" means a second Residential Unit of reduced size (e.g., granny cottage, etc.) that is constructed following the construction of a primary Residential Unit that shares a Parcel with a Residential Unit. An Accessory Unit shall not be considered a separate Residential Unit for purposes of this RMA and will not be levied a Special Tax.

"Acre" or **"Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map, Parcel Map or functionally equivalent map or instrument recorded in the Office of the County Recorder. In the absence of such map, the Administrator will make the final "Acre" or "Acreage" determination as needed, utilizing in the Administrator's discretion, available resources, including but not limited to available spatial and Geographic Information Systems (GIS) data.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the actual or reasonably estimated costs incurred by the City or their designee, acting for and on behalf of the CFD as the Administrator thereof, to compute, determine, levy and collect the Special Taxes, including salaries of City staff and a proportionate amount of the City's general administrative overhead related thereto, and the fees of consultants and legal counsel providing services related to the administration of the CFD; the costs of collecting installments of the Special Taxes, including charges levied by the County, the costs related to the preparation of required reports; and any other costs required to administer the CFD as determined by the Administrator. Administrative expenses shall also include amounts estimated or advanced by the City, public agency, or the CFD for any other administrative purposes related to the CFD.

"Administrator" means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

"Assessor's Parcel Map" means an official map of the County Assessor designating Parcels by Assessor's Parcel Number.

"Assessor's Parcel Number" or **"APN"** means a unique number assigned to an Assessor's Parcel by the County Assessor for purposes of identifying a property.

"Authorized Services" means the public services authorized to be funded by CFD No. 2022-1 as set forth in the documents adopted by the Council when CFD No. 2022-1 was formed.

"Building Permit" means a building permit issued by the City to construct a building structure improvement with a valuation over $50,000. Building Permits for the construction of ancillary structures such as fences, swimming pools, retaining walls, etc. are excluded.

"**CFD" or "CFD No. 2022-1"** means the City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services).

"City" means the City of Oakley.

"City Manager" means the City Manager of the City of Oakley.

"Council" means the City Council of the City of Oakley, acting as the legislative body for CFD No. 2022-1.

"County" means the County of Contra Costa.

"County Assessor" means the Contra Costa County Assessor.

"County Land Use Code" means the land use code assigned to an Assessor's Parcel as indicated in the records of the County Assessor.

"Developed Property" means, in any Fiscal Year, all Single-Family Parcels for which a final inspection report approving the property for occupancy has been issued by the City on or prior to June 30 of the preceding Fiscal Year in which Special Taxes are to be levied. In the absence of a final inspection report, any Single-Family Parcel shall be classified as "Developed Property" if it has been occupied by a user as determined by the Administrator on or prior to June 30 of the preceding Fiscal Year.

"Final Map" or "Parcel Map" means a final Subdivision Map, parcel map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.), that creates lots that do not need to be further subdivided prior to issuance of a Building Permit for a residential structure. The term "Final Map" or "Parcel Map" shall not include an Assessor's Parcel Map or subdivision map or portion thereof, that does not

create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting on July 1 and ending on the following June 30.

"Land Use Classification" means the current or intended use of a Taxable Parcel as determined by the Taxable Parcel's County Land Use Code.

"Maximum Special Tax" means the maximum Special Tax determined in accordance with Section C herein, which can be levied in any Fiscal Year.

"Property Owner" means the Property Owner of record per current County Assessor records unless more current information is available such as a recorded deed of sale, etc.

"Proportionately" means, for Developed Property, that the ratio of the actual annual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Developed Property within each respective Tax Zone.

"Public Property" means, for each Fiscal Year: (i) any property within the boundaries of CFD No. 2022-1 that is owned by or irrevocably offered for dedication to the federal government, the State of California, the City or any other public agency; provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act (as such section may be amended or replaced) shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2022-1 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

"RMA" means this Rate and Method of Apportionment of Special Tax.

"Residential Unit" means an individual dwelling for residential use as defined per the County Assessor.

"Single-Family Parcel" means a Parcel having a detached Residential Unit and designated by the County Land Use Code as having a single-family residential land use. If it is determined by the Administrator that the County Assessor has assigned an incorrect County Land Use Code, or the assigned County Land Use Code does not correctly describe the intended or current use of the Taxable Parcel, the Administrator may assign the appropriate Land Use Classification to the Taxable Parcel described in Section C below.

"Special Tax" means the tax levied on Taxable Property within CFD No. 2022-1 to pay the annual Special Tax Requirement.

"Special Tax Requirement" means, the amount of revenue needed in any Fiscal Year for each Tax Zone to pay for the following: (i) Authorized Services; (ii) Administrative Expenses; and (iii) amounts needed to cover any delinquencies in the payment of the Special Tax which occurred in the previous Fiscal Year or, based on delinquency rates in prior years, that may be expected to occur in the Fiscal Year in which the Special Tax will be collected.

"Taxable Property" or "Taxable Parcels" means all Assessors' Parcels within the boundaries of CFD No. 2022-1 that are not exempt from the Special Tax pursuant to law or Section E herein.

"Tax Zone" means a mutually exclusive geographic area within CFD No. 2022-1 designated on the CFD boundary or annexation map. All property within CFD No. 2022-1 at the time of CFD Formation is within either Tax Zone 1 or Tax Zone 2. Additional Tax Zones may be created when property is annexed to CFD No. 2022-1, and a separate Maximum Special Tax shall be identified for property within the new Tax Zone at the time of such annexation. The Assessor's Parcels included within a new Tax Zone established when such Parcels are annexed to CFD No. 2022-1 shall be identified by Assessor's Parcel Number at the time of annexation.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property in CFD No. 2022-1 that are not classified as Developed Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall: (i) identify the current Assessor's Parcel Numbers for all Parcels of Taxable Property within CFD No. 2022-1, (ii) determine the Land Use Classification for each Taxable Parcel, (iii) determine whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (iv) determine which Tax Zone each Parcel of Taxable Property is located in, and (v) determine the Special Tax Requirement for the CFD.

In any Fiscal Year, if it is determined that a Final Map or Parcel Map for a portion of property in CFD No. 2022-1 was recorded after the last date upon which the County Assessor will incorporate the newly-created Parcels into the then current tax roll, and the County Assessor does not yet recognize the new Parcels that will be created by the Final Map or Parcel Map, and one or more of the newly-created Parcels would meet the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map or Parcel Map by determining the Special Tax that applies separately to each new Parcel that will be created by that Final Map or Parcel Map, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map or Parcel Map.

C. MAXIMUM SPECIAL TAXES

1. The Fiscal Year 2022-23 Maximum Special Tax for all Taxable Parcels of Developed Property within Tax Zone 1 is shown below in Table No. 1. No Special Tax shall be levied on Undeveloped Property or Parcels within Tax Zone 2.

Table No. 1 - Developed Property (Tax Zone 1)

Land Use Classification	Fiscal Year 2022-23 Maximum Special Tax
Single-Family Parcel	$119.66 per parcel

2. Escalation of Maximum Special Tax

Commencing on July 1, 2023, and each July 1 thereafter, the Maximum Special Tax rates for Developed Property shown in Table No. 1, shall be increased by applying the percentage increase, if any, in the Consumer Price Index for San Francisco-Oakland-Hayward, CA (All Urban Consumers) for the prior year (April to April) to the Maximum Special Tax in effect for the current Fiscal Year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1. In the event the Consumer Price Index for San Francisco-Oakland-Hayward, CA (All Urban Consumers) ceases to be published, the Maximum Special Tax may be increased based on a comparable index as determined by Administrator at the Administrator's discretion.

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAXES

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for each Tax Zone for that Fiscal Year and levy all Parcels of Taxable Property therein as follows:

Step 1: Each Parcel of Developed Property shall be levied Proportionately up to 100% of the Maximum Special Tax for such Fiscal Year until the amount levied is equal to the Special Tax Requirement.

The Special Tax for CFD No. 2022-1 shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of CFD No. 2022-1.

E. EXEMPTIONS

No Special Tax shall be levied on Parcels of Undeveloped Property, Public Property, mineral rights Parcels, or any privately-owned Parcels that are non-developable, such as common areas, wetlands, open space, preserve areas, parks, etc. except as otherwise provided in this RMA and in the Act. In addition, no Special Tax shall be levied on Parcels within Tax Zone 2.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City through an ordinance or resolution of the Council for purposes of clarifying any vagueness or ambiguity in this RMA.

G. TERM OF THE SPECIAL TAX

The Special Tax shall be levied in indefinitely if Authorized Services are being provided and is necessary to pay the Special Tax Requirement.

H. PREPAYMENT OF SPECIAL TAX

The Maximum Special Tax may not be prepaid and shall continue to be levied in accordance with Section D of this Rate and Method of Apportionment on an annual basis on all Taxable Property in CFD No. 2022-1 for the purpose of funding ongoing Authorized Services.

I. REVIEW/APPEALS OF THE SPECIAL TAX

The Administrator may establish such procedures, as it deems necessary to undertake the review of any such appeal. The Administrator shall interpret this Rate and Method of Apportionment and make determinations relative to the annual administration of the Special Tax and any property owner appeals, as herein specified.

Any property owner who believes that the amount of the Special Tax levied on their Assessor's Parcel is in error shall first consult with the Administrator regarding such error. If following such consultation, the Administrator determines that an error has occurred; the Administrator in consultation with the City Manager shall take any of the following actions to correct the error:

- Amend the Special Tax levy on the property owner's Property Tax Bill for the current Fiscal Year, or
- Have the CFD reimburse the property owner for the amount of overpayment for the current Fiscal Year if CFD funds are available, or
- Grant a credit against, eliminate, or reduce the future Special Taxes on the property owner's Assessor's Parcel(s) for overpayment for the current Fiscal Year.

If following such consultation and action (if any by the Administrator), the property owner believes such error still exists, such person may file a written notice with the City Manager appealing the amount of the Special Tax levied on such Assessor's Parcel. If following such consultation and action (if any by the City Manager), the property owner believes such error still exists, such person may file a written notice with the City Council appealing the amount of the Special Tax levied on such Assessor's Parcel. If the City Council determines an error exists; the Administrator shall take any actions as described above, in order to correct the error. The decision of the City Council shall be final and binding to all persons.

J. SEVERABILITY

The invalidity or unenforceability of any provisions of this Rate and Method of Apportionment of Special Tax shall not affect the validity or enforceability of any other provision of this Rate and Method of Apportionment of Special Tax, which shall remain in full force and effect.

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: September 27, 2022

TO: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

FROM: Kenneth W. Strelo, Planning Manager

SUBJECT: **AB 1276 Single-Use Foodware Accessories and Condiments - Introduction of an Ordinance Adding Chapter 4.38 (Single-Use Foodware Accessories and Condiments) to the Oakley Municipal Code**

Summary

This is a City-initiated item requesting the City Council of the City of Oakley adopt an ordinance adding Oakley Municipal Code ("OMC") Chapter 4.38 (Single-Use Foodware Accessories and Condiments) in order to comply with requirements of Assembly Bill 1276 (AB 1276), signed by Governor Gavin Newsom on October 5, 2021. AB 1276 expands on AB 1884 (2018, Brown) by prohibiting a food facility or third-party food delivery platform from providing single-use food accessories, such as cutlery, straws, and condiment packets, to a consumer unless requested by the consumer. The proposed ordinance will summarize AB 1276 and clarify the City's role in enforcement activities.

Staff Recommendation

Staff recommends the City Council waive the first reading and introduce the proposed ordinance.

Summary of AB 1276

Assembly Bill 1276 (AB 1276) was signed into law by Governor Gavin Newsom on October 5, 2021, and exists as Public Resources Code Division 30, Part 3, Chapter 5.2 Single-Use Foodware Accessories and Condiments. The bill took effect on January 1, 2022. AB 1276 is designed to reduce plastic waste associated with excess packaging and undesired condiments. The intended outcome of implementing this Ordinance is to decrease plastic in the landfill as well as plastic pollution in the streets and waterways of the City of Oakley.

The main framework of the bill requires that retail food businesses only provide single-use items to customers when requested. Single-use items include:

- Utensils, which are defined as forks, knives, spoons, and sporks

- Chopsticks
- Condiment cups and packets
- Straws
- Stirrers
- Splash sticks, and
- Cocktail sticks

In order to further reduce waste, single-use items may not be bundled, only be offered if needed to eat or prevent spillage of the item, and be made available for request when food is offered through a third-party platform (such as food delivery services).

There are four types of businesses that are exempt from the law, and those include correctional institutions, licensed health care facilities, residential care facilities, and public and private school cafeterias.

Enforcement

This law is currently in effect and the City is currently responsible for enforcing it. This ordinance will clarify that this law will be enforced by the City Manager or their designee on a complaint basis. Per the State law, the first and second violations shall result in a notice of violation, and any subsequent violation shall constitute an infraction punishable by a fine of $25 for each day in violation, but not exceed $300 annually.

Education

Many Oakley businesses are already operating in compliance with AB 1276 and require little to no education on the requirements. In an attempt to bring all applicable businesses on board, Staff will work to create a summary sheet of AB 1276's requirements to provide to businesses that are required to abide by the requirements and provide those businesses with a Staff contact should they have any questions on compliance. The goal is to have these educational materials developed and distributed by the end of calendar year 2022. In addition to this proactive education, the enforcement aspect of the ordinance requires at least two violations, each receiving a notice of violation without any fines. Such notices of violation will serve as additional education should any business fail to operate per the requirements voluntarily.

Environmental Review

California Environmental Quality Act Compliance

This project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15308, Actions by Regulatory Agencies for the Protection of the Environment, because AB 1276 is designed to reduce plastic waste associated with excess packaging and undesired condiments. The intended outcome of implementing this Ordinance is to decrease plastic in the landfill as well as plastic pollution in the streets and waterways of the City of Oakley.

Notice of Public Hearing

A Notice of Public Hearing for this project was published in the East Bay Times and posted at City Hall, the Oakley Library at Freedom Highschool, and outside the gym at Delta Vista Middle School at least 10 days prior to the date of the public hearing.

Consistency with the City of Oakley Strategic Plan 2022-2027+

AB 1276 and as a result, adoption of the proposed ordinance is consistent with the objective to “Enhance Environmental Stewardship” which is found within the Community and Economic Development Goal. Although already enacted into law the City’s ongoing enforcement will serve as an additional tool to help keep retail food related businesses operating in compliance with the law, which will eventually help reduce costs for those businesses that may have otherwise included various single-use items whether requested and/or needed by the consumer.

Fiscal Impact

There is no ongoing fiscal impact to the General Fund in relation to this ordinance amendment.

Staff Recommendation

Staff recommends the City Council waive the first reading and introduce the proposed ordinance.

Attachments

1. Notice of Public Hearing
2. Assembly Bill 1276 Fact Sheet – California Department of Public Health
3. Proposed Ordinance

City of Oakley
3231 Main Street
Oakley, CA 94561
www.oakleyinfo.com

NOTICE OF PUBLIC HEARING

Notice is hereby given that on **September 27, 2022** at 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council of the City of Oakley will hold a Public Hearing at the Council Chambers located at 3231 Main Street, Oakley, CA 94561 for the purposes of considering an **ordinance to add Oakley Municipal Code Chapter 4.38 related to Single-Use Foodware Accessories and Condiments.**

Project Name: AB 1276 Single-Use Foodware Accessories and Condiments - Introduction of an Ordinance Adding Chapter 4.38 (Single-Use Foodware Accessories and Condiments) to the Oakley Municipal Code.

Project Location: Citywide for applicable projects businesses.

Applicant: City of Oakley, 3231 Main Street, Oakley, CA 94561. (925) 625-7000.

Request: This is a public hearing on a City-initiated item requesting the City Council of the City of Oakley adopt an ordinance adding Oakley Municipal Code ("OMC") Chapter 4.38 (Single-Use Foodware Accessories and Condiments) in order to comply with requirements of Assembly Bill 1276 (AB 1276), signed by Governor Gavin Newsom on October 5, 2021. AB 1276 expands on AB 1884 (2018, Brown) by prohibiting a food facility or third-party food delivery platform from providing single-use food accessories, such as cutlery, straws, and condiment packets, to a consumer unless requested by the consumer. The proposed ordinance will summarize AB 1276 and clarify the City's role in enforcement activities.

How to Review: The Staff Report and its attachments will be available for public review, on or before **September 22, 2022** at City Hall, 3231 Main Street, Oakley, CA 94561 or online at www.ci.oakley.ca.us/agendas-minutes-videos-archive/ by navigating to the **September 27, 2022** agenda and clicking the project title link. (Note: City Hall is closed on the 1st and 3rd Fridays of each month). Interested persons are invited to submit written comments prior to and may testify at the public hearing. **Written comments may be submitted to Kenneth W. Strelo, Planning Manager at the City of Oakley, 3231 Main Street, Oakley, CA 94561 or by email to strelo@ci.oakley.ca.us.**

NOTICE IS ALSO GIVEN pursuant to Government Code Section 65009(b) that, if this matter is subsequently challenged in Court by you or others, you may be limited to raising only those issues you or someone else has raised at a Public Hearing described in this notice or in written correspondence delivered to the City of Oakley City Clerk at, or prior to, the Public Hearing.

State of California—Health and Human Services Agency
California Department of Public Health

TOMÁS J. ARAGÓN, MD, DrPH
Director and State Public Health Officer

GAVIN NEWSOM
Governor

Assembly Bill 1276 Fact Sheet

Governor Gavin Newsom signed into law AB 1276. The new law changes the **Public Resource Code** in the area of single-use food accessories and standard condiments. This is an addition to the single-use plastic straws law. The law will take effect January 1, 2022.

SUMMARY OF THE CHANGES:

Public Resource Code
Chapter 5.2 Single-Use Foodware Accessories and Condiments

Sec. 2. 42270 – new definitions

(e) "Single-use foodware accessory" means all of the following single-use items provided alongside ready-to-eat food:

1. Utensils, which is defined as forks, knives, spoons, and sporks
2. Chopsticks
3. Condiment cups and packets
4. Straws
5. Stirrers
6. Splash sticks
7. Cocktail sticks

(f) "Standard Condiment" means relishes, spices, sauces, confections, or seasoning that require no additional preparation and tat are usually used on a food item after preparation, including ketchup, mustard, mayonnaise, soy sauce, hot sauce, salsa, salt pepper, sugar, and sugar substitutes.

Important Information for Retail Food Industry by Section

Sec.3. 42271

In order to reduce the amount of waste created from single-use items the retail food industry is now required to:

1. Only provide single-use accessories to consumers upon request
2. Only provide single-use accessories required to eat the ready-to-eat food

3. No bundling of single-use accessories or condiments
4. Only offer those single-use items needed to eat or prevent spillage of the ready-to-eat food at a drive-through as well as in a public use airport
5. A third-party delivery platform shall provide consumers with the option to request single-use accessories
6. A food facility that uses a third-party platform shall customize their menu with a list of available single-use accessories or condiment. Only those items chosen by the consumer will be delivered. If no single-use accessories or condiments are requested non will be provided
7. Unwrapped single-use foodware accessories that are self-serve, standard condiments that are self-serve, and/or bulk dispensed condiments may still be used

Sec. 4. 42272

1. A city, county, or city and county have until June 1, 2022 to authorize an enforcement agency for the law
2. First and second violations results in a notice of violation, any additional violation carries a $25 fine not to exceed $300 annually

Sec. 5. 42273

The law does not apply to the following:

1. Correctional institutions
2. Licensed health care facilities
3. Residential care facilities
4. Public and private school cafeterias

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY ADDING OAKLEY MUNICIPAL CODE CHAPTER 4.38 (SINGLE-USE FOODWARE ACCESSORIES AND CONDIMENTS) IN ORDER TO COMPLY WITH REQUIREMENTS OF ASSEMBLY BILL 1276 (2021)

Findings

WHEREAS, on October 5, 2021, Governor Newsom signed Assembly Bill (AB) 1276 into law prohibiting a food facility or a third-party food delivery platform from providing single-use food accessories, such as cutlery, straws, and condiment packets, to a consumer unless requested by the consumer; and

WHEREAS, AB 1276 revised the state law by expanding the scope of AB 1884 from full-service restaurants to food facilities, which generally includes all retail food operations; expanded the scope from single-use plastic straws to single-use foodware accessories, which includes utensils, condiments, and straws (but does not include napkins); and revised the enforcement obligation to allow cities and counties to enforce the provision; and

WHEREAS, AB 1276 is designed to reduce excess packaging and undesired condiments and prohibits single-use foodware accessories from being bundled or packaged in a way that prohibits the consumer from taking only the item desired; and

WHEREAS, in order to comply with AB 1276, the City Council of the City of Oakley now wishes to adopt an ordinance adding Chapter 4.38 (Single-Use Foodware Accessories and Condiments) to Title 4 (Public Health, Safety, and Welfare Regulations) of the Oakley Municipal Code prohibiting a food facility from providing any single-use foodware accessory or standard condiment unless requested by consumer, and authorizing City and County enforcement.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLEY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 4.38 of Title 4 of the Oakley Municipal Code, titled, “Single-Use Foodware Accessories and Condiments” is hereby added in its entirety as follows:

“CHAPTER 38
SINGLE-USE FOODWARE ACCESSORIES AND CONDIMENTS

4.38.102 Definitions.

For the purposes of this Chapter only, the following words and phrases shall have the meanings defined in this section unless the context clearly requires otherwise:

a. “Consumer” means a person is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food facility, and does not offer the food for resale.

b. “Correctional Institution” means any state prison, county jail, city jail, Division of Juvenile Justice facility, county- or city-operated juvenile facility, including juvenile halls, camps, or schools, or any other state or local correctional institution, including a court facility.

c. “Food Facility” means any operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, regardless of whether the food is consumed on or off the premises or whether there is a charge for the food.

d. “Ready-to-eat food” means food that is in a form that is edible without additional preparation to achieve food safety, is raw or partially cooked food of animal origin and the consumer is advised as such, or may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

e. “Single-use” means designed to be used once and then discarded, and not designed for repeated use and sanitizing.

f. “Single-use foodware accessory” means all of the following single-use items provided alongside ready-to-eat food:

    1. Utensils, which is defined as forks, knives, spoons, and sporks.
    2. Chopsticks.
    3. Condiment cups and packets.
    4. Straws.
    5. Stirrers.
    6. Splash sticks.
    7. Cocktail sticks.

g. “Standard condiment” means relishes, spices, sauces, confections, or seasonings that require no additional preparation and that are usually used on a food item after preparation, including, but not limited to, ketchup, mustard, mayonnaise, soy sauce, hot sauce, salsa, salt, pepper, sugar, and sugar substitutes.

h. “Third-party food delivery platform” has the same meaning as in section 113930.5 of the Health and Safety Code.

4.38.104 Food Facilities Shall Not Provide Single-Use Foodware Accessory or Condiment Package Unless Requested.

a. Except as provided in (C) and (D), below, a food facility, for on-premises dining or when using a third-party food delivery platform, shall not provide any single-use foodware accessory or standard condiment packaged for single use to a consumer unless the single-use foodware accessory or standard condiment is requested by the consumer.

b. Single-use foodware accessories and standard condiments packaged for single use provided by food facilities for use by consumers shall not be bundled or packaged in a manner that prohibits a consumer from taking only the type of single-use foodware accessory or standard condiment desired without also having to take a different type of single-use foodware accessory or standard condiment.

c. A food facility may ask a drive-through consumer if the consumer wants a single-use foodware accessory if the single-use foodware accessory is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.

d. A food facility that is located entirely within a public use airport, as defined in section 77.3 of Title 14 of the Code of Federal Regulations, may ask a walk-through consumer if the consumer wants a single-use foodware accessory if the single-use foodware accessory is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.

e. A third-party food delivery platform shall provide consumers with the option to request single-use foodware accessories or standard condiments from a food facility serving ready-to-eat food.

    1. If a food facility uses any third-party delivery platform for ready-to-eat food, the food facility shall customize its menu with a list of available single-use foodware accessories and standard condiments, and only those single-use foodware accessories or standard condiments selected by the consumer shall be provided by the food facility. If a consumer does not select any single-use foodware accessories or standard condiments, no single-use foodware accessory or standard condiment shall be provided by the food facility for delivery of ready-to-eat food.

f. Nothing in this section shall prohibit a food facility from making unwrapped single-use foodware accessories available to a consumer using refillable self-service dispensers that dispense one item at a time to allow for single-use foodware accessories to be obtained.

g. Nothing in this section shall prohibit a food facility from making standard condiments available to a consumer using refillable self-service dispensers to allow for standard condiments to be obtained. A food facility that offers standard condiments is encouraged to use bulk dispensers for the condiments rather than condiments packaged for single use.

h. Nothing in this section shall prevent a city, county, city and county, or other local public agency from adopting and implementing an ordinance or rule that would further restrict a food facility or a third-party food delivery platform from providing single-use foodware accessories or standard condiments to a consumer.

i. A food facility is encouraged, but not required, to take actions in addition to the requirements of this section that support a goal of reducing the use of and waste generated by all single-use food service products.

4.38.106 Exceptions.

This chapter does not apply to any of the following:

a. Correctional Institutions.

b. Health care facilities licensed pursuant to Article 1 of Chapter 2 of Division 2 of the Health and Safety Code (commencing with section 1250), or facilities that are owned or operated by a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (commencing with Health & Safety Code section 1340).

c. Residential care facilities licensed pursuant to Division 2 of the Health and Safety Code (commencing with section 1200).

d. Public and private school cafeterias.

4.38.108 Enforcement.

a The City Manager or the City Manager's designee has the primary responsibility for the enforcement of this chapter. The City Manager or the City Manager's designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, investigating violations, issuing fines, and entering the premises of any food facility during business hours. Other City staff may assist with this enforcement responsibility by entering the premises of a food facility as part of their regular inspection functions and reporting any alleged violations to the City Manager or the City Manager's designee.

b If any of those individuals specified in (a) above determine that a violation of this Chapter has occurred, he/she will issue a written warning notice to the operator of the food facility that a violation has occurred and the potential penalties that will apply for future violations

c The first and second violations of this Chapter shall result in a notice of violation. Any subsequent violation shall constitute an infraction punishable by a fine of

twenty-five dollars ($25) or each day in violation, but not to exceed three hundred dollars ($300) annually."

SECTION 2. California Environmental Quality Act.

This project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15308, Actions by Regulatory Agencies for the Protection of the Environment, because AB 1276 is designed to reduce plastic waste associated with excess packaging and undesired condiments. The intended outcome of implementing this Ordinance is to decrease plastic in the landfill as well as plastic pollution in the streets and waterways of the City of Oakley.

SECTION 3. Effective Date and Posting.

This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, 2022 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

_____
Randy Pope, Mayor Date

ATTEST:

_____
Libby Vreonis, City Clerk Date

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: September 27, 2022

TO: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

FROM: Ariana Ruiz, Planning Technician

SUBJECT: **Golden Oak Subdivision 9580 Tentative Map (TM 02-22) and Variance (VA 01-22) – Request to subdivide an approximately 2-acre site into eight (8) single-family residential lots and a variance request on meeting the minimum lot requirements for four (4) of the eight (8) lots. (APN: 035-090-082).**

Summary

This is a public hearing for an application by Pam Young ("Applicant") requesting approval of Tentative Map (TM 02-22) to subdivide an approximately 2-acre parcel in to eight (8) single-family residential lots, including dedication and improvement of public right-of-way and extension of West Ruby Street to the intersection of Wildcat Way and Fuschia Way. Applicant also requests approval of a Variance (VA 01-22) on meeting the minimum lot requirements for four (4) of the eight (8) lots ("Project"). The project site is located at 4960 Fuschia Way and zoned R-6 (Single-Family Residential) District. APN: 035-090-082.

The Planning Commission has reviewed the project and has forward its recommendation for consideration by the City Council. The Planning Commission's recommendation to the City Council is to adopt the resolution approving the project titled "Golden Oak Subdivision 9580 Tentative Map (TM 02-22) and Variance (VA 01-22)," subject to conditions.

Background

On August 2, 2022, the Planning Commission held a public hearing on the proposed Tentative Map and Variance request. Staff recommended approval the project subject to conditions of approval (see Attachment 6: "Planning Commission Staff Report dated August 2, 2022"). The Planning Commission adopted Planning Commission Resolution No. 05-22 recommending the City Council adopt the resolution approving the Tentative Map and Variance (Attachment 7).

After the Notice of Public Hearing was mailed out, the Planning Division received written comments in opposition of the project. At that hearing members of the public provided testimony opposing the project. Concerns on behalf of the public brought into question safety, traffic, density, and overall, a decreased quality of life that is speculated to result if the project

is approved. These concerns were considered by the Planning Commission and are further discussed within the Analysis section of this Staff Report.

General Plan

- The General Plan Land Use Designation for the project site is *Residential Low/Medium (RLM)* as depicted in the Oakley General Plan Figure 2-2 (Land Use Diagram).
- This designation allows for a minimum of 3.8 dwelling units and a maximum of 5.5 dwelling units per gross acre.

Zoning

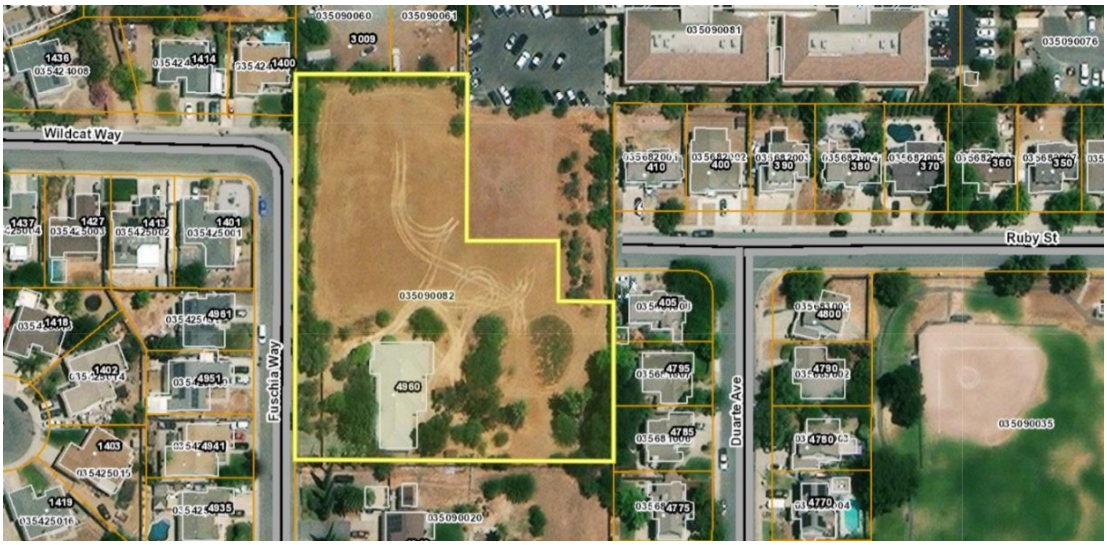
- The site is zoned R-6 (Single-Family Residential) District.

The proposed project is in compliance with the applicable General Plan and Zoning standards as listed within the OMC section 9.1.404 except for Lots 3,4, 6, and 7 which are the subject of the Variance request.

Location and Surrounding Land Uses

The approximately 2-acre project site (Figure 1. Aerial of Project Site) is located within the R-6 (Single-Family Residential) District. The parcel is partially developed with an existing single-family residence on site. Properties located to the north are zoned SP-4 (Downtown Specific Plan) District. The site is currently bounded to the north by an existing non-conforming use, and police parking lot. Properties located to the east and south of the site are zoned R-6 District. There are existing single-family homes to the east and south. There is also an elementary school abutting the homes to the east. Immediately to the west of the site is a roadway, Fuschia Way adjoined by existing single-family residences. Figure 1 shows an aerial view of the site from the Contra Costa County GIS website.

Figure 1. Aerial View of Project Site (CCMaps).



Project Description

Tentative Map

The proposed tentative map is designed to create eight (8) new single-family residential lots within the R-6 District. The development regulations for this district require a minimum lot area of 6,000 square feet, lot width of 60', and lot depth of 80'. With the exception of Lot 4, each lot is proposed to meet or exceed the minimum lot area of 6,000 square-feet. The proposed lots range from approximately 5,326 square-feet to 15,796 square-feet.

The applicant is proposing to complete an Offer a Dedication for Roadway Purposes for the area located along the west and northern end of the parcel abutting Fuschia Way and West Ruby Street. The roadway will begin at the intersection of Wildcat Way and Fuschia Way. In order to connect to West Ruby Street, the road must curve across the parcel through proposed Lots 3, 4, and 5. Approximately 11,576 square feet will be used to create the 56' wide public right-of-way area along connecting West Ruby Street to Wildcat Way. There will be approximately 5,189 square feet dedicated to the public right-of-way along Fuschia Way. The applicant has also proposed to continue the sidewalk, curb and gutter, and street along these streets. The extension of West Ruby Street will allow pedestrians, bicyclists, and vehicles to pass through to West Ruby Street from Wildcat Way and Fuschia Way without having to navigate through Main Street or Cypress Road.

A private roadway is also proposed within the subdivision to create an access point for three (3) of the eight (8) lots. The width of the roadway is approximately 20'. The T-shaped hammerhead roadway will comply with the regulations and standards of the Contra Costa County Fire Protection District.

Due to the proposed extension of West Ruby Street and dedication of land to the public-right-of-way, the lot configuration for four (4) of the eight (8) lots do not meet the minimum lot requirements. The below table summarizes the proposed lot dimensions. As demonstrated by the Preliminary Site Plan with the Applicant's Plans (Attachment 3), future homes can comply with minimum setbacks required for all eight (8) lots.

Lot Number	Lot Width	Lot Depth	Lot Area
Lot 1	114.72'	146.89'	15,796 s.f.
Lot 2	61.05'	146.9'	8,968 s.f.
Lot 3[1]	92.53'	146.91'	7,161 s.f.
Lot 4	98.17'	45.43'	5,326 s.f.
Lot 5	60'	80.79'	6,484 s.f.
Lot 6	56.10'	115'	6,451 s.f.
Lot 7	56.10'	115'	6,451 s.f.
Lot 8	63.07'	115'	6,200 s.f.

[1] Although Lot Width and Lot Depth are met, the lot is abnormally shaped. This lot is triangularly shaped where the side property line decreases to the rear property line of 4.5' in width.

The lot layout for the tentative map shows Lots 1, 2, and 3 abutting Fuschia Way and the proposed private road. Driveways for Lots 1, 2, and 3 will be accessed off of Fuschia Way. Lots 4 and 5 are shown fronting and will have driveways connecting to the extension of West Ruby Street. Lots 6, 7, and 8, front and will be accessed by the new private road.

Design Review has not been proposed with the tentative map and as a result, there are no accompanying house plans or landscape plans. A condition has been placed within the resolution requiring the developer or future property owners to submit a design review application prior to construction on any new homes.

Utilities

Major utilities for the tentative map include water, sewer collection, gas and electricity, telephone, and cable. The City of Oakley requires new development to underground existing utilities that are adjacent to the project frontage to be undergrounded. Development of the project is subject to the applicable regulations and plan checks/approvals by each respective agency.

Traffic Study

The City of Oakley requires a Traffic Impact Analysis is performed for projects that generate more than 100 vehicle trips during either the weekday morning or evening peak hours. A project of this scale will not result in this number of trips. Instead, a Traffic Memo, which does not require the same level of analysis, has been submitted that discusses potential traffic congestion created by the proposed project. More detailed analysis of the conducted Traffic Memo has been provided in the Analysis.

Variance

Per the OMC, a Variance may be granted to modify the zoning regulations as they pertain to lot area, lot building coverage, average lot width, minimum setbacks, off-street parking, building structure or height, or any other regulation pertaining to size, dimension, shape or design of a lot, parcel, building or structure, or the placement of a building or structure on a lot or parcel. The applicant has requested a Variance on meeting the minimum lot requirements for a total of four (4) of the eight (8) lots proposed.

Environmental Review

The project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 (Class 32 – Infill Development Projects). Section 15332 of the State CEQA Guidelines exempts projects when the proposed project is consistent with the applicable general plan designation and all applicable general plan policies, as well as applicable zoning designation and regulations. Additionally, the project must occur within City limits on a project site of no more than five acres that is surrounded by urban uses. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. Lastly, the site can be adequately served by all required utilities and public services. The project meets the requirements as

mentioned. Therefore, there is no substantial evidence that the project may have a significant effect on the environment.

Analysis

Planning Commission Meeting 08/02/2022 Summary

During the meeting, members of the public raised concerns due to the proposed density, safety of the existing residents, and increased traffic. The Residential Low/Medium land use designation allows for a maximum of 5.5 dwelling units per acre. The proposed subdivision is consistent with the density range, proposing only four (4) dwelling units per acre.

Members of the public also provided testimony their families and children utilize the public streets of Wildcat Way and Fuschia Way to enjoy outdoor activities as there are no parks that are accessible within the vicinity and the addition of seven (7) homes and a through-street would significantly impact the ability of adjacent residences to utilize the public streets. While the existing homes along these streets may lack direct access to public amenities, the extension of West Ruby Street would create direct access to the Oakley Elementary School and its public park, and Oakley's Downtown area and the Civic Center Park located within the Civic Center Plaza. The addition of the sidewalk would help promote safety and prevent the use of the roadway for recreational activities and provide direct pedestrian access to the parks.

While some members of the public did not directly oppose the increase of lots, they did oppose the extension of West Ruby Street and Wildcat Way. The public testified the extension would result in an increase in traffic and a decrease in public safety. After considering the public comment, testimony, and information received at the hearing, the Planning Commission also questioned the possibility of increased traffic and lack of Traffic Impact Analysis. A Traffic Impact Analysis is not required for a subdivision of this size. The project has been evaluated by the City of Oakley's Public Works and Engineering Division and Traffic Engineer and there are no additional comments on behalf of Staff. Additionally, the roadways and infrastructure within the public right-of-way will be developed with sidewalks that will help promote a safe route to the school and Oakley's Downtown area. The Oakley Police Department has reviewed the proposed project and noted the extension of West Ruby Street will help increase public safety and decrease response times of service calls by providing an alternative route for emergency services.

Tentative Map

The tentative map has been reviewed against all applicable codes including the Subdivision Map Act, General Plan, and the Zoning Ordinance. The tentative map's gross density falls within the gross density range of the *Residential Low/Medium (RLM)* General Plan Land Use Designation of 3.8 – 5.5 du/ga, proposing a gross density of 4 du/ga. The tentative map is designed in a manner that complies with all applicable development regulations, such as minimum lot size, minimum lot width, and minimum lot depth of the R-6 District. For Lots 3,

4, 6, and 7, that do not comply with these development regulations, a Variance is being requested.

The site is physically suitable for the project in that it is accessible, not physically constrained, and near the same or similar uses, and it is also able to accommodate the proposed density of development in a manner consistent with the underlying land use designation. The subdivision is not expected to result in any serious public health problems. Public improvements are proposed and conditioned to occur as a result of the subdivision, which is a benefit to the public. Connecting Wildcat Way to West Ruby Street will provide the following public benefits:

- More direct pedestrian, bicycle, and vehicle access to Oakley Elementary School, Oakley City Hall and Civic Center Park, and multiple downtown businesses without needing to travel to Main Street or Cypress Road.
- An alternative through-route for Oakley Police Department and other first responders, although it is likely Main Street and Cypress Road would continue to offer the most direct routes.

The area that will be dedicated to the public right-of-way through an Offer of Dedication to Public Right-of-Way, will comply with the Typical Street Sections for Minor Residential Standards developed by the Public Works and Engineering Division. The improvements will also be consistent with the clean water requirements listed within the City's National Pollutant Discharge Elimination System (NPDES) permit requirements.

Traffic Memo

Freyer and Laureta, Inc composed a Traffic Memo for the proposed project. The memo discussed how the extension of West Ruby Street may be utilized by residents within the area and first responders, and also acknowledged the possibility that vehicular speeds may be exceeded. This can be the case with any public road, and working with the Public Works and Engineering Division, the applicant has proposed to install bulb outs at the intersection of Fuschia Way and Wildcat Way. Due to the curvature of the roadway, speed bumps were not recommended. For this project, bulb outs are the most effective way to help reduce speeds. Additionally, the Public Works and Engineering Department has added a condition that requires the Applicant to conduct a stop warrant analysis and install stop signs if warranted and necessary.

Variance

A Variance is being requested for four (4) of the eight (8) lots. The extension of West Ruby Street impacts Lots 3 and 4 directly as Lot 3 and 4 will not meet the minimum lot requirements as listed within the R-6 District. Lot 3 is proposed at the corner and intersection of the three streets: Fuschia Way, Wildcat Way, and West Ruby Street. This causes Lot 3 to form a triangular shape of only three property lines. A Variance is being requested for Lot 3 as it does not meet the minimum width or depth. Lot's 4 and 5 will also be impacted by the

proposed roadway. Specifically, Lot 4 requests a Variance for the minimum lot area and lot depth. The lot depth of the western portion of this lot is a total of 45.43'. The eastern portion of this lot is proposed at approximately 80'. The lot width of this lot is 98.17', resulting in a total lot area of 5,326 square-feet. Lots 6 and 7 also require a Variance as the lot width is proposed under the minimum lot depth of 60', at approximately 56'.

There are three specific standards that must be considered and found to exist in order to approve a variance. Staff has analyzed the project with those standards in mind and provided draft findings to support the Variance request. The three standards followed by the draft finding for each are listed below, as well as within the Draft Resolution (Attachment 5). A Variance may be granted when it can be shown the project shall comply with the following:

1. That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.

   Lots 3, 4, 6, and 7 are being proposed on an infill lot that is being bifurcated by a residential public street and its full width of right of way. Due to the irregular shape of the subject site, and the curve in the streets needed to connect to two existing public streets, unusual challenges are created when designing the lot layouts. Lots 3 and 4 fails to meet the minimum lot area and lot depth, respectively. Both are affected by the curving extension of West Ruby Street through the project. Lots 6 and 7 meet the minimum lot depth and size but are both approximately four feet short of the minimum lot width. The property line between the southern end of the site and the southern portion of the future right of way of West Ruby Street is 175.27 feet. At a minimum lot width of 60 feet, at least one of these lots would be required to not meet the minimum. The applicant has designed the properties to be more similar in size by increasing the width of the southern-most lot (Lot 8) affected by the private hammerhead. New construction on these lots will need to comply with the other development regulations of the R-6 District and there is adequate lot area to achieve this as shown in the Applicant's plans. This shows the lots with a minimum lot size, lot width, and depth can still meet other applicable development standards of the R-6 District;

2. That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.

   Lot 3 is a triangular-shaped corner lot with frontages on both Fuschia Way and West Ruby Street. The Variance would not affect the overall

appearance of the lot size from Fuschia Way, and Lot 3 will meet the minimum lot area required by the R-6 District. Due to the extension of West Ruby Street, Lot 4 will not meet the minimum lot depth of lot of 80' on one side and the minimum lot area of 6,000 square-feet. Lots 6 and 7 are restricted in that they do not meet the minimum lot width of 60'. However, the lot area and lot depth are still met. Due to the dedication of land to the roadway and lot configuration, these parcels have been designed as abnormal lots. Any structures placed on these lots will meet the minimum development standards of the R-6 District;

3. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.

   Lots 3, 4, 6, and 7 could still be developed in a manner consistent with the R-6 District development standards and maintain the residentially zoned district that exists today.

General Plan Consistency

Approval of the Tentative Map and Variance will also provide consistency with the following goals and policies listed within the Oakley General Plan:

- Policy 2.2.5. Encourage higher density residential development at locations within convenient walking distance of Downtown, employment areas, services, schools, retail, transit stops, near community destinations, and/or near major streets with high access to transit and nonvehicle transportation modes.
- Policy 2.2.8. Require the establishment of lighting and landscaping districts and/or community facility districts, as appropriate, for new residential developments.
- Policy 2.2.9. Protect existing residential areas from intrusion of incompatible land uses and disruptive traffic to the extent reasonably possible.
- Goal 2.10 Corridors, Pathways, Streetscapes, and Edges - Enhance the corridors, pathways, and edges that form physical boundaries and provide transitions and connections throughout the community.

Consistency with the City of Oakley Strategic Plan 27+

In line with the City of Oakley Strategic Plan 27+, Community Health and Safety Goal emphasizes the need to protect the public and prioritize safe streets, healthy neighborhoods to benefit the residents of the City of Oakley. The proposed project includes the dedication and improvements to the public right-of-way. The inclusion of a sidewalk along the perimeter of the project is consistent with the Safe Streets Objective in that it will help provide an alternative route for pedestrians traveling to and from the elementary school and/or Downtown area. Furthermore, the Safe Street Objectives requires the City to consider road improvements such as delineators where speed is an

issue and implement traffic-calming measures as traffic grows within the City. The Applicant has submitted a Traffic Memo that addresses the potential risk of traffic violations and recommended the Applicant include bulb outs to create a better streetscape and promote traffic calming.

Fiscal Impact

This project will not impact the General Fund. This is a developer-funded account. All Staff time and City of Oakley generated materials related to the processing of this application, including reproduction of physical copies and postage for public hearing notices, are charged to the account.

Findings

Draft findings for the Tentative Map and Variance can be found within the proposed resolution.

Staff Recommendation

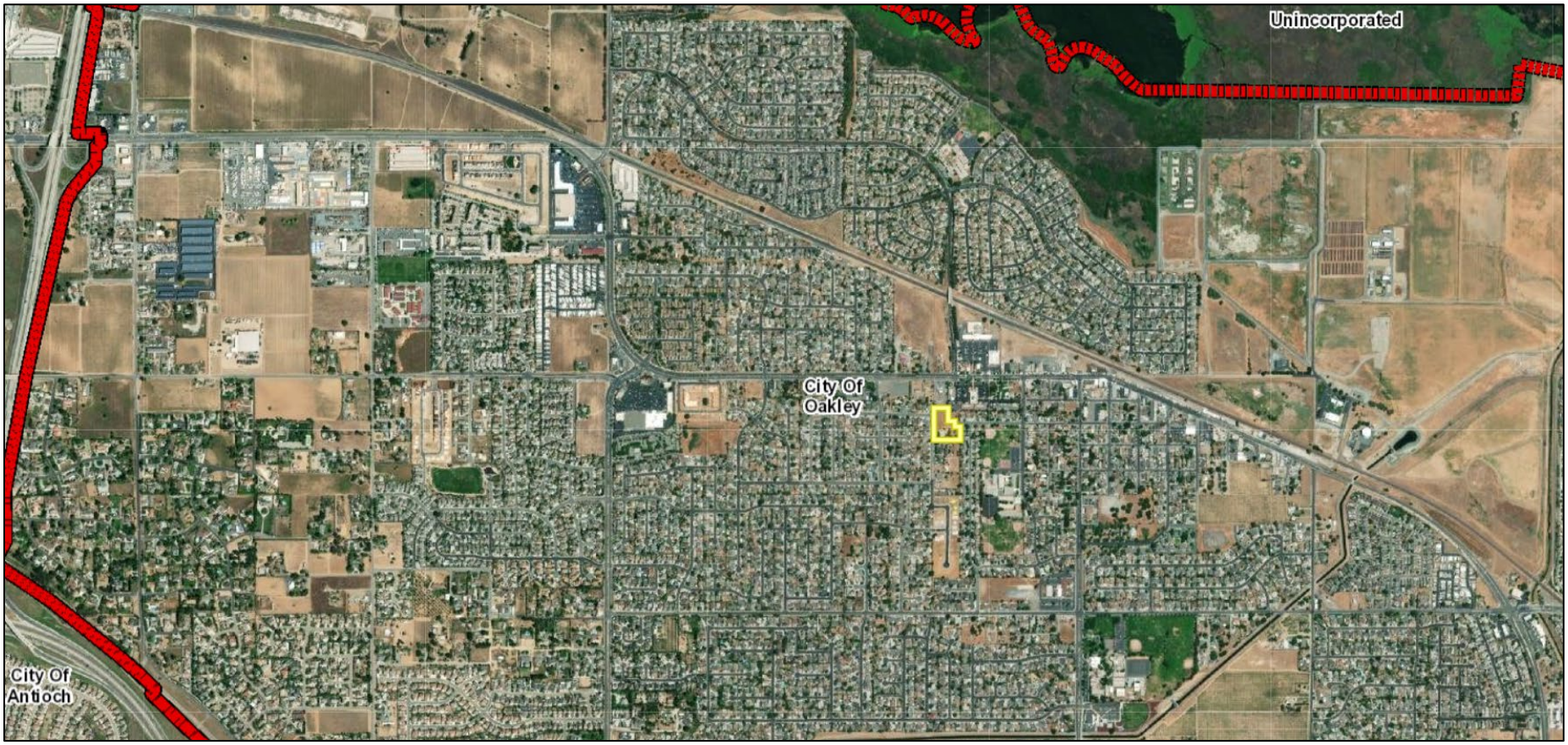
Staff recommends the City Council adopt the resolution approving the project titled “Golden Oak Subdivision 9580 Tentative Map (TM 02-22) and Variance (VA 01-22)”, as conditioned.

Attachments

1. Vicinity Map
2. Notice of Public Hearing
3. Applicant’s Plans
4. Traffic Memo
5. Draft Resolution
6. Planning Commission Staff Report dated August 2, 2022
7. Planning Commission Resolution No. 05-22

Vicinity Map

Golden Oaks Subdivision Tentative Map (TM 02-22) and Variance (VA 01-22). APN: 035-090-082



City of Oakley
3231 Main Street
Oakley, CA 94561
www.oakleyinfo.com

NOTICE OF PUBLIC HEARING

Notice is hereby given that on **September 27, 2022,** at 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council of the City of Oakley will hold a Public Hearing at the Council Chambers located at 3231 Main Street, Oakley, CA 94561 for the purposes of considering an application for a **Tentative Map and Variance** as described below:

Project Name: Golden Oak Subdivision and Tentative Map (TM 02-22) and Variance (VA 01-22)

Project Location: 4960 Fuschia Way, Oakley, CA 94561

Applicant: Pam Young (S&Y Properties), 4960 Fuschia Way, Oakley, CA 94561

Request: Application by Pam Young ("Applicant") requesting approval of a Tentative Map (TM 02-22) to subdivide an approximately 2-acre parcel in to eight (8) single-family residential lots, including dedication and improvement of public right-of-way and extension of West Ruby Street to the intersection of Wildcat Way and Fuschia Way. Applicant also requests approval of a Variance (VA 01-22) on meeting the minimum lot requirements for four (4) of the eight (8) lots ("Project"). The project site is located at 4960 Fuschia Way and zoned R-6 (Single-Family Residential) District. APN: 035-090-082.

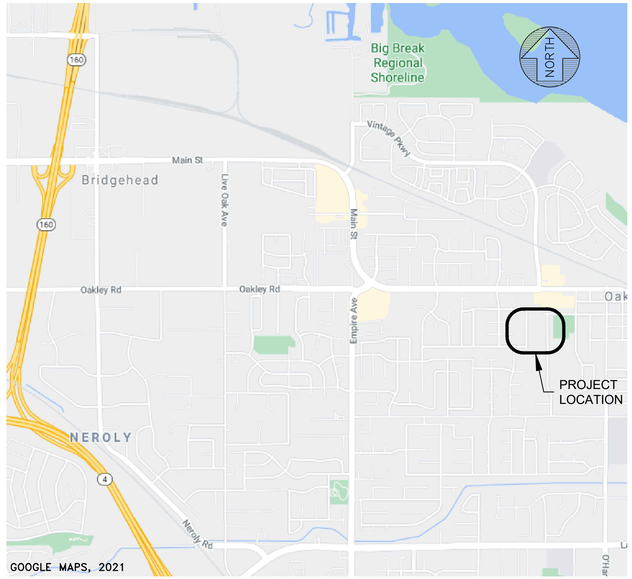
How to Review: The Staff Report and its attachments will be available for public review, on or before **September 22, 2022** at City Hall, 3231 Main Street, Oakley, CA 94561 or online at www.ci.oakley.ca.us/agendas-minutes-videos-archive/ by navigating to the **September 27, 2022** agenda. (Note: City Hall is closed on the 1st and 3rd Fridays of each month). Interested persons are invited to submit written comments prior to 5:00 P.M. the day of, and may testify at, the public hearing. **Written comments may be submitted to Ariana Ruiz, Planning Technician at the City of Oakley, 3231 Main Street, Oakley, CA 94561 or by email to ruiz@ci.oakley.ca.us.**

NOTICE IS ALSO GIVEN pursuant to Government Code Section 65009(b) that, if this matter is subsequently challenged in Court by you or others, you may be limited to raising only those issues you or someone else has raised at a Public Hearing described in this notice or in written correspondence delivered to the City of Oakley City Clerk at, or prior to, the Public Hearing.

TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

GENERAL NOTES:

1.	OWNER:	S&Y PROPERTIES, LLC. 4960 FUSCHIA WAY OAKLEY, CA 94561
2.	APPLICANT:	PAM YOUNG S&Y PROPERTIES, LLC. 4960 FUSCHIA WAY OAKLEY, CA 94561
3.	ENGINEER:	FREYER & LAURETA, INC. 825 WASHINGTON ST. #237 OAKLAND, CA 94607
4.	SUBDIVIDED AREA:	PARCEL 1 FILED JANUARY 1, 1989 IN MAP BOOK 35 AT PAGE 9.
5.	ASSESSOR'S PARCEL NUMBERS:	035-090-080
6.	SANITARY SEWER/RECYCLED WATER:	IRON HOUSE SANITARY DISTRICT
7.	STORM DRAINAGE:	CITY OF OAKLEY
8.	POTABLE WATER:	DIABLO WATER DISTRICT
9.	GAS/ELECTRIC:	PG&E
10.	TELECOMMUNICATIONS:	AT&T
11.	CABLE T.V.:	COMCAST
12.	FIRE DISTRICT:	EAST CONTRA COSTA FIRE PROTECTION DISTRICT
13.	FLOOD ZONE:	AREA OF MINIMAL FLOOD HAZARD, PER PANEL 06013C0355G DATED 3/21/2017
14.	STREET IMPROVEMENTS:	CITY OF OAKLEY
15.	EXISTING ZONING:	RESIDENTIAL
16.	EXISTING LAND USE:	RESIDENTIAL
17.	PROPOSED LAND USE:	RESIDENTIAL



LOCATION MAP - NTS

BASIS OF BEARINGS

THE BEARING OF NORTH 00° 51' 29" EAST (NORTH 00° 53' 27" EAST RECORD), BEING THE CENTERLINE OF FUSCHIA WAY, AS SHOWN ON SUBDIVISION MAP NO. 5500 ENTITLED, "ORCHARD PARK UNIT 3", FILED FOR RECORD ON NOVEMBER 12, 1980 IN BOOK 247 OF MAPS AT PAGE 28 IN THE OFFICE OF THE RECORDER FOR THE COUNTY OF CONTRO COSTA, WAS USED AS THE BASIS FOR ALL BEARINGS SHOWN HEREON.

BENCHMARK AND DATUM

THE COORDINATES SHOWN HEREON ARE BASED UPON THE NORTH AMERICAN DATUM OF 1983, EPOCH 2011.00 (CALIFORNIA COORDINATE SYSTEM-ZONE 3) AND WERE ESTABLISHED USING THE CALIFORNIA SURVEYING AND DRAFTING REAL-TIME NETWORK (CSDS RTN).
WWW.CSDSINC.COM/GPS-NETWORK-SERVICES/
ELEVATION = 26.69 (NAVD88).
FD BDM IN WELL.
CENTERLINE-CENTERLINE INTERSECTION OF FUSCHIA WAY AND WILDCAT WAY AS SHOWN HEREON.

ENGINEER'S STATEMENT

THIS TENTATIVE MAP HAS BEEN PREPARED BY ME OR UNDER MY DIRECTION.

RICHARD J. LAURETA, PRESIDENT — DATE
P.E. C-055783

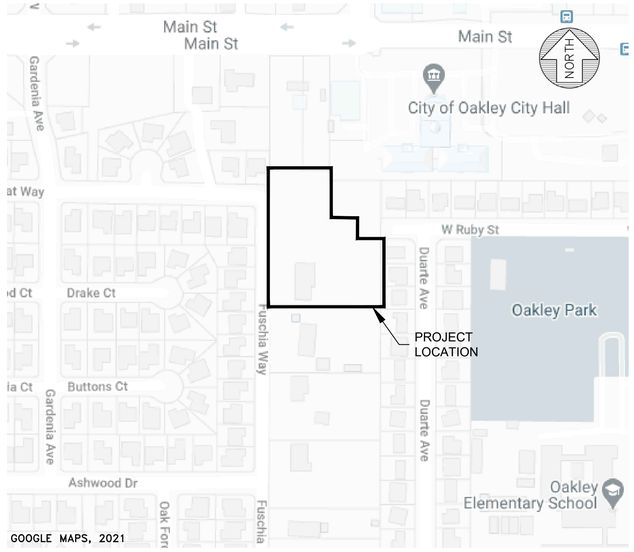
REGISTERED PROFESSIONAL ENGINEER — RICHARD J. LAURETA — C-055783 — CIVIL — STATE OF CALIFORNIA

SURVEYOR'S STATEMENT

THIS TENTATIVE MAP HAS BEEN PREPARED BY ME OR UNDER MY DIRECTION.

CURTIS C. CHAPPELL, P.L.S. — DATE
LICENSE NO. 7992

PROFESSIONAL LAND SURVEYOR — CURTIS CHAPPELL — No. 7992 — STATE OF CALIFORNIA



VICINITY MAP - NTS

LEGEND

- PROJECT BOUNDARY LINE
- PROPOSED PARCEL LINE
- EXISTING PARCEL LINE
- EXISTING OFFSITE PROPERTY LINE
- PROPOSED EASEMENT LINE
- EXISTING EASEMENT LINE
- PROPOSED CENTERLINE
- EXISTING CENTERLINE

SHEET INDEX

SHEET 1	TITLE SHEET & GENERAL NOTES
SHEET 2	EXISTING CONDITIONS
SHEET 3	DEMOLITION PLAN
SHEET 4	EXISTING PARCELS AND EASEMENTS
SHEET 5	PROPOSED PARCELS AND EASEMENTS
SHEET 6	SITE PLAN
SHEET 7	PRELIMINARY GRADING PLAN
SHEET 8	PRELIMINARY DRAINAGE PLAN
SHEET 9	PRELIMINARY UTILITY PLAN
SHEET 10	PRELIMINARY STORMWATER CONTROL PLAN
SHEET 11	TYPICAL STREET SECTIONS
SHEET 12	DETAILS

PROPOSED	EXISTING	
		STORM DRAIN LINE
SS	SS	SANITARY SEWER LINE
W	W	DOMESTIC WATER LINE
GAS	GAS	GAS LINE
ELEC	ELEC	ELECTRICAL LINE
COMM	COMM	COMMUNICATIONS LINE
OH - E\COMM\TELE	OH - E\COMM\TELE	FIRE WATER LINE
CATV	CATV	RECLAIMED WATER LINE
TELE	TELE	GAS LINE
	X	FENCE
		CURB AND GUTTER
		SIDEWALK
		STRIPING
		WALL
	75	CONTOUR LINE
		BUILDING FOOTPRINT
		CONCRETE
		CONCRETE GRADE BREAK

PROPOSED	EXISTING	
	ICV	IRRIGATION CONTROL BOX
		MONITORING WELL
		BENCHMARK
	EB	ELECTRICAL BOX
		FIRE HYDRANT
S	S	SEWER MANHOLE
D	D	STORM DRAIN MANHOLE
WM	WM	WATER METER
		STREET SIGN
		AREA LIGHT
		BACK FLOW PREVENTOR
		STORM DRAIN INLET
	100.00 x AC AC 100.00 +	SURVEY POINT W/ DESCRIPTION AND GRADE
		SURVEY CONTROL POINT
		TREE WITH DRIPLINE
CO	CO	SEWER CLEANOUT
		WATER VALVE
		JOINT UTILITY POLE
	DRIVEWAY	DRIVEWAY
		BIORETENTION
		UTILITY BOX
		SUBSURFACE TRANSFORMER

ABBREVIATIONS

APN	ASSESSOR'S PARCEL NUMBER
ARV	AIR RELEASE VALVE
ASPH	ASPHALT PAVEMENT
BCR	BEGINNING OF CURB RETURN
BF	BLIND FLANGE
BFP	BACK FLOW PREVENTER
BFV	BUTTERFLY VALVE
BLDG	BUILDING
BM	BENCHMARK
BO	BLOWOFF
BW	BACK OF SIDEWALK
CB	CATCH BASIN
CO	SANITARY SEWER CLEANOUT
CONC	CONCRETE PAVEMENT
CS	COMBINED SEWER
DI	DRAINAGE INLET
DIP	DUCTILE IRON PIPE
DW	DOMESTIC WATER
ESMT	EASEMENT
E/ELEC	ELECTRICAL
(E)/EX.	EXISTING
FFE	FINISHED FLOOR ELEVATION
FG	FINISHED GRADE
FH	FIRE HYDRANT
FM	FORCE MAIN
FW	FIRE WATER
G	GAS
GV	GATE VALVE
INV	INVERT OF PIPE
IRR	IRRIGATION
LT.	LEFT
M–M	MONUMENT TO MONUMENT
MH	MANHOLE
P	PAD
PVC	POLYVINYL CHLORIDE PIPE
R	RADIUS
(R)	RADIAL BEARING
RIM	RIM OF MANHOLE
ROW	RIGHT OF WAY
RT.	RIGHT
S	SLOPE
SDMH	STORM DRAIN MANHOLE
SF	SQUARE FEET
SSMH	SANITARY SEWER MANHOLE
STA.	STATION
(T)	TOTAL
TBO	TEMPORARY BLOWOFF
TC	TOP OF CURB
TYP	TYPICAL
W	WATER MAIN
WS	WATER SERVICE
WV	WATER VALVE

DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

SUBCONSULTANT:

TITLE SHEET & GENERAL NOTES

TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

SHEET 1 OF 12 SHEETS

JOB NO. 316002

WILDCAT WAY

FUSCHIA WAY

WEST RUBY STREET

DUARTE AVENUE

LANDS OF
SEENO FAMILY TRUST
APN 035-090-080
DOC 2016-0087011-00
PARCEL ONE P.T.R.

AREA = 1.985± ACRES

EXISTING 16.50' WIDE ROADWAY, PEDESTRIAN, & UTILITY EASEMENT. PARCELS TWO AND THREE P.T.R. ALSO REFERENCED IN BK. 2774, PG. 308 (EX. 4 P.T.R.)

IRREVOCABLE OFFER OF DEDICATION PER BK. 10575, PG. 654 (EX. 6 P.T.R.)

EXISTING FIRE HYDRANT, FURTHER DOWN WEST RUBY

(E) FIRE HYDRANT

NORTH

GRAPHIC SCALE
20 0 10 20 40
(IN FEET)
1 inch = 20 ft.

DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

SUBCONSULTANT:

EXISTING CONDITIONS

TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

SHEET 2 OF 12 SHEETS

JOB NO. 316002

LEGEND

— — — LIMIT OF WORK

KEY NOTES:

1. REMOVE FENCING.
2. FENCING TO REMAIN.
3. TREES TO BE REMOVED BY ARBORIST (52).
4. TREES TO REMAIN.
5. REMOVE EXISTING STRUCTURE.
6. STRUCTURE TO REMAIN.
7. REMOVE AND SALVAGE EXISTING EQUIPMENT.
8. REMOVE HOSE BIB.
9. REMOVE AND SALVAGE EXISTING SIGN.
10. REMOVE AND SALVAGE RAILING.
11. REMOVE AND SALVAGE GATE.
12. REMOVE EXISTING UTILITY AFTER INSTALLATION OF NEW SERVICE.
13. REMOVE AND REPLACE EXISTING STORM DRAIN AND CATCH BASIN.
14. SIDEWALK TO BE REMOVED AND REPLACED WITH BULB OUTS.
15. TREES TO BE REMOVED BY OTHERS (3).
16. REMOVE CLEAN OUT.
17. EXISTING VAULT TO BE RELOCATED.

WILDCAT WAY

FUSCHIA WAY

WEST RUBY STREET

DUARTE AVENUE

APN: 035424011

APN: 035090060

APN: 035090061

APN: 035425001

APN: 035425039

APN: 035425040

APN: 035425041

APN: 035425042

APN: 035090020

APN: 035682001

APN: 035682002

APN: 035682003

APN: 035681008

APN: 035681007

APN: 035681006

APN: 035681005

EXISTING POLICE STATION PARKING LOT

FUTURE POLICE STATION PARKING LOT (NOT IN CONTRACT)

OAKLEY CITY HALL

LANDS OF SEENO FAMILY TRUST APN 035-090-080 DOC 2016-0087011-00 PARCEL ONE P.T.R.

AREA = 1.985± ACRES

SINGLE STORY STUCCO HOUSE

6.5' CONC BLOCK WALL

6' WOOD RETAINING WALL

6' WOOD FENCE

(E) FIRE HYDRANT

EXISTING FIRE HYDRANT, FURTHER DOWN WEST RUBY

CB 22.15 RIM 13.15 INV(34"CONC) IN S 13.15 INV(24" PVC) IN E NORTH PIPE NOT VISIBLE

STORAGE CONTAINER

SHED

DRIVEWAY

BENCHMARK

GRAPHIC SCALE

20 0 10 20 40

(IN FEET)
1 inch = 20 ft.

DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS

825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

SUBCONSULTANT:

DEMOLITION PLAN

TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

SHEET 3 OF 12 SHEETS

JOB NO. 316002

NOTES:

1. ALL EXISTING PARCEL AND RIGHT OF WAY LINES WITHIN SITE BOUNDARY TO BE REMOVED.
2. ALL EASEMENTS TO BE REMOVED UNLESS OTHERWISE NOTED.

APN: 035424011

APN: 035090060

APN: 035090061

N89° 07' 14"W 158.17'

EXISTING POLICE STATION PARKING LOT

OAKLEY CITY HALL

WILDCAT WAY

FUTURE POLICE STATION PARKING LOT (NOT IN CONTRACT)

N0° 52' 46"E 128.76'

WOOD RETAINING WALL

APN: 035682001

APN: 035682002

APN: 035682003

N89° 07' 14"W 85.31'

DRIVEWAY

WEST RUBY STREET

56.00'

N0° 52' 46"E

GUARD

DRIVEWAY

N89° 07' 14"W 56.00'

APN: 035425001

APN: 035425039

APN: 035425040

APN: 035425041

APN: 035425042

N0° 51' 29"E 360.03'

IRREVOCABLE OFFER OF DEDICATION PER BK. 10575, PG. 654 (EX. 6 P.T.R.)

EXISTING 16.50' WIDE ROADWAY, PEDESTRIAN, & UTILITY EASEMENT. PARCELS TWO AND THREE P.T.R. ALSO REFERENCED IN BK. 2774, PG. 308 (EX. 4 P.T.R.)

PARCEL : 1
AREA = 1.985 ACRES

FUSCHIA WAY

OH-E/COMM/TELE

28.76
FF @ THRESHOLD

28.70
FF @ THRESHHOLD

N0° 52' 46"E 175.27'

N89° 07' 14"W 299.34'

APN: 035090020

APN: 035681008

APN: 035681007

APN: 035681006

APN: 035681005

DUARTE AVENUE

NORTH

GRAPHIC SCALE
20 0 10 20 40
(IN FEET)
1 inch = 20 ft.

DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS

825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

SUBCONSULTANT:

EXISTING PARCELS AND EASEMENTS

TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

SHEET 4 OF 12 SHEETS

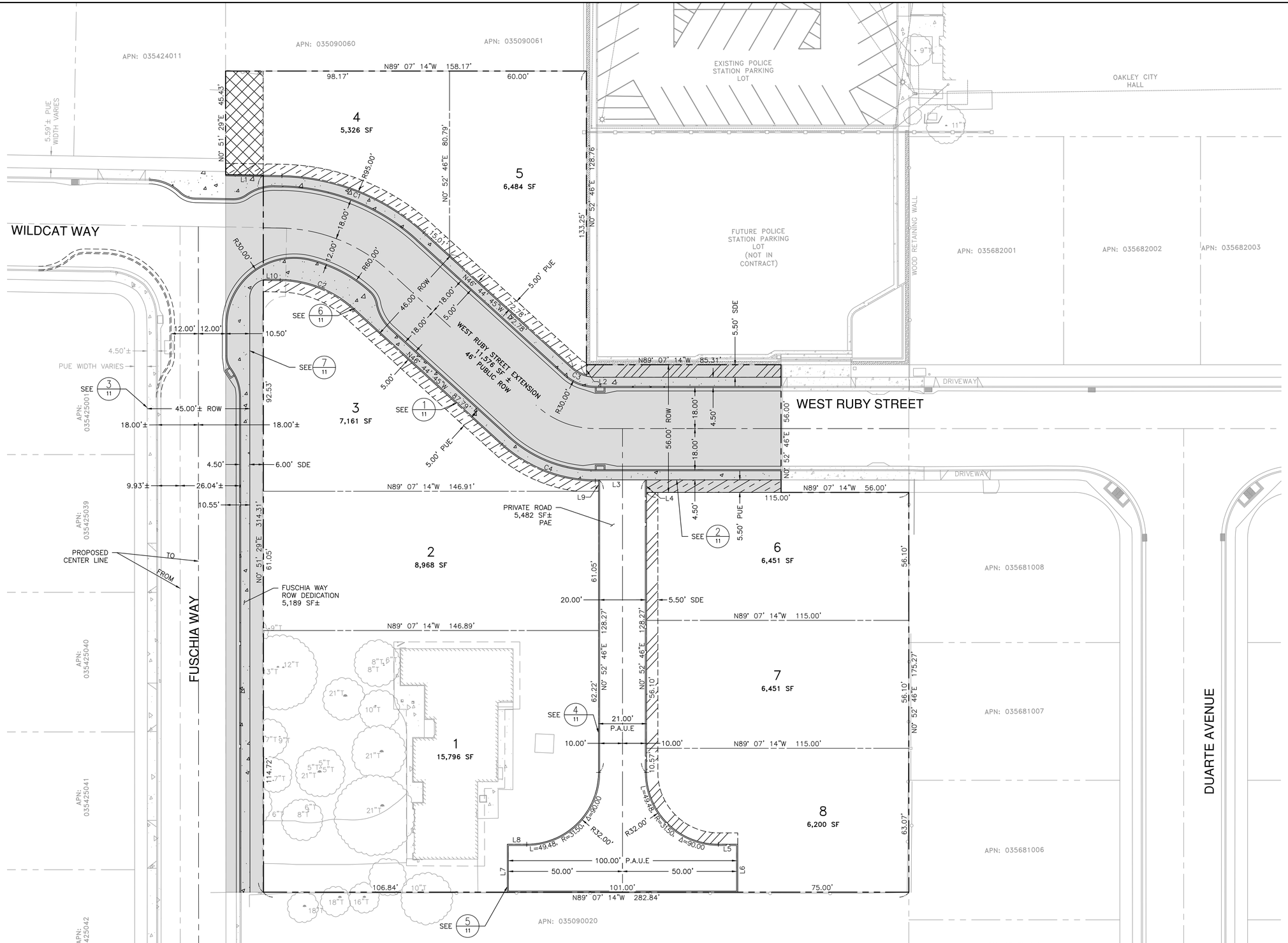
JOB NO. 316002

LEGEND

- PUBLIC RIGHT OF WAY (ROW)
- PUBLIC UTILITY EASEMENT (PUE)
- STORM DRAINAGE EASEMENT (SDE)
- EXISTING IRREVOCABLE OFFER OF DEDICATION PER BK 10575, PG 654 (TO REMAIN)

LINE TABLE		
NO.	BEARING	LENGTH
L1	N88°06'45"W	16.50'
L2	N00°52'46"E	4.49'
L3	N89°07'14"W	21.00'
L4	N00°52'46"E	5.50'
L5	N89°07'14"W	8.50'
L6	N00°52'46"E	21.00'
L7	N00°52'46"E	21.00'
L8	N89°07'14"W	8.50'
L9	N00°52'46"E	4.50'
L10	N88°06'45"W	7.38'

CURVE TABLE			
NO.	RADIUS	LENGTH	DELTA
C1	95.00'	68.59'	41° 22' 00"
C2	49.00'	35.38'	41° 22' 00"
C3	15.00'	7.17'	27° 23' 55"
C4	61.00'	45.11'	42° 22' 29"



DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

SUBCONSULTANT:

PROPOSED PARCELS AND EASEMENTS

TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

SHEET 5 OF 12 SHEETS

JOB NO. 316002

LOT BREAKDOWN			
PARCEL	ACREAGE (AC)	BUILDING (SF)	LANDSCAPE (%)
1	0.362	4,502	63
2	0.206	3,362	58
3	0.164	2,085	65
4	0.122	1,616	61
5	0.149	2,678	49
6	0.148	2,707	51
7	0.148	2,707	51
8	0.142	2,056	62

NOTES:

1. BUILDING FOOTPRINTS ARE CONCEPTUAL AND APPROXIMATED PER CITY REQUIRED SETBACKS AND DISTANCES.
2. EXISTING HOME ON PARCEL 1 TO REMAIN.

GRAPHIC SCALE
20 0 10 20 40
(IN FEET)
1 inch = 20 ft.

DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

SUBCONSULTANT:

SITE PLAN

TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

SHEET 6 OF 12 SHEETS

JOB NO. 316002

EARTHWORK SUMMARY		
CUT (CY±)	FILL (CY±)	NET CUT (CY±)
2,053	141	712

NOTES:

1. LOTS HAVE BEEN CONCEPTUALLY GRADED TO DRAIN.
2. PAD ELEVATIONS ARE APPROXIMATE AND SUBJECT TO CHANGE.

WILDCAT WAY

FUSCHIA WAY

WEST RUBY STREET

DUARTE AVENUE

OAKLEY CITY HALL

EXISTING POLICE STATION PARKING LOT

FUTURE POLICE STATION PARKING LOT (NOT IN CONTRACT)

1 P 27.4

2 P 28.2

3 P 27.5

4 P 27.9

5 P 27.4

6 P 26.6

7 P 27.2

8 P 27.3

APN: 035424011
APN: 035090060
APN: 035090061
APN: 035425001
APN: 035425039
APN: 035425040
APN: 035425041
APN: 035425042
APN: 035682001
APN: 035682002
APN: 035682003
APN: 035681008
APN: 035681007
APN: 035681006
APN: 035681005
APN: 035090020

GRAPHIC SCALE
20 0 10 20 40
(IN FEET)
1 inch = 20 ft.

DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

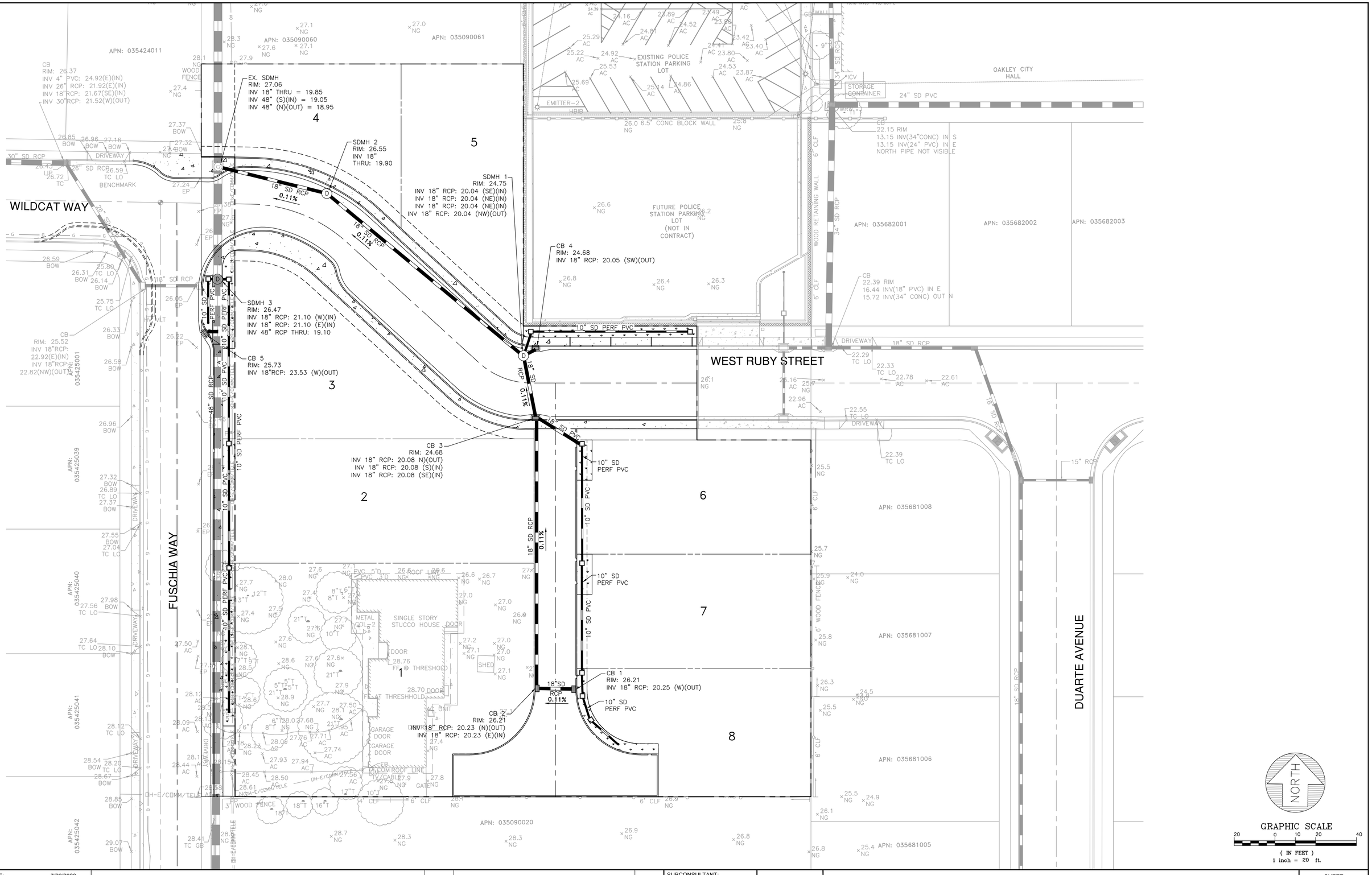
SUBCONSULTANT:

PRELIMINARY GRADING PLAN

TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

SHEET 7 OF 12 SHEETS

JOB NO. 316002



DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

SUBCONSULTANT:

PRELIMINARY DRAINAGE PLAN

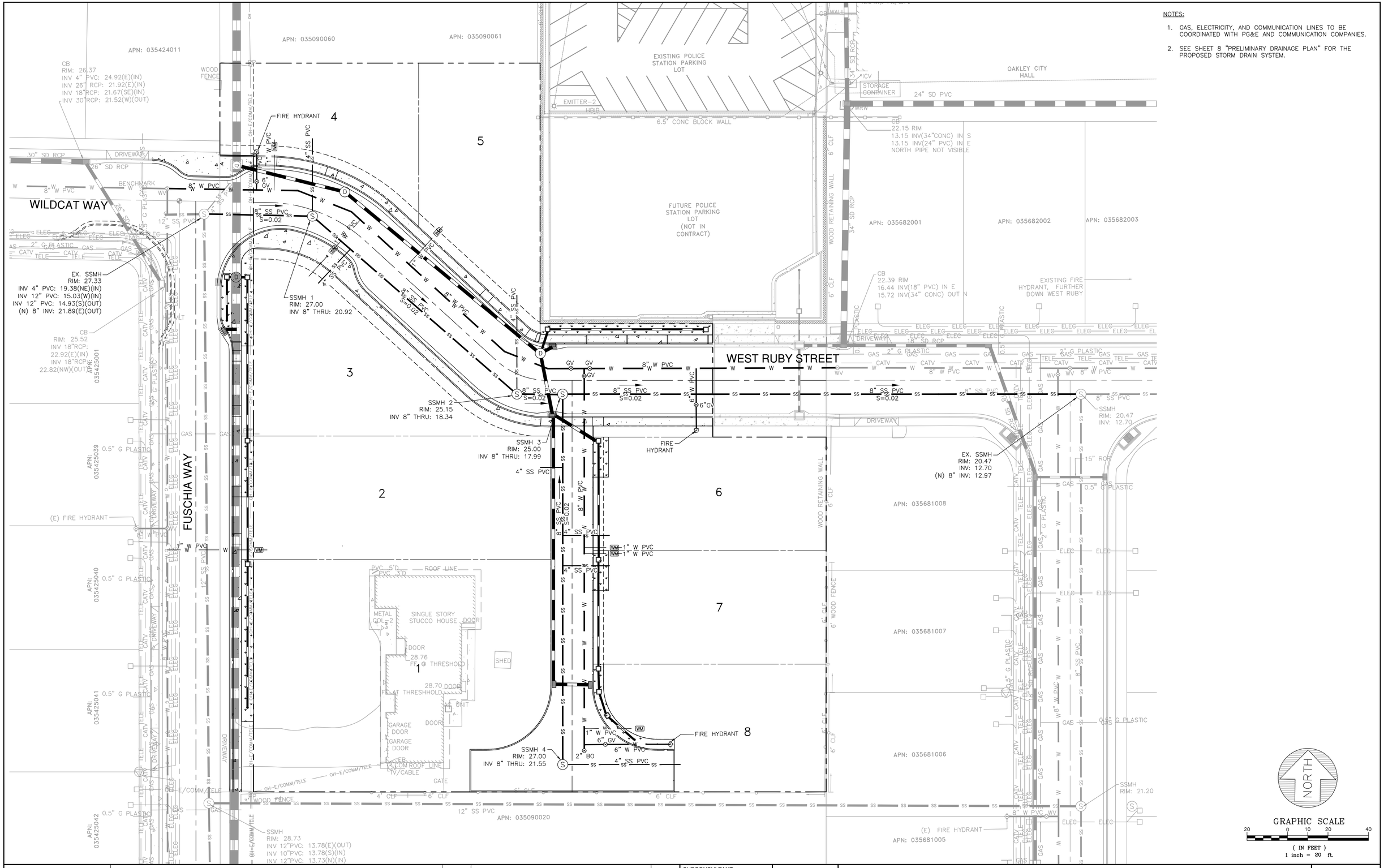
TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

SHEET **8** OF 12 SHEETS

JOB NO. 316002

NOTES:

1. GAS, ELECTRICITY, AND COMMUNICATION LINES TO BE COORDINATED WITH PG&E AND COMMUNICATION COMPANIES.
2. SEE SHEET 8 "PRELIMINARY DRAINAGE PLAN" FOR THE PROPOSED STORM DRAIN SYSTEM.



DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

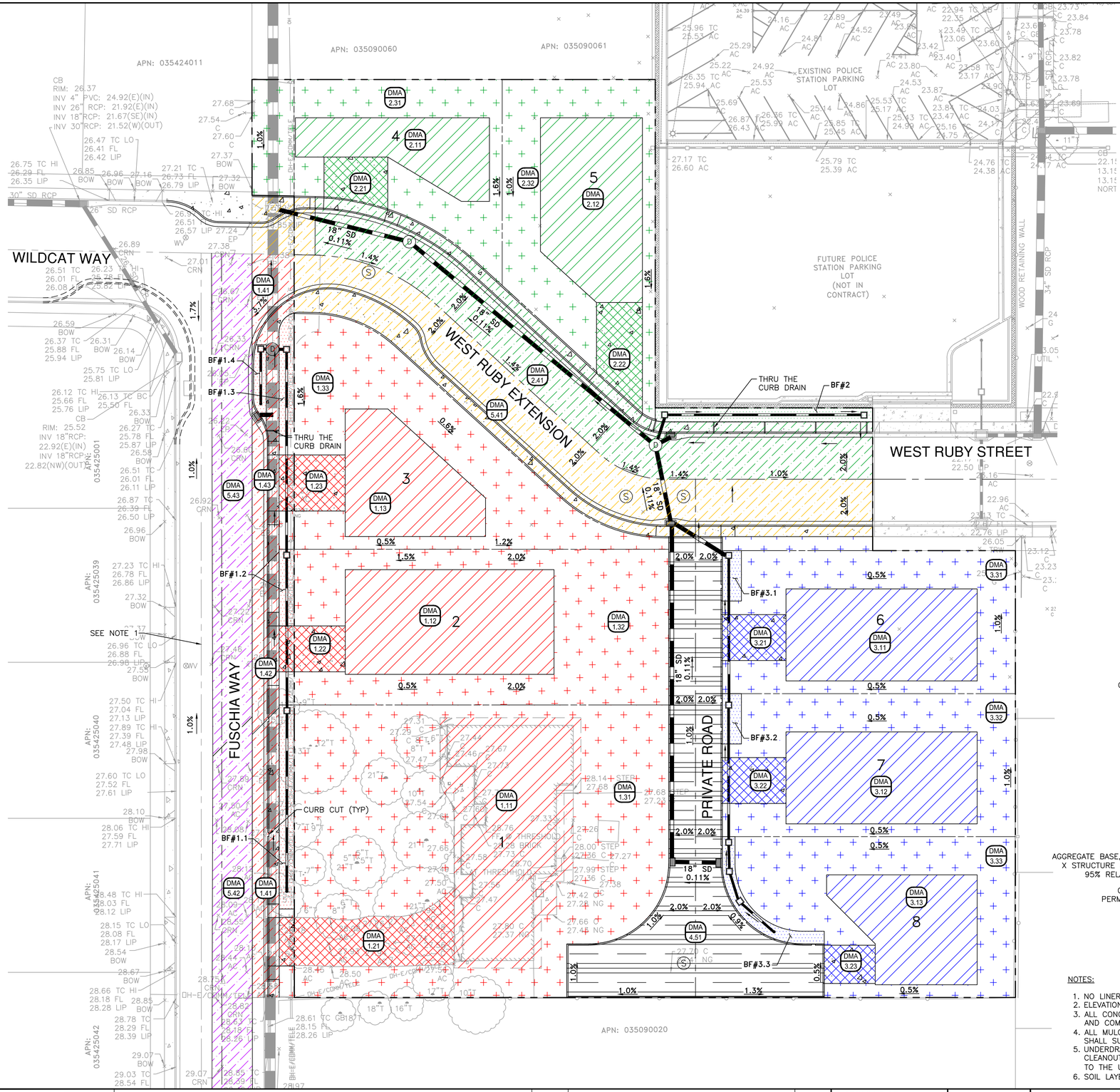
SUBCONSULTANT:

PRELIMINARY UTILITY PLAN

TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

SHEET 9 OF 12 SHEETS

JOB NO. 316002



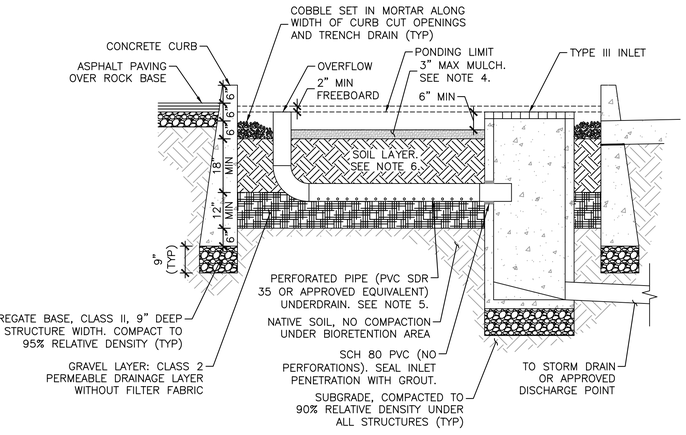
LEGEND

- BF#1 – BIORETENTION AREA
- BF#1 – SURFACE TYPE: 1 – ROOF
- BF#1 – SURFACE TYPE: 2 – DRIVEWAY
- BF#1 – SURFACE TYPE: 3 – LANDSCAPE
- BF#1 – SURFACE TYPE: 4 – ROADWAY
- BF#2 – BIORETENTION AREA
- BF#2 – SURFACE TYPE: 1 – ROOF
- BF#2 – SURFACE TYPE: 2 – DRIVEWAY
- BF#2 – SURFACE TYPE: 3 – LANDSCAPE
- BF#2 – SURFACE TYPE: 4 – ROADWAY
- BF#3 – BIORETENTION AREA
- BF#3 – SURFACE TYPE: 1 – ROOF
- BF#3 – SURFACE TYPE: 2 – DRIVEWAY
- BF#3 – SURFACE TYPE: 3 – LANDSCAPE
- BF#3 – SURFACE TYPE: 4 – ROADWAY
- TRADE OFF AREA – SURFACE TYPE: 4 – ROADWAY
- EQUIVALENT SPACE – SURFACE TYPE: 4 – ROADWAY
- SURFACE TYPE: 5 – PERMEABLE PAVEMENT
- DMA 1.11 — DRAINAGE MANAGEMENT ID
  - SURFACE ID
  - SURFACE TYPE
  - BIORETENTION FACILITY ID
- X.X% — DIRECTION AND SLOPE OF PIPE FLOW
- DIRECTION OF OVERLAND FLOW

NOTE:

1. EQUIVALENT RUNOFF FROM FUSCHIA WAY TO BE TREATED IN BIORETENTION FACILITY #1 IN EXCHANGE FOR RUNOFF FROM DMA 5.41, AS REPRESENTED BY THE PURPLE AREAS IN DMA 5.42 AND DMA 5.43.

PARCEL	DMA ID	AREA (SF)	DESCRIPTION	DMA TYPE/DRAINS TO
1	1.11	4,502	ROOF	BF#1.1
1	1.21	1,392	DRIVEWAY	BF#1.1
1	1.31	10,109	LANDSCAPE	BF#1.1
2	1.12	3,362	ROOF	BF#1.2
2	1.22	468	DRIVEWAY	BF#1.2
2	1.32	5,323	LANDSCAPE	BF#1.2
3	1.13	2,085	ROOF	BF#1.3
3	1.23	571	DRIVEWAY	BF#1.3
3	1.33	4,858	LANDSCAPE	BF#1.3
4	2.11	1,616	ROOF	BF#2
4	2.21	448	DRIVEWAY	BF#2
4	2.31	3,317	LANDSCAPE	BF#2
5	2.12	2,678	ROOF	BF#2
5	2.22	646	DRIVEWAY	BF#2
5	2.32	3,199	LANDSCAPE	BF#2
6	3.11	2,708	ROOF	BF#3.1
6	3.21	450	DRIVEWAY	BF#3.1
6	3.31	3,471	LANDSCAPE	BF#3.1
7	3.12	2,707	ROOF	BF#3.2
7	3.22	450	DRIVEWAY	BF#3.2
7	3.32	3,146	LANDSCAPE	BF#3.2
8	3.13	2,057	ROOF	BF#3.3
8	3.23	300	DRIVEWAY	BF#3.3
8	3.33	3,521	LANDSCAPE	BF#3.3
FUSCHIA WAY	1.41	1,145	SIDEWALK, FUSCHIA WAY	BF#1.1
FUSCHIA WAY	1.42	644	SIDEWALK, FUSCHIA WAY	BF#1.3
FUSCHIA WAY	1.43	1,285	SIDEWALK, FUSCHIA WAY	BF#1.3
WEST RUBY EXTENSION	2.41	5,596	SIDEWALKS, FUSCHIA, AND W RUBY EXTENSION	BF#2
PRIVATE ROAD	4.51	5,903	PERMEABLE PAVEMENT	SELF–RETAINING
WEST RUBY EXTENSION	5.41	6,345	TRADEOFF AREA	SEE NOTE 1
FUSCHIA WAY	5.42	3,374	EQUIVALENT SPACE	BF#1.1
FUSCHIA WAY	5.43	2,971	EQUIVALENT SPACE	BF#1.3,1.4



BIORETENTION DETAIL

SCALE: NTS

NOTES:

1. NO LINER, NO FILTER FABRIC, NO LANDSCAPE CLOTH.
2. ELEVATION OF PERFORATED PIPE UNDERDRAIN IS ATOP GRAVEL LAYER.
3. ALL CONCRETE STRUCTURES (VERTICAL, CURB, INLET) SHALL BE CONSTRUCTED ATOP 9" DEEP CLASS II AB AND COMPACTED SUBGRADE.
4. ALL MULCH WITHIN STORMWATER PLANTING AREAS SHALL BE 3" OF WASHED PEA GRAVEL. CONTRACTOR SHALL SUBMIT SAMPLE FOR REVIEW AND APPROVAL.
5. UNDERDRAIN SHALL HAVE OUTLET LOCATED FLUSH OR NEARLY FLUSH WITH PLANTER BOTTOM, WITH CLEANOUT PORT CONSISTING OF A VERTICAL, RIGID, NON–PERFORATED PVC PIPE. IT SHALL BE CONNECTED TO THE UNDERDRAIN VIA A SWEEP BEND, WITH A MINIMUM DIAMETER OF 4" AND A WATERTIGHT CAP.
6. SOIL LAYER SHALL CONSIST OF SOIL MIX WITH MINIMUM LONG–TERM INFILTRATION RATE OF 5"/HOUR.

NORTH

GRAPHIC SCALE

20 0 10 20 40

(IN FEET)

1 inch = 20 ft.

DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

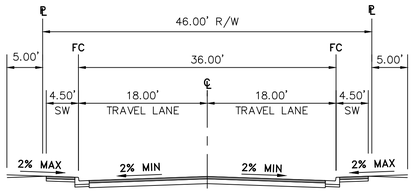
SUBCONSULTANT:

PRELIMINARY STORMWATER CONTROL PLAN

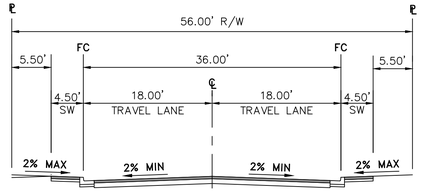
TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

SHEET 10 OF 12 SHEETS

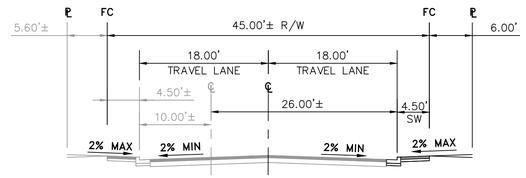
JOB NO. 316002



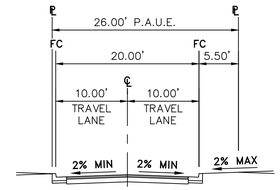
1 WEST RUBY EXTENSION WITHOUT STORM TREATMENT
SCALE: 1" = 10'



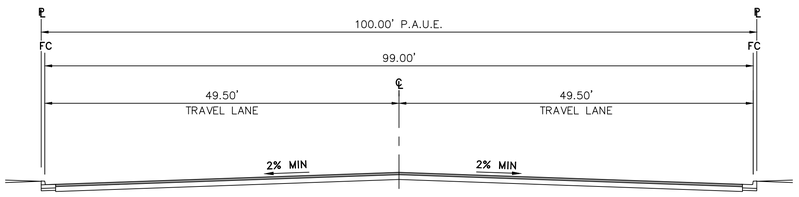
2 WEST RUBY EXTENSION WITH STORM TREATMENT
SCALE: 1" = 10'



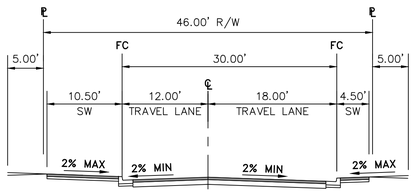
3 FUSCHIA WAY EAST SIDE WITH SIDEWALK
SCALE: 1" = 10'



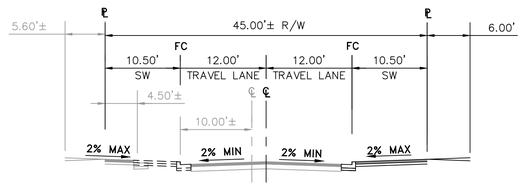
4 PRIVATE ROAD
SCALE: 1" = 10'



5 PRIVATE ROAD
SCALE: 1" = 10'



6 WEST RUBY EXTENSION WITH BULB OUT
SCALE: 1" = 10'



7 FUSCHIA WAY EAST SIDE – SIDEWALK WITH BULB OUT
SCALE: 1" = 10'

DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

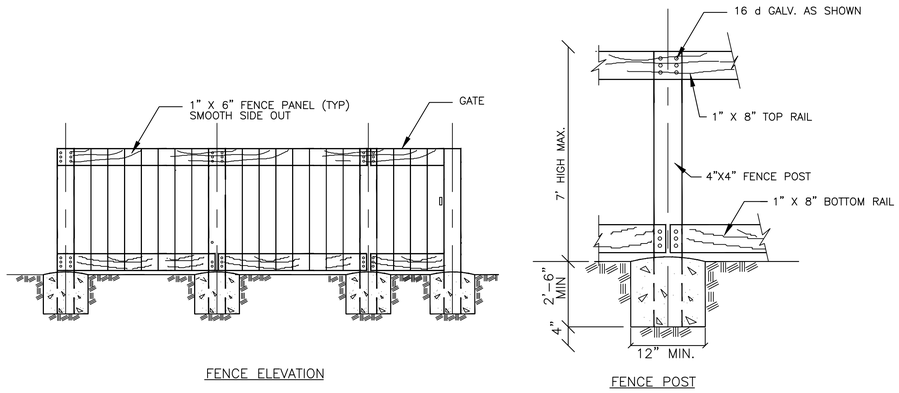
SUBCONSULTANT:

TYPICAL STREET SECTIONS

TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

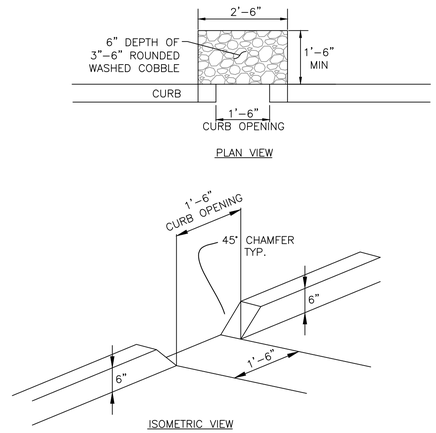
SHEET 11 OF 12 SHEETS

JOB NO. 316002



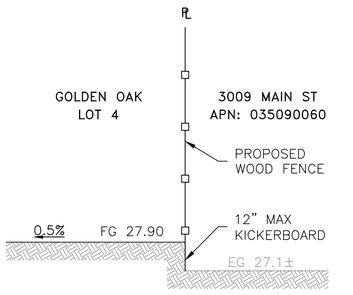
1 TYPICAL WOOD FENCE AND GATE

SCALE: NTS



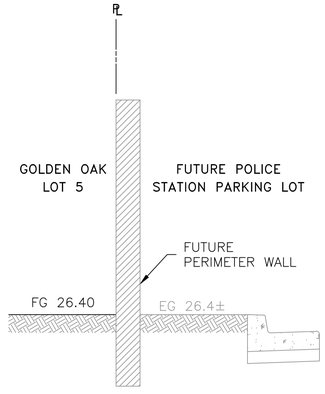
2 CURB CUT

SCALE: NTS



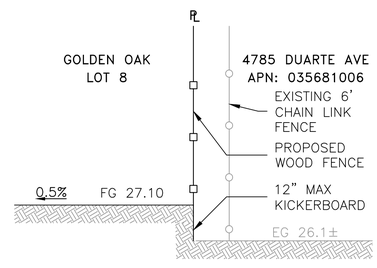
3 TYPICAL ADJOINER – LOT 4

SCALE: NTS



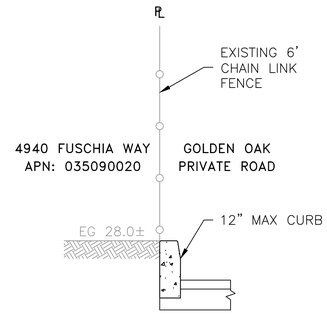
4 TYPICAL ADJOINER – LOT 5

SCALE: NTS



5 TYPICAL ADJOINER – LOT 8

SCALE: NTS



6 TYPICAL ADJOINER – HAMMERHEAD

SCALE: NTS

NOTE:
1. FENCE DETAILS AS PROVIDED ARE TYPICAL AND SUBJECT TO CHANGE AS THE DESIGN PROGRESSES.

DATE:	7/22/2022
SCALE:	AS SHOWN
DESIGNED:	CSM
DRAWN:	CSM
CHECKED:	RJL
PROJ. ENGR:	LFH

FREYER & LAURETA, INC.
CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
825 Washington Street • Oakland, CA 94607
(510) 937-2310 • www.freyerlaureta.com

DATE	DESCRIPTION OF REVISIONS	APP'D

SUBCONSULTANT:

DETAILS

TENTATIVE MAP NO. 9580
GOLDEN OAK SUBDIVISION
OAKLEY, CALIFORNIA

SHEET 12 OF 12 SHEETS

JOB NO. 316002

FREYER & LAURETA, INC. CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS

MEMORANDUM

To: City of Oakley, Billilee Saengchalern, P.E.

From: Freyer & Laureta, Inc., Richard J. Laureta, P.E., Lorraine Htoo, P.E., and Camille Miculob

cc: Pam Young, S&Y Properties

RE: Golden Oak Development Traffic Memorandum

Introduction

This traffic technical memorandum is provided for the Golden Oak Development located at 4960 Fuschia Way (See Figure 1 - Location Map) and provides background information on the project, reference traffic study guidelines, findings, and recommendations.

Project Description

The Golden Oak Development site is approximately two (2) acres south of the downtown area as depicted in Figure 2 – Site Plan. The project site is mostly undeveloped with one residential structure approximately 4,500 square feet. The proposed development will divide the lot into eight (8) parcels and include seven (7) new single-family homes, a private drive, and a new public road to connect West Ruby Road in the east to Wildcat Way to the west. The existing land use will remain “Residential Low/Medium” as defined in the City of Oakley’s General Plan.

Traffic Study Guidelines

Certain types of projects are exempt from having to provide a traffic impact analysis (TIA) due to size, nature of project and/or location. For the Golden Oak Development with the addition of seven single family homes, it is not anticipated that one hundred or more A.M. or P.M. peak-hour trips would be generated. Given that one hundred trips are not generated, a TIA is not required.

Findings and Recommendations

The site will be accessed off Wildcat Way, Fuschia Way, and West Ruby Road. The development will provide a new public thoroughfare connecting Wildcat Way to the west to Duarte Road to the east. The newly constructed development to the south, Cypress

San Francisco Office:
150 Executive Park Blvd, Suite 4200
San Francisco, CA 94134
Tel: (415) 534-7070
www.freyerlaureta.com

Oakland Office:
825 Washington Street, Suite 237
Oakland, CA 94607
Tel: (510) 937-2310

Estates and its 30 single family homes would benefit from the project as it creates accessibility to their site outside of Mallard Lane, Fuschia Way and Wildcat Way alone.

The new public road provides an alternative route for the Oakley Elementary School and the City's newly expanded police parking lot. As Fuschia is a straight road, aligned North-South from Wildcat Way past Ashwood Drive for approximately 1,000 feet, there could be a potential for vehicular speed limits to be exceeded. With the proposed development providing an alternative route to Oakley Elementary, certain measures can be included to promote safer streets as the City continues to develop a "Vision Zero" policy in line with the County's goal to eliminate fatalities due to vehicular collisions. As discussed with the City, a narrowing of the intersection of Fuschia and Wildcat is proposed and depicted in Figure 3. These proposed bulb outs can help temper the speeds along Fuschia Way, Wildcat Way, and the new West Ruby Extension. Figure 3 also provides recommendations for improvements to the intersection of West Ruby Road and Duarte Road, outside of the project limits, for the City's consideration.

Figures:

Figure 1 – Location Plan

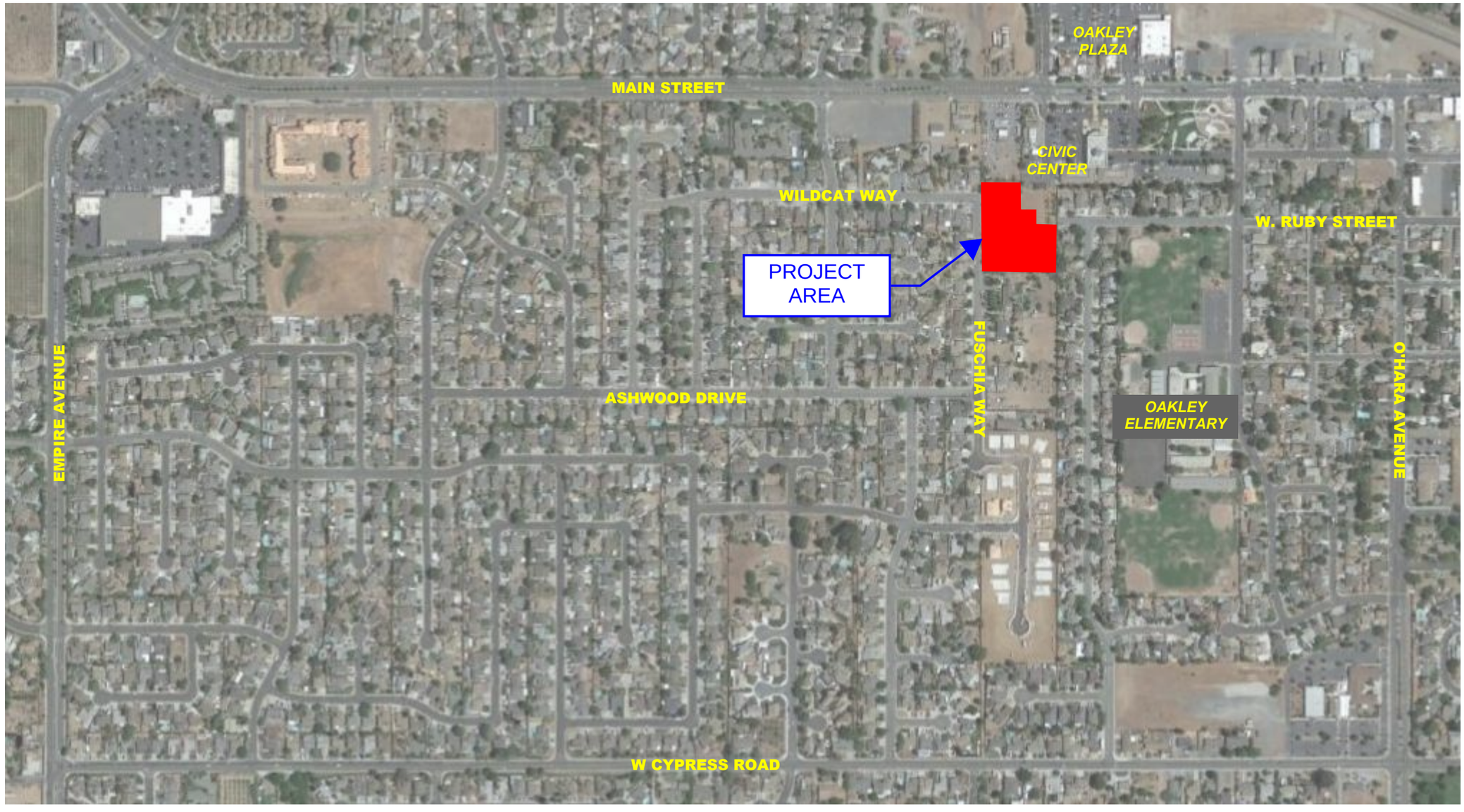
Figure 2 – Site Plan

Figure 3 – Improvements Plan

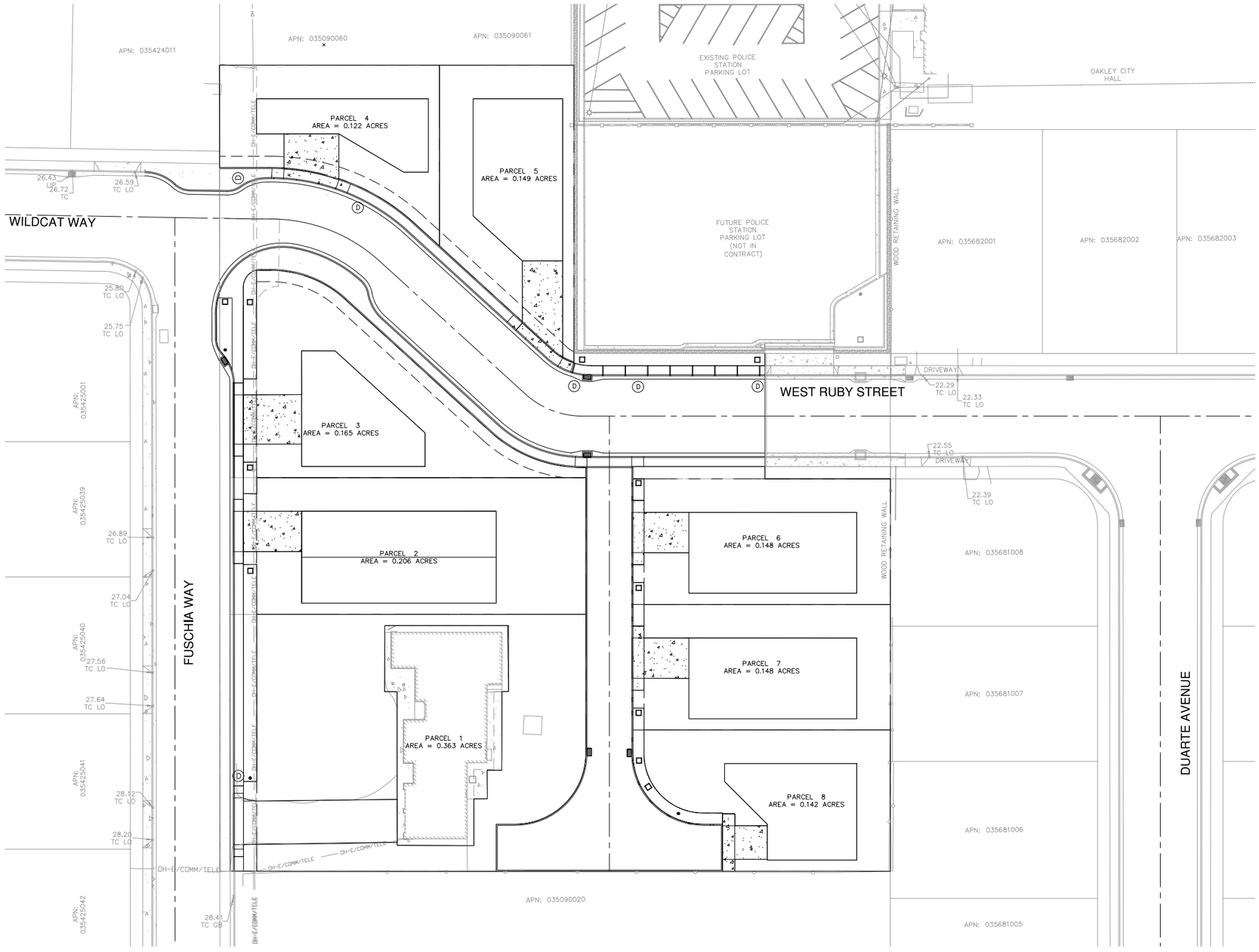
References:

City of Oakley, 2020 General Plan Adopted December 16, 2002, Amended February 2, 2016.

De Novo Planning Group, City of Oakley General Plan Public Review Draft, August 2021.



	GOLDEN OAK DEVELOPMENT LOCATION MAP	FIGURE 1
	JOB NO.: 316002 / DATE: 12/9/2021	



	GOLDEN OAK DEVELOPMENT SITE PLAN	FIGURE **2**
	JOB NO.: 316002 DATE: 12/1/2021	

PARCEL 4
AREA = 0.122 ACRES

BULB OUTS

PARCEL 5
AREA = 0.149 ACRES

FUTURE POLICE
PARKING LOT

WOOD RETAINING WALL

RECOMMENDED
BULB OUT

RECOMMENDED
BULB OUTS

WILDCAT WAY

40.0'±

12.00'

10.00'

10.00'

R30.00'

12.00'

18.00'
5.00'
5.00'

46.00' R/W

R30.00'

18.00'
4.50'
5.50'

W. RUBY
EXTENSION

DRIVEWAY

WEST RUBY STREET

PARCEL 3
AREA = 0.165 ACRES

5.60'±
4.50'±

4.50'
6.00'

45.0' R/W
36.0'

PARCEL 6
AREA = 0.148 ACRES

PARCEL 2
AREA = 0.206 ACRES

PRIVATE
DRIVE

45.00' R/W

18.00'
4.50'
5.50'

R38.00'

R38.00'

FUSCHIA WAY

DUARTE AVENUE

20.50'

5.50'

PARCEL 7
AREA = 0.148 ACRES

26.00' P.A.U.E

10.00'

10.00'

PARCEL 1
AREA = 0.363 ACRES

R32.00'

R32.00'

PARCEL 8
AREA = 0.142 ACRES

100.00' P.A.U.E

50.00'

50.00'

20.00'

12.0'

76.0'

12.0'

	GOLDEN OAK DEVELOPMENT PROPOSED IMPROVEMENTS	FIGURE 3
	JOB NO.: 316002 DATE: 12/1/2021	

RESOLUTION NO. XX-22

A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS AND APPROVING A TENTATIVE MAP (TM 02-22) TO SUBDIVIDE AN APPROXIMATELY 2-ACRE SITE INTO EIGHT (8) SINGLE-FAMILY RESIDENTIAL LOTS AND A VARIANCE (VA 01-22) REQUEST ON MEETING THE MINIMUM LOT REQUIREMENTS FOR FOUR (4) OF THE EIGHT (8) LOTS FOR THE PROJECT TITLED "GOLDEN OAK SUBDIVISION 9580": APN 035-090-082.

WHEREAS, on January 24, 2022, Pam Young ("Applicant") filed an application requesting approval of a of a Tentative Map (TM 02-22) to subdivide an approximately 2-acre parcel in to eight (8) single-family residential lots, including dedication and improvement of public right-of-way and extension of West Ruby Street to the intersection of Wildcat Way and Fuschia Way. Applicant also requests approval of a Variance (VA 01-22) on meeting the minimum lot requirements for four (4) of the eight (8) lots ("Project"). The project site is located at 4960 Fuschia Way and zoned R-6 (Single-Family Residential) District. APN: 035-090-082; and

WHEREAS, Design Review (i.e. home design, landscape design, entrance features, street tree plan, etc.) has not been submitted in conjunction with this Tentative Map and Variance; and

WHEREAS, on March 3, 2022, the project application was deemed complete per Government Code section 65920 et. seq; and

WHEREAS, on August 2, 2022, 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 adopted Planning Commission Resolution Number 05-22 recommending the City Council adopt a resolution to approve the project, subject to the conditions recommended by Staff; and

WHEREAS, the project is designated as *Residential Low/Medium (RLM)* in the Oakley General Plan, and zoned R-6 (Single Family Residential) District; and

WHEREAS, the proposed project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15332, "Class In-Fill Development Projects; and

WHEREAS, on September 16, 2022, the Notice of Public Hearing for the Project was duly noticed in the Contra Costa Times, a newspaper of general distribution. On or before September 16, 2022, the Notice of Public Hearing was posted at the Project site, at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, and outside the library at Freedom High School located at 1050 Neroly Road, and the notice was mailed out to all owners of

property within a 500-foot radius of the subject property's boundaries, to parties requesting such notice, and to outside agencies; and

WHEREAS, on September 27, 2022, the City Council opened the public hearing at which it received a report from City Staff, oral and written testimony from the public, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the project, as conditioned, and

WHEREAS, if any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City; and

WHEREAS, these Findings are based on the City's General Plan and the City's Zoning Ordinance, and the information submitted to the City Council at its September 27, 2022, meeting, both written and oral, as reflected in the minutes of such meetings, together with the documents contained in the file for the Project (hereafter the "Record").

NOW, THEREFORE, BE IT RESOLVED THAT, on the basis of the above findings of fact and the entire Record, the City Council makes the following additional findings in support of the approvals:

A. In regard to the application requesting approval of Tentative Map (TM 02-22) to subdivide an approximately 2-acre parcel in to eight (8) single-family residential lots and dedication of public right-of-way, and extension of West Ruby Street to the intersection of Wildcat Way and Fuschia Way:

1. The proposed Tentative Map ("TM"), together with the provisions of its design and improvements, is consistent with the Zoning Ordinance, and applicable portions Residential Low/Medium (RLM), General Plan Land Use Designation, in that the TM's gross density within the gross density range of the RLM General Plan Land Use Designation of 3.8-5.5 du/ga, and the TM is designed in a manner that complies with all applicable development regulations, where possible and a variance has been requested for lots where not possible; and

2. The site is physically suitable for the type of development in that the tentative map is accessible, not physically constrained, and near like uses, and it is also able to accommodate the proposed density of development in a manner consistent with the underlying land use designation; and

3. The site is physically suitable for the proposed density and number of dwelling units in that the proposed TM falls within the allowable density while creating lots compliant with the applicable Zoning District, and public and private roads to access the homes; and

4. The Project's is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15332, "Class In-Fill Development Projects"; and

5. The design of the subdivision and type of improvements are not likely to cause serious public health problems in that the proposed subdivision consists of eight (8) single-family residential lots. Construction and grading of the project are subject to building or grading permits, and violations of any such permits are subject to appropriate enforcement; and

6. The design of the subdivision includes the construction of improvements within public right-of-way that are consistent with major subdivisions and the City's design standards. The improvements consist of widening Fuschia Way and extending West Ruby Street by providing additional roadway, sidewalks, curbs, and gutters; and

7. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the governing body may approve aa map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgement of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision. The tentative map does not conflict with easements acquired by the public for access and utilities.

B. In regard to the Variance (VA 01-22) for Los 3, 4, 6, and 7 on meeting the minimum lot requirements required by the R-6 District:

1. That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.

   Lots 3, 4, 6, and 7 are being proposed on an infill lot that is being bifurcated by a residential public street and its full width of right of way. Due to the irregular shape of the subject site, and the curve in the streets needed to connect to two existing public streets, unusual challenges are created when designing the lot layouts. Lots 3 and 4 fails to meet the minimum lot area and lot depth, respectively. Both are affected by the curving extension of West Ruby Street through the project. Lots 6 and 7 meet the minimum lot depth and size but are both approximately four feet short of the minimum lot width. The property line between the southern end of the site and the

southern portion of the future right of way of West Ruby Street is 175.27 feet. At a minimum lot width of 60 feet, at least one of these lots would be required to not meet the minimum. The applicant has designed the properties to be more similar in size by increasing the width of the southern-most lot (Lot 8) affected by the private hammerhead. New construction on these lots will need to comply with the other development regulations of the R-6 District and there is adequate lot area to achieve this as shown in the Applicant's plans. This shows the lots with a minimum lot size, lot width, and depth can still meet other applicable development standards of the R-6 District; and

2. That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.

   Lot 3 is a triangular-shaped corner lot with frontages on both Fuschia Way and West Ruby Street. The Variance would not affect the overall appearance of the lot size from Fuschia Way, and Lot 3 will meet the minimum lot area required by the R-6 District. Due to the extension of West Ruby Street, Lot 4 will not meet the minimum lot depth of lot of 80' on one side and the minimum lot area of 6,000 square-feet. Lots 6 and 7 are restricted in that they do not meet the minimum lot width of 60'. However, the lot area and lot depth are still met. Due to the dedication of land to the roadway and lot configuration, these parcels have been designed as abnormal lots. Any structures placed on these lots will meet the minimum development standards of the R-6 District;

3. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.

   Lots 3, 4, 6, and 7 could still be developed in a manner consistent with the R-6 District development standards and maintain the residentially zoned district that exists today.

C. The project complies with Measure J Growth Management requirements.

BE IT FURTHER RESOLVED THAT, on the basis of the above Findings and the Record, the City Council approves of the Applicant's request for the **Tentative Map (TM 02-22) and Variance (VA 01-22)**, subject to the following conditions of approval:

Conditions of Approval

Applicant shall comply with the requirements of the Oakley Municipal Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the application received by the Planning Division dated **January 24, 2022**, as well as additional information acquired since that time and made part of the project file.

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE CONSTRUCTION OF THE BUILDING'S ON EITHER PARCEL UNLESS OTHERWISE NOTED:

PLANNING DIVISION CONDITIONS OF APPROVAL

General:

1. This **Tentative Map (TM 02-22) and Variance (VA 01-22)** application is recommended for approval, as shown on the plans presented as part of the packet presented to the City Council at the September 27, 2022 public hearing, and as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.

2. This approval for **Tentative Map (TM 02-22) and Variance (VA 01-22)** shall be effectuated within a period of three (3) years from the effective date of this resolution by either satisfying conditions in the Subdivision Map Act, or pulling a building permit for construction of the homes, and if not effectuated shall expire on that same date three years later, on September 27, 2025. Prior to the expiration date, the applicant may apply for a Tentative Map Extension pursuant to the provisions of the Zoning Code and Subdivision Map Act.

3. All construction drawings submitted for plan check shall be in substantial compliance with the plans presented to and approved by the City Council on September 27, 2022.

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. If the remains are determined to be that of Native American origin, procedures will be guided by California PRC 5097 through California's Native American Heritage Commission.

7. The applicant shall defend, indemnify, and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project. The city shall promptly notify the applicant of any such claim, action or proceeding. The city shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the city from participating in a defense of any claim, action, or proceeding if the city bears its own attorney's fees and costs, and the city defends the action in good faith.

8. The applicant shall post a copy of the City of Oakley General Plan Land Use Diagram, in a conspicuous place, within the model homes or sales office.

9. Applicant shall submit a plan addressing on-site trash, litter, and debris during all construction phases.

10. Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The storing of goods and/or materials on the sidewalk and/or the street will not be allowed unless a special permit is issued by the Public Works and Engineering Division. The site shall be kept in a manner as orderly as possible, given the nature of the project. Failure to maintain the site according to this condition may result in the City issuing a Stop Work order until the issue has been resolved.

Parks and Landscaping:

11. This project is not proposing to construct any parkland. The applicant will be required to pay the full in-lieu park impact fees on each lot.

12. The applicant shall submit conceptual landscape plans with any future Design Review application.

Fences and Walls:

13. Within the subdivision good neighbor fences shall be constructed as shown on the proposed plans, but with metal posts surrounded by a wood exterior or acceptable alternative, rather than wooden posts, as reviewed and approved by the Community Development Director. Corner lots or any good neighbor fence facing a street shall provide a fence or wall constructed of a durable material such as, but not limited to, masonry, vinyl, enhanced wood, composite or other durable material as approved by the Community Development Director. All wood fencing visible

from the street shall be stained or painted on both sides to prevent water damage to the satisfaction of the Community Development Director.

14. All CMU walls, such as landscape retaining walls, shall use colored (i.e. non-grey) split-face CMU for all publicly and privately visible portions of the wall.

15. Anti-graffiti techniques shall be used on masonry walls.

Subdivision Design:

16. Driveway openings may be a maximum 18' in width or up to 25% of the lot's frontage, whichever is larger.

17. The street names shall be approved by the Community Development Department and the Contra Costa County Fire Protection District.

Subdivision Disclosures:

18. 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.

19. 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."

Energy Efficiency:

20. Water heaters shall provide an energy efficiency factor of 0.62 or better.

21. Dual zone air conditioning shall be provided on all two-story residential units.

22. 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.

23. Design and site units so as to take advantage of natural heating and cooling, sin and wind exposure, and solar energy opportunities.

Design Review

24. The future design review application shall include details of home designs, and any landscaping in front yards and rights of way. All design elements shall be analyzed for consistency with the Oakley Residential Design Guidelines and applicable sections of the zoning ordinance.

Waste Management Plan:

25. The applicant shall submit a Waste Management Plan that complies with the City of Oakley Construction and Demolition Debris Recycling Ordinance.

BUILDING DIVISION CONDITIONS OF APPROVAL

26. 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.

27. An Automatic Life Safety Sprinkler System shall be required in all new construction pursuant to Ordinance 22-06. The Automatic Life Safety Sprinkler Systems in commercial and industrial buildings shall be designed and installed to the standards and requirements found in the most recent version of the NFPA (National Fire Protection Association). Automatic Life Safety Sprinkler Systems in hotels and apartments shall be installed to the stands and requirements found in the most recent version of the NFPA, Standard 13R.

28. Prior to requesting a Certificate of Occupancy from the Building Division all Conditions of Approval required to occupancy must be completed.

PUBLIC WORKS AND ENGINEERING CONDITIONS OF APPROVAL

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF AN ENCROACHMENT AND/OR GRADING PERMIT:

29. GENERAL. All public improvements shall be made according to the latest adopted City Standard Drawings and Specifications. All work shall conform to the applicable City ordinances. The adjacent public right-of-way shall be kept clear of all job-related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the City performing the required maintenance at the developer's expense.

30. ENCROACHMENT PERMIT. All work in the public right-of-way, including any blockage or partial closure of sidewalks will require an Encroachment Permit. Special provisions such as limitations on works hours, protective enclosures, or other means to facilitate public access in a safe manner may be required.

31. GRADING PERMIT. All earthwork must comply with the City's Grading Ordinance. A Grading Permit must be issued by the public works department prior to site disturbance.

32. PUBLIC WORKS INSPECTIONS. The developer or their representative shall notify the Engineering Inspector at least forty-eight (48) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all improvements in approved plans. Failure to do so will result in rejection of work that was completed without inspection.

33. PRECONSTRUCTION MEETING. Prior to issuance of any permit or the commencement of any site work, the general contractor shall:

    a) Along with the project applicant, attend a pre-construction meeting with the City Engineer to discuss the project conditions of approval, working hours, site maintenance and other construction matters;

    b) Acknowledge in writing that they have read and understand the project conditions of approval and will make certain that all project sub-contractors have read and understand them prior to commencing work and that a copy of the project conditions of approval will be posted on site at all times during construction.

34. CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to

park on the portion of a street which abuts property in a residential zone without prior approval from the City Engineer.

35. EROSION CONTROL. Interim and final erosion control plans shall be prepared and submitted to the Public Works Department. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the State SMARTS system for projects disturbing more than one acre and obtain a WDID number. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed during the rainy season. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping shall be included. Interim erosion control method shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, City standard seeding specification, filter berms, check dams, retention basins, etc. Provide erosion control measures as needed to protect downstream water quality during winter months. The grading, drainage, erosion control plans and SWPPP shall be in compliance with applicable measures contained in the City of Oakley's NPDES Permit.

36. DUST CONTROL. Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible. Further, water trucks shall be present and in use at the construction site. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the City, or a minimum of three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites in order to insure proper control of blowing dust for the duration of the project. Watering on public streets shall not occur. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the City Engineer, or at least once a day. Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 5 p.m. and shall include at least one late-afternoon watering to minimize the effects of blowing dust. All public streets soiled or littered due to this construction activity shall be cleaned and swept daily during the workweek to the satisfaction of the City. Demolition or earthwork activities shall be halted when wind speeds (instantaneous gusts) exceed 25 MPH. All trucks hauling soil, sand, or other loose debris shall be covered.

37. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and homeowner to make sure that all dirt tracked into the public right-of-way is cleaned up daily. Mud, silt, concrete and other construction debris SHALL NOT be washed into the City's storm drains. Construction entrances must be in place per the Erosion Control Plan.

38. TRAFFIC CONTROL PLAN. The project sponsor will be required to work with the Public Works Department to develop a traffic control plan per the current California MUTCD. This plan will include, but not be limited to, the following measures:

a) Construction activities shall be strategically timed and coordinated to minimize traffic disruption for schools, residents, businesses, and special events. The schools located on the haul route shall be contacted to help with the coordination of the trucking operation to minimize traffic disruption.

b) Flag persons shall be placed at locations necessary to control one-way traffic flow, if required. All flag persons shall have the capability of communicating with each other to coordinate the operation.

c) Prior to construction, advance notification of all affected residents and emergency services shall be made regarding one-way operation, specifying dates and hours of operation and lane closures on main arterial and collector streets and will be permitted only between the hours of 8:30AM to 2:30PM on M, T, TH & F. 8:30AM to 12:00PM on W.

d) The traffic control plan shall be reviewed for compliance to the project's Haul Route, approved by the City of Oakley.

e) A full road closure will require a detour plan and a road closure permit issued by the Public Works Department.

39. CONSTRUCTION MANAGEMENT PLAN. The Applicant shall submit a construction management plan that shall incorporate at a minimum the Earth Movement Plan, Traffic Control Plan, Project Schedule, site security fencing, employee parking, construction staging area, construction trailer, and proposed outhouse locations. The public street shall not be used for any construction related activities, including parking for workers and storage of vehicles.

40. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Public Works & Engineering Inspector and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.

41. SIDEWALK REPAIR. The developer shall repair and replace to existing City standards any sidewalk damaged now or during construction of this project. Sidewalk repair shall match existing color, texture and design, and shall be constructed per City Standard Details. The limits of sidewalk repair will be determined by the Public Works Inspector during the construction phase of the project.

42. CURB AND GUTTER. The developer shall repair and replace to existing City standards any curb and gutter damaged now or during construction of this project. New curb and gutter shall be constructed per City Standard Details. The limits of curb and gutter repair will be determined by the Public Works Inspector during the construction phase of the project.

43. CONSTRUCTION NOISE. Between the hours of 7:30 a.m. to 5:30 p.m., weekdays and 9:00 a.m. to 5:30 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA. Pickup and delivery of materials and equipment is restricted to the hours listed above unless prior written approval is obtained by the Public Works Department.

44. GOOD HOUSEKEEPING. Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The storing of goods and/or materials on the sidewalk and/or the street will not be allowed unless a special permit is issued by the Engineering Division. The adjacent public right-of-way shall be kept clear of all job-related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the City performing the required maintenance at the developer's expense.

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE APPROVAL OF THE GRADING PLAN:

45. EXISTING WELLS. Provide documentation that any gas wells located onsite have been abandon per regulations.

46. GEOLOGY AND SOIL MITIGATION MEASURES. A geotechnical investigation shall be conducted for the project to determine the surface and sub-surface conditions at the site and to determine the potential for surface fault rupture on the site. The geotechnical study shall provide recommendations for site grading as well as the design of foundations, retaining walls, concrete slab-on-grade construction, excavation, drainage, on-site utility trenching and pavement sections. The soils report shall include specific criteria and standards governing site grading, drainage, pavement design, retaining wall design, and erosion control. All recommendations of the investigation shall be incorporated into project plans. One copy of the geologic report shall be submitted with the grading permit and public improvement application.

Prior to issuance of any permit, the applicant's soils engineer shall review the final grading and drainage plans to ensure that designs for foundations, retaining walls, site grading, and site drainage are in accordance with their recommendations. The applicant's soils engineer's approval shall then be conveyed to the City either by letter or by signing the plans.

47. GRADING.

a) Grade any slopes with a vertical height of four (4) feet or more at a slope of 3H to 1V. Retaining walls that may be installed to reduce the slope must be masonry and comply with the City's building code.

b) Retaining wall or other suitable option acceptable by the City Engineer is required where the grade differential between property or adjacent lots are greater than 6". Retaining walls are required to be identified on the grading plans and shall have a note stating a separate building permit is required for retaining wall greater than four (4) feet in height.

c) 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 to the exterior boundary of the project site notice that construction work will commence. The notice shall include a list of contact persons with the name, title, phone number and area of responsibility. The person responsible for maintaining the list shall be included. The list shall always be kept current 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.

d) 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 Engineering 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.

e) Prior to commencement of any site work that will be 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.

f) The burying of any construction debris is prohibited on construction sites

48. NPDES – NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM. Comply with all rules, regulations and procedures of the 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

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.
- Prepare an Operations and Maintenance Manual for the project's storm water control measures.

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE APPROVAL OF THE IMPROVEMENT PLAN:

49. PUBLIC IMPROVEMENTS. Construct the project streets within public right of way 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.

50. ROADWAY IMPROVEMENTS. The following improvements shall be installed by the developer as shown on the Tentative Map. Plans for those improvements shall be prepared by a California registered civil engineer, reviewed and approved by the City.

    a. Frontage Improvements. Fuschia Way and West Ruby Street shall be constructed with curb, gutter, sidewalk, street lights, pavement widening, signing, striping, and storm drainage as required consistent with the Vesting Tentative Map.

    b. Conduct a stop warrant analysis and install stop signs where necessary for the proposed intersections:

        - Fuschia Way and West Ruby Street
        - Duarte Avenue and West Ruby Street

    c. Design Fuschia Way and West Ruby Street with traffic calming improvements such as speed tables, speed bumps, or bulb outs where necessary as required by the City Engineer.

51. DRAINAGE IMPROVEMENTS.

    a. 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.

    b. 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. The report shall includes study of the downstream stormdrain facilities to confirm its adequacy and mitigate on-site so that the peak flows of post-project conditions do not exceed the pre-project peak flows.

    c. Design and construct all storm drainage facilities in compliance with the Municipal Code and City design standards.

    d. Prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.

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

f. On-site parking area and driveways shall not surface drain across public sidewalk or driveway aprons.

52. SIGHT DISTANCE EXHIBIT. For the project driveways' ingress and egress, provide an exhibit that will analyze the sight distance required for the appropriate speed limit identified with this project as required by the City Engineer.

53. DESIGN CHANGES. The Applicant's registered Engineer shall notify the City Engineer, in writing, at least 72 hours in advance of all differences between the proposed work and the design indicated on the plans. Any proposed changes shall be subject to the approval of the City before altered work is started. A plan revision must be submitted for approval by the City Engineer.

54. JOINT TRENCH PLANS. The applicant shall submit Joint Trench Composite Plans to the City for review prior to approval of improvement plans or recordation of the final map. 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. The joint trench plans shall include street and/or site lighting and associated photometrics. A letter shall be provided by PG&E stating that public streetlight billing will be per Rule LS2A, and that private lights shall be metered with billing to the owner. Pole numbers, assigned by PG&E, shall be clearly delineated on the plans.

55. UTILITIES & UNDERGROUNDING.
   a) Underground all new and existing utility distribution facilities per City of Oakley code section Title 6 Chapter 8 Underground Utility Districts.

   b) 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.

   c) Above ground utility boxes shall be camouflaged per the review and approval of the City Engineer.

   d) A written approval from Diablo Water District and Iron House Sanitary District must be provided that all underground utility improvements have passed all testing requirements prior to commencement of paving a street.

56. STREET LIGHTS. Install streetlights along all public streets as required by the City Engineer. The City Engineer shall determine the final number and location of the lights, and the lights shall be on an LS2-A rate service. Street lights shall be spun aluminum “cobra head” style as required by the City of Oakley Standard Plans.

57. LANDSCAPING IN PUBLIC RIGHT OF WAY.
    a) Prepare landscape plans for landscape improvements within the public right of way. Landscape plans shall be prepared by a licensed landscape architect.
    b) Install public right-of-way landscaping along the project’s frontages as required by the City Engineer and Community Development Director.
    c) Maintain all landscaping within the public right-of-way until such time that the adjacent private properties have assumed maintenance of front yard landscaping.
    d) Prior to the issuance of certificate of occupancy, an inspection will be performed to verify the health and location of the street trees. Trees in poor health or those without adequate clearance from utilities will require replacement or relocation.

58. FENCING. Any proposed fencing and walls shall be located on private property and maintained by the property owner or owner.

59. SOUNDWALL. Soundwalls shall be installed within private property and not within public right of way.

60. MAINTENANCE EXHIBIT. Submit a maintenance exhibit showing the responsible maintenance entity of proposed subdivision improvements. Exhibit must clearly show which areas are to be maintained by the City of Oakley.

THE FOLLOWING PUBLIC WORKS AND ENGINEERING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE APPROVAL OF THE <u>FINAL MAP</u>:

61. BONDS. The applicant shall supply suitable securities for all improvements that are a part of the development in a form acceptable to the City in the amount of 100% (performance), 50% (labor and material) prior to issuance of any permit.

62. FINAL MAP. Submit a Final Map prepared by a Licensed Land Surveyor. The final map shall be recorded, and the Subdivision Agreement must be executed before any building permits are issued. Insurance shall be provided per the terms of the Subdivision Agreement.

63. DEDICATIONS. The following shall be dedicated on the final map. The dedication shall be recorded before any permits are issued and under specific timelines listed below:

    a) Dedicate the required right-of-way along the project frontage as shown in the typical sections of the Tentative Map.

b) Public Utility Easement (PUE): 5' PUE beyond public right of way as required.

c) Ingress-egress, storm drainage easements, emergency access easements as required.

Any 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 shall be furnished to the City. Prior to the issuance of the first building permit, the applicant must provide the necessary documentation that any existing easements no longer necessary have been quitclaimed.

64. PRIVATE EASEMENTS. Agreements detailing rights, limitations, and responsibilities of involved parties shall accompany each private easement. The easements and associated agreements shall be recorded simultaneously with the final map.

65. UTILITY SETBACKS. Building foundations shall be set back from utility lines a sufficient distance to allow excavation of the utility without undermining the house foundation. The City Engineer shall determine the appropriate setback based on the depth of the utility, input from the project soils engineer, and the type of foundation.

66. DRAINAGE FEES. This project is located within Drainage Area 52D (DA 52D) and Drainage Area 130 (DA 130), for which drainage fees are due in accordance with Flood Control Ordinance Number 2006-52 and 2007-06 respectively. By ordinance, all building permits or subdivision maps filed in this area are subject to the provisions of the drainage fee ordinances.

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF THE <u>BUILDING PERMIT</u>:

67. PAD CERTIFICATION. A letter from a licensed land surveyor stating that the building pad was constructed in accordance with the approved plans shall be provided prior to the issuance of the building permit.

68. SOILS ENGINEER CONSTRUCTION OBSERVATION. During construction, all excavations and grading shall be inspected by the applicant's soils engineer prior to placement of concrete and/or backfill so they can verify that the actual conditions are as anticipated in the design-level geotechnical report and recommend appropriate changes in the recommendations contained in the report, if necessary. The results of the construction observation and testing should be documented in an "as-built" letter/report prepared by the applicants' soils engineer and submitted to the City before any building permit is granted.

69. AGREEMENT FOR STORMWATER BEST MANAGEMENT PRACTICES INSPECTION AND MAINTENANCE OBLIGATIONS. The property owner shall enter into an agreement with the City for maintenance of the stormwater filtration devices required to be installed on this project. The agreement will specify that certain routine maintenance shall be performed by the property owner and will specify device maintenance reporting requirements. The agreement will also specify routine inspection requirements, permits and payment of fees. The agreement shall be recorded prior to release of any occupancy permits.

70. AS-BUILT PLANS. After completion of the construction of all work, the original plans shall have all changes (change orders and field changes) clearly marked. The "as-built" plans shall again be signed and "wet-stamped" by the civil engineer who prepared the plans, attesting to the changes. The original "as-built" plans shall be review and approved the Engineering Inspector. A Mylar and AutoCAD disk of the approved "as-built" plans shall be provided to the City before acceptance of improvements.

71. IMPACT FEES. Comply with the requirements of the development impact fees listed below, in addition to those noticed by the City Council in Resolution 85-00 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. Fire Facilities Impact Fee (adopted by Resolution No. 24-21);

    G. General Plan Fee (adopted by Resolution No. 53-03);

    The applicant should contact the City Engineer prior to constructing any public improvements to determine if any of the required improvements are eligible for credits or reimbursements against the applicable traffic benefit fees or from future developments.

72. ANNEXATIONS

a) Annex the property to the City of Oakley Community Facilities District No. 2020-1 Fire Protection Services (CFD) for funding certain services within the boundaries of the City of Oakley including fire protection services. The applicant shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of the annexations shall be paid by the applicant. The assessment shall be the per parcel annual amount set by CFD at the time of the annexation. Annexation shall be completed prior to filing of the final map.

b) Participate in the provision of funding to maintain police services by voting to approve a special tax for the parcels created by the 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. If the homes are occupied prior to the City receiving the first disbursement from the tax bill, the project proponent shall be responsible for paying the pro-rate share for the remainder of the tax year prior to the City conducting a final inspection.

c) Annex the property to the City of Oakley Community Facilities District No. 2015-2 (CFD) for funding the maintenance and operation costs associated with regional, community and neighborhood parks, public area landscaping, streetlights, and storm water facilities. The applicant shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of the annexations shall be paid by Applicant. The assessment shall be the per parcel annual amount set by CFD at the time of annexation. Annexation shall be completed prior to filing of the final map.

ADVISORY NOTES

The following Advisory Notes are provided to the applicant as a courtesy but are not a part of the conditions of approval. Advisory Notes are provided for the purpose of informing the applicant of additional ordinance requirements that must be met in order to proceed with development.

A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.

B. The project will require a grading permit pursuant to the Ordinance Code.

C. Applicant shall comply with the requirements of Iron House 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. 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.

I. East Contra Costa County Habitat Conservation Plan Fee (adopted by Resolution No. 112-07 & 124-07.)

ADOPTED by the City Council of the City of Oakley at a meeting held on the 27th day of September 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Randy Pope, Mayor Date

ATTEST:

Libby Vreonis, City Clerk Date

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: August 2, 2022

TO: Joshua McMurray, City Manager

Approved and Forwarded to the Planning Commission

FROM: Ariana Ruiz, Planning Technician

SUBJECT: **Golden Oak Subdivision 9580 Tentative Map (TM 02-22) and Variance (VA 01-22) – Request to subdivide an approximately 2-acre site into eight (8) single-family residential lots and a variance request on meeting the minimum lot requirements for four (4) of the eight (8) lots. (APN: 035-090-082).**

Summary

This is a public hearing for an application by Pam Young ("Applicant") requesting approval of Tentative Map (TM 02-22) to subdivide an approximately 2-acre parcel in to eight (8) single-family residential lots, including dedication and improvement of public right-of-way and extension of West Ruby Street to the intersection of Wildcat Way and Fuschia Way. Applicant also requests approval of a Variance (VA 01-22) on meeting the minimum lot requirements for four (4) of the eight (8) lots ("Project"). The project site is located at 4960 Fuschia Way and zoned R-6 (Single-Family Residential) District. APN: 035-090-082.

Background

General Plan

- The General Plan Land Use Designation for the project site is *Residential Low/Medium (RLM)* as depicted in the Oakley General Plan Figure 2-2 (Land Use Diagram).
- This designation allows for a minimum of 3.8 dwelling units and a maximum of 5.5 dwelling units per acre.

Zoning

- The site is zoned R-6 (Single-Family Residential) District.

The proposed project is in compliance with the applicable General Plan and Zoning standards as listed within the OMC section 9.1.404 except for Lots 3,4, 6, and 7 which are discussed later in this report.

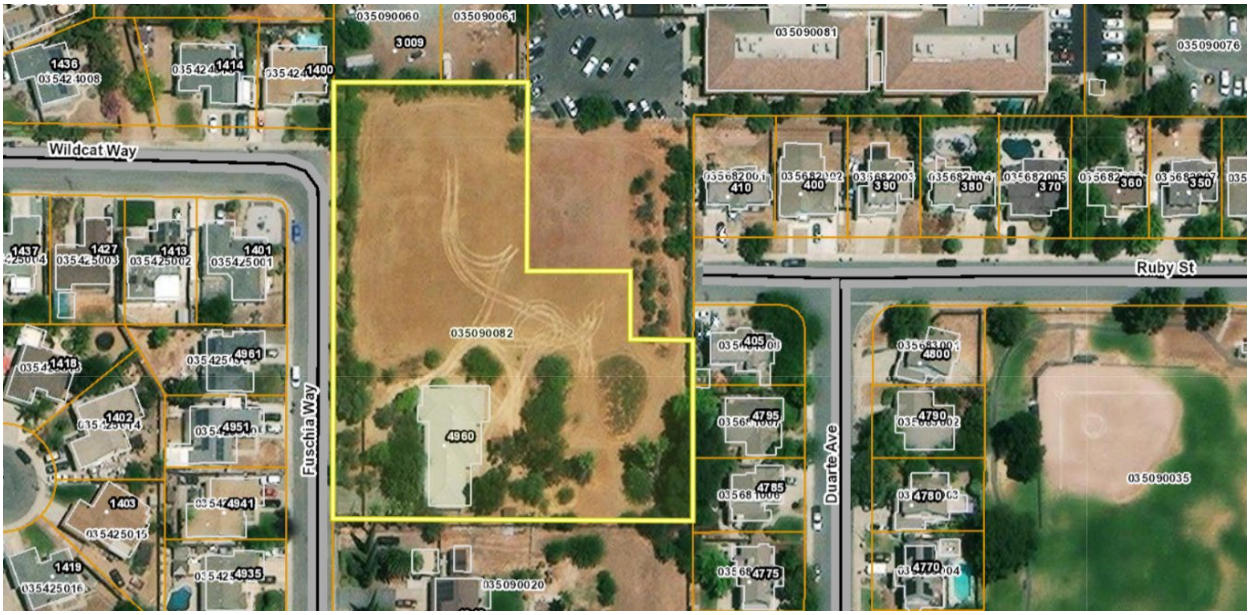
Previous History

In 2020, the property owners entered into a purchase agreement with the City of Oakley. Approximately 17,267 square-feet of the property was obtained by the City of Oakley with the intent to expand the existing Police Department parking lot to provide adequate space for the daily operations of the Police Department. The addition of the police parking lot has helped to provide direct access to West Ruby Street allowing for an alternative exit.

Location and Surrounding Land Uses:

The approximately 2-acre project site (Figure 1. Aerial of Project Site) is located within the R-6 (Single-Family Residential) District. The parcel is partially developed with an existing single-family residence on site. Properties located to the north are zoned SP-4 (Downtown Specific Plan) District. The site is currently bounded to the north by an existing non-conforming use, and police parking lot. Properties located to the east and south of the site are zoned R-6 District. There are existing single-family homes to the east and south. There is also an elementary school abutting the homes to the east. Immediately to the west of the site is a roadway, Fuschia Way adjoined by existing single-family residences. Figure 1 shows an aerial view of the site from the Contra Costa County GIS website.

Figure 1. Aerial View of Project Site (CCMaps).



Project Description

Tentative Map

The proposed tentative map is designed to create eight (8) new single-family residential within the R-6 District.

Within the R-6 District, the development regulations are as follows:

Minimum Lot Requirements	Lot Width	Lot Depth	Lot Area
R-6 District	60’	80’	6,000 s.f.

With the exception of Lot 4, the lots sizes are proposed to meet or exceed the minimum 6,000 square-foot lot size. The proposed lots range from approximately 5,326 square-feet to 15,796 square-feet.

The applicant is proposing to complete an Offer a Dedication for Roadway Purposes for the area located along the west and northern end of the parcel abutting Fuschia Way and West Ruby Street. The roadway will begin at the intersection of Wildcat Way and Fuschia Way meet. In order to connect to West Ruby, the road must curve across the parcel through proposed Lots 3, 4, and 5. This roadway area is composed of approximately 11,576 square-feet that will be used to create a 56’ wide public right-of-way area along connecting West Ruby Street to Wildcat Way. There will be approximately 5,189 square-feet dedicated to the public right-of-way along Fuschia Way. The applicant has also proposed to continue the sidewalk, curb and gutter, and street along these streets. The dedicated roadway will also allow vehicular traffic to pass through to West Ruby Street from Wildcat Way and Fuschia Way without having to navigate through Main Street or Cypress Road.

A private roadway is also proposed within the parcel to create an access point for three of the eight lots. The width is approximately 20’. This roadway is proposed to comply with the regulations and standards of the Contra Costa County Fire Protection District, as a T-shaped hammerhead is proposed.

Due to the proposed extension of West Ruby Street and dedication of land to the public-right-of-way, the lot configuration for four (4) of the eight (8) lots do not meet the minimum lot requirements. The below table summarizes the proposed lot dimensions. As demonstrated by the Preliminary Site Plan with the Applicant’s Plans (Attachment 3), all eight (8) lots can still comply with all pertinent setbacks.

Lot Number	Lot Width	Lot Depth	Lot Area
Lot 1	114.72’	146.89’	15,796 s.f.
Lot 2	61.05’	146.9’	8,968 s.f.
Lot 3[1]	92.53’	146.91’	7, 161 s.f.
Lot 4	98.17’	45.43’	5,326 s.f.
Lot 5	60’	80.79’	6,484 s.f.
Lot 6	56.10’	115’	6,451 s.f.
Lot 7	56.10’	115’	6,451 s.f.
Lot 8	63.07’	115’	6,200 s.f.

[1] Although Lot Width and Lot Depth are met, the lot is abnormally shaped. This lot is triangularly shaped where the side property line decreases to the rear property line of 4.5’ in width.

The lot layout for the tentative map shows Lots 1, 2, and 3 abutting Fuschia Way and the proposed private road. Driveways for Lots 1,2, and 3 will be accessed off of Fuschia Way. Lots 4 and 5 are shown fronting and will have driveways connecting to the extension of West Ruby Street. Lots 6, 7, and 8, front and will be accessed by the new private road.

Currently Design Review has not been proposed with the tentative map and as a result, there are no accompanying house plans or landscape plans. A condition has been placed within the resolution requiring the developer or future property owners to submit a design review application prior to construction on any new homes.

Utilities

Major utilities for the tentative map include water, sewer collection, gas and electricity, telephone, and cable. The City of Oakley requires new development to underground existing utilities that are adjacent to the project frontage to be undergrounded. Development of the project is subject to the applicable regulations and plan checks/approvals by each respective agency.

Traffic Study

The City of Oakley requires a Traffic Impact Analysis is performed for projects that generate more than 100 vehicle trips during either the weekday morning or evening peak hours. However, a Traffic Study was requested to evaluate the potential traffic congestion created by the proposed project. More detailed analysis of the conducted Traffic Study has been provided in the Analysis.

Variance

Per the OMC, a Variance may be granted to modify the zoning regulations as they pertain to lot area, lot building coverage, average lot width, side yard, rear yard setback and auto parking space, building structure or height, or any other regulation pertaining to size, dimension, shape or design of a lot, parcel, building or structure, or the placement of a building or structure on a lot or parcel. The applicant has requested a Variance on meeting the minimum lot requirements for a total of four (4) of the eight (8) lots proposed.

Environmental Review

The project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 (Class 32 – Infill Development Projects). Section 15332 of the State CEQA Guidelines exempts projects when the proposed project is consistent with the applicable general plan designation and all applicable general plan policies, as well as applicable zoning designation and regulations. Additionally, the project must occur within City limits on a project site of no more than five acres that is surrounded by urban uses. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. Lastly, the site can be adequately served by all required utilities and public services. The project meets the requirements as mentioned. Therefore,

there is no substantial evidence that the project may have a significant effect on the environment.

Analysis

Tentative Map

The tentative map has been reviewed against all applicable codes including the Subdivision Map Act, General Plan, and the Zoning Ordinance. The tentative map's gross density falls within the gross density range of the *Residential Low/Medium (RLM)* General Plan Land Use Designation of 3.8 – 5.5 du/ga. The tentative map is designed in a manner that complies with all applicable development regulations, such as minimum lot size, minimum lot width, and minimum lot depth of the R-6 District. For Lots 3, 4, 6, and 7, that do not comply with these development regulations, a Variance is being requested.

The site is physically suitable for the project in that it is accessible, not physically constrained, and near like uses, and it is also able to accommodate the proposed density of development in a manner consistent with the underlying land use designation. The subdivision is not expected to result in any serious public health problems. Public improvements are proposed and conditioned to occur as a result of the subdivision, which is a benefit to the public and surrounding residents and property owners of the vicinity. The area that will be dedicated to the public right-of-way through an Offer of Dedication to Public Right-of-Way, will comply with the Typical Street Sections for Minor Residential Standards developed by the Public Works and Engineering Division. The parking lot will also be consistent with the clean water requirements listed within the City's National Pollutant Discharge Elimination System (NPDES) permit requirements.

Traffic Study

The study conducted by Freyer and Laureta, Inc., discussed the project, referenced traffic study guidelines, findings, and recommendations. The findings and recommendations indicate the development will provide a new thoroughfare connected Wildcat Way with Duarte Way to the east of the project site. The study further analyzed the correlation between the West Ruby Street extension and new development of thirty (30) single-family residential homes to the south of the project called Cypress Estates. The study states the residents of Cypress Estates will benefit from the roadway extension. The nearby Elementary School as well as Oakley's Police Department will greatly benefit from this extension as it creates direct access from the extended parking lot to multiple directions of the City.

The study also evaluated the potential possibility that vehicular speeds may be exceeded. The proposed intersection of Fuschia Way and Wildcat Way includes bulb outs. Bulb outs are an effective way to help reduce speeds. As noted within the Circulation Element of the General Plan, the City has tried to monitor, improve, and enhance traffic safety to eliminate traffic fatalities and reduce the rate of injury collisions. Roundabouts, medians, street trees, and narrower street widths are required to slow down traffic and provide a safer pedestrian

environment. In line with the General Plan, the installation of bulb outs at the intersection of Wildcat Way, Fuschia Way, and the extension of West Ruby Street, the roadway has been reduced in width, directly maximizing safety for all uses and results in safe speeds on city streets.

Variance

A Variance is being requested for four (4) of the eight (8) lots. The extension of West Ruby Street impacts Lots 3 and 4 directly as Lot 3 and 4 will not meet the minimum lot requirements as listed within the R-6 District. Lot 3 is proposed at the corner and intersection of the three streets: Fuschia Way, Wildcat Way, and West Ruby Street. This causes Lot 3 to form a triangular shape of only three property lines. A Variance is being requested for Lot 3 as it does not meet the minimum width or depth. Lot's 4 and 5 will also be impacted by the proposed roadway. Specifically, Lot 4 requests a Variance for the minimum lot area and lot depth. The lot depth of the western portion of this lot is a total of 45.43'. The eastern portion of this lot is proposed at approximately 80'. The lot width of this lot is 98.17', resulting in a total lot area of 5,326 square-feet. Lots 6 and 7 require also require a Variance as the lot width is proposed under the minimum lot depth of 60', at approximately 56'.

There are three specific standards that must be considered and found to exist in order to approve a variance. Staff has analyzed the project with those standards in mind and provided draft findings to support the Variance request. The three standards followed by the draft finding for each are listed below, as well as within the Draft Resolution (Attachment 4). A Variance may be granted when it can be shown the project shall comply with the following:

1. That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.

   Lots 3,4, 5, and 6 exist in an area of existing properties where there are legal lots that currently do not meet the minimum lot area for the R-6 District. New construction on these lots will need to comply with the development regulations of the R-6 District and there is adequate lot area to achieve this as shown in the Applicant's plans. This shows the lots with a minimum lot size, lot width, and depth can still meet the development standards of the R-6 District;

2. That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.

   Lots 1, 2, 5, and 8 adequately meet the minimum lot requirements of the R-6 District. Parcel 3 is a triangular-shaped corner lot with frontages on

both Fuschia Way and West Ruby Street. The Variance would not affect the overall appearance of the lot size and Lot 3 will meet the minimum lot area required by the R-6 District. Due to the extension of West Ruby Street, Lot 4 has been created that will not meet the minimum lot depth of lot of 80' on one side and the minimum lot area of 6,000 square-feet. Lots 6 and 7 are restricted in that they do not meet the minimum lot width of 60'. However, the lot area and lot depth are still met. Due to the dedication of land to the roadway and lot configuration, these parcels have been designed as abnormal lots. Any structures placed on these lots will meet the minimum development standards of the R-6 District;

3. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.

   Lots 3, 4, 6, and 7 could still be developed in a manner consistent with the R-6 District development standards and maintain the residentially zoned district that exists today.

Council Mission / Vision / Goals Addressed

Approval of the Tentative Map and Variance will also provide consistency with the following goals and policies listed within the Oakley General Plan:

- Policy 2.2.5. Encourage higher density residential development at locations within convenient walking distance of Downtown, employment areas, services, schools, retail, transit stops, near community destinations, and/or near major streets with high access to transit and nonvehicle transportation modes.
- Policy 2.2.8. Require the establishment of lighting and landscaping districts and/or community facility districts, as appropriate, for new residential developments.
- Policy 2.2.9. Protect existing residential areas from intrusion of incompatible land uses and disruptive traffic to the extent reasonably possible.
- Goal 2.10 Corridors, Pathways, Streetscapes, and Edges - Enhance the corridors, pathways, and edges that form physical boundaries and provide transitions and connections throughout the community.

Consistency with the City of Oakley Strategic Plan 27+

In line with the City of Oakley Strategic Plan 27+, Community Health and Safety Goal emphasizes the need to protect the public and prioritize safe streets, healthy neighborhoods to benefit the residents of the City of Oakley. The proposed project includes the dedication and improvements to the public right-of-way. The inclusion of a sidewalk along the perimeter of the project is consistent with the Safe Streets Objective in that it will help provide an alternative route for pedestrians traveling to and from the elementary school and/or Downtown area. Furthermore, the Safe Street Objectives

requires the City to consider road improvements such as delineators where speed is an issue and implement traffic-calming measures as traffic grows within the City. The Applicant has submitted a Traffic Memo that addresses the potential risk of traffic violations and recommended the Applicant include bulb outs to create a better streetscape and promote traffic calming.

Fiscal Impact

The recommendation to approve the application will not impact the General Fund. This is a developer-funded account. All Staff time and City of Oakley generated materials related to the processing of this application, including reproduction of physical copies and postage for public hearing notices, are charged to the account.

Findings

Draft findings for the Tentative Map and Variance can be found within the proposed resolution.

Staff Recommendation

Staff recommends that the Planning Commission adopt the resolution, recommending that the City Council adopt the resolution approving the project titled “Golden Oak Subdivision 9580 Tentative Map (TM 02-22) and Variance (VA 01-22)”, as conditioned.

Attachments

1. Vicinity Map
2. Notice of Public Hearing
3. Applicant’s Plans
4. Traffic Memo
5. Draft Resolution

RESOLUTION NO. 05-22

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OAKLEY MAKING FINDINGS AND RECOMMENDING THE CITY COUNCIL APPROVE A TENTATIVE MAP (TM 02-22) TO SUBDIVIDE AN APPROXIMATELY 2-ACRE SITE INTO EIGHT (8) SINGLE-FAMILY RESIDENTIAL LOTS AND A VARIANCE (VA 01-22) REQUEST ON MEETING THE MINIMUM LOT REQUIREMENTS FOR FOUR (4) OF THE EIGHT (8) LOTS KNOWN AS THE PROJECT TITLED "GOLDEN OAK SUBDIVISION 9580": APN 035-090-082.

WHEREAS, on January 24, 2022, Pam Young ("Applicant") filed an application requesting approval of a of a Tentative Map (TM 02-22) to subdivide an approximately 2-acre parcel in to eight (8) single-family residential lots, including dedication and improvement of public right-of-way and extension of West Ruby Street to the intersection of Wildcat Way and Fuschia Way. Applicant also requests approval of a Variance (VA 01-22) on meeting the minimum lot requirements for four (4) of the eight (8) lots ("Project"). The project site is located at 4960 Fuschia Way and zoned R-6 (Single-Family Residential) District. APN: 035-090-082; and

WHEREAS, Design Review (i.e. home design, landscape design, entrance features, street tree plan, etc.) has not been submitted in conjunction with this Tentative Map and Variance; and

WHEREAS, on March 3, 2022, the project application was deemed complete per Government Code section 65920 et. seq; and

WHEREAS, the project is designated as *Residential Low/Medium (RLM)* in the Oakley General Plan, and zoned R-6 (Single Family Residential) District; and

WHEREAS, the proposed project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15332, "Class In-Fill Development Projects; and

WHEREAS, on July 22, 2022, the Notice of Public Hearing for the Project was duly noticed in the Contra Costa Times, a newspaper of general distribution. On or before July 22, 2022, the Notice of Public Hearing was posted at the Project site, at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, and outside the library at Freedom High School located at 1050 Neroly Road, and the notice was mailed out to all owners of property within a 500-foot radius of the subject property's boundaries, to parties requesting such notice, and to outside agencies; and

WHEREAS, on August 2, 2022, the Planning Commission opened the public hearing at which it received a report from City Staff, oral and written testimony from the public, and deliberated on the project. At the conclusion of its deliberations, the Planning Commission took a vote adopting this resolution, recommending the City Council adopt

a resolution to approve the project, as revised by the Planning Commission during its deliberations; and

WHEREAS, these Findings are based on the City's General Plan and the City's Zoning Ordinance, and the information submitted to the Planning Commission at its August 2, 2022, meeting, both written and oral, as reflected in the minutes of such meetings, together with the documents contained in the file for the Project (hereafter the "Record").

NOW, THEREFORE, BE IT RESOLVED THAT, on the basis of the above findings of fact and the entire Record, the Planning Commission makes the following additional findings in support of the approvals:

A. In regard to the application requesting approval of Tentative Map (TM 02-22) to subdivide an approximately 2-acre parcel in to eight (8) single-family residential lots and dedication of public right-of-way, and extension of West Ruby Street to the intersection of Wildcat Way and Fuschia Way:

1. The proposed Tentative Map ("TM"), together with the provisions of its design and improvements, is consistent with the Zoning Ordinance, and applicable portions Residential Low/Medium (RLM), General Plan Land Use Designation, in that the TM's gross density within the gross density range of the RLM General Plan Land Use Designation of 3.8-5.5 du/ga, and the TM is designed in a manner that complies with all applicable development regulations, where possible and a variance has been requested for lots where not possible; and

2. The site is physically suitable for the type of development in that the tentative map is accessible, not physically constrained, and near like uses, and it is also able to accommodate the proposed density of development in a manner consistent with the underlying land use designation; and

3. The site is physically suitable for the proposed density and number of dwelling units in that the proposed TM falls within the allowable density while creating lots compliant with the applicable Zoning District, and public and private roads to access the homes; and

4. The Project's is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15332, "Class In-Fill Development Projects"; and

5. The design of the subdivision and type of improvements are not likely to cause serious public health problems in that the proposed subdivision consists of eight (8) single-family residential lots. Construction and grading of the project are subject to building or grading permits, and violations of any such permits are subject to appropriate enforcement; and

6. The design of the subdivision includes the construction of improvements

within public right-of-way that are consistent with major subdivisions and the City's design standards. The improvements consist of widening Fuschia Way and extending West Ruby Street by providing additional roadway, sidewalks, curbs, and gutters; and

7. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the governing body may approve aa map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgement of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision. The tentative map does not conflict with easements acquired by the public for access and utilities.

B. In regard to the Variance (VA 01-22) for Los 3, 4, 6, and 7 on meeting the minimum lot requirements required by the R-6 District:

1. That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.

   Lots 3,4, 6, and 7 exist in an area of existing properties where there are legal lots that currently do not meet the minimum lot area for the R-6 District. New construction on these lots will need to comply with the development regulations of the R-6 District and there is adequate lot area to achieve this as shown in the Applicant's plans. This shows the lots with a minimum lot size, lot width, and depth can still meet the development standards of the R-6 District;

2. That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.

   Lots 1, 2, 5, and 8 adequately meet the minimum lot requirements of the R-6 District. Parcel 3 is a triangular-shaped corner lot with frontages on both Fuschia Way and West Ruby Street. The Variance would not affect the overall appearance of the lot size and Lot 3 will meet the minimum lot area required by the R-6 District. Due to the extension of West Ruby Street, Lot 4 has been created that will not meet the minimum lot depth of lot of 60' on one side and the minimum lot area of 6,000 square-feet. Lots 6 and 7 are

restricted in that they do not meet the minimum lot width of 80'. However, the lot area and lot depth are still met. Due to the dedication of land to the roadway and lot configuration, these parcels have been designed as abnormal lots. Any structures placed on these lots are required to meet the minimum development standards of the R-6 District;

3. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.

   Lots 3, 4, 6, and 7 could still be developed in a manner consistent with the R-6 District development standards and maintain the residentially zoned district that exists today.

C. The project complies with Measure J Growth Management requirements.

BE IT FURTHER RESOLVED THAT, on the basis of the above Findings and the Record, the Planning Commission hereby recommends that the City Council grant the Applicant's request for the **Tentative Map (TM 02-22) and Variance (VA 01-22)**, subject to the following conditions of approval:

Conditions of Approval

Applicant shall comply with the requirements of the Oakley Municipal Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the application received by the Planning Division dated **January 24, 2022**, as well as additional information acquired since that time and made part of the project file.

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE CONSTRUCTION OF THE BUILDING'S ON EITHER PARCEL UNLESS OTHERWISE NOTED:

PLANNING DIVISION CONDITIONS OF APPROVAL

General:

1. This **Tentative Map (TM 02-22) and Variance (VA 01-22)** application is recommended for approval, as shown on the plans presented as part of the packet presented to the Planning Commission at the August 2, 2022 public hearing, and as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.

2. This approval for **Tentative Map (TM 02-22) and Variance (VA 01-22)** shall be effectuated within a period of three (3) years from the effective date of this resolution by either satisfying conditions in the Subdivision Map Act, or pulling a building permit for construction of the homes, and if not effectuated shall expire on

that same date three years later, on _____. Prior to the expiration date, the applicant may apply for a Tentative Map Extension pursuant to the provisions of the Zoning Code and Subdivision Map Act.

3. All construction drawings submitted for plan check shall be in substantial compliance with the plans presented to and approved by the Planning Commission on August 2, 2022.

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. If the remains are determined to be that of Native American origin, procedures will be guided by California PRC 5097 through California's Native American Heritage Commission.

7. The applicant shall defend, indemnify, and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project. The city shall promptly notify the applicant of any such claim, action or proceeding. The city shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the city from participating in a defense of any claim, action, or proceeding if the city bears its own attorney's fees and costs, and the city defends the action in good faith.

8. The applicant shall post a copy of the City of Oakley General Plan 2020 Land Use Diagram, in a conspicuous place, within the model homes or sales office.

9. Applicant shall submit a plan addressing on-site trash, litter, and debris during all construction phases.

10. Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The

storing of goods and/or materials on the sidewalk and/or the street will not be allowed unless a special permit is issued by the Public Works and Engineering Division. The site shall be kept in a manner as orderly as possible, given the nature of the project. Failure to maintain the site according to this condition may result in the City issuing a Stop Work order until the issue has been resolved.

Parks and Landscaping:

11. This project is not proposing to construct any parkland. The applicant will be required to pay the full in-lieu park impact fees on each lot.

12. The applicant shall submit conceptual landscape plans with any future Design Review application.

Fences and Walls:

13. Within the subdivision good neighbor fences shall be constructed as shown on the proposed plans, but with metal posts surrounded by a wood exterior or acceptable alternative, rather than wooden posts, as reviewed and approved by the Community Development Director. Corner lots or any good neighbor fence facing a street shall provide a fence or wall constructed of a durable material such as, but not limited to, masonry, vinyl, enhanced wood, composite or other durable material as approved by the Community Development Director. All wood fencing visible from the street shall be stained or painted on both sides to prevent water damage to the satisfaction of the Community Development Director.

14. All CMU walls, such as landscape retaining walls, shall use colored (i.e. non-grey) split-face CMU for all publicly and privately visible portions of the wall.

15. Anti-graffiti techniques shall be used on masonry walls.

Subdivision Design:

16. Driveway openings may be a maximum 18' in width or up to 25% of the lot's frontage, whichever is larger.

17. The street names shall be approved by the Community Development Department and the Contra Costa County Fire Protection District.

Subdivision Disclosures:

18. 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.

19. 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."

Energy Efficiency:

20. Water heaters shall provide an energy efficiency factor of 0.62 or better.

21. Dual zone air conditioning shall be provided on all two-story residential units.

22. 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.

23. Design and site units so as to take advantage of natural heating and cooling, sin and wind exposure, and solar energy opportunities.

Design Review

24. The future design review application shall include details of home designs, and any landscaping in front yards and rights of way. All design elements shall be analyzed for consistency with the Oakley Residential Design Guidelines and applicable sections of the zoning ordinance.

Waste Management Plan:

25. The applicant shall submit a Waste Management Plan that complies with the City of Oakley Construction and Demolition Debris Recycling Ordinance.

BUILDING DIVISION CONDITIONS OF APPROVAL

26. 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.

27. An Automatic Life Safety Sprinkler System shall be required in all new construction pursuant to Ordinance 22-06. The Automatic Life Safety Sprinkler Systems in commercial and industrial buildings shall be designed and installed to the standards and requirements found in the most recent version of the NFPA (National Fire Protection Association). Automatic Life Safety Sprinkler Systems in hotels and apartments shall be installed to the stands and requirements found in the most recent version of the NFPA, Standard 13R.

28. Prior to requesting a Certificate of Occupancy from the Building Division all Conditions of Approval required to occupancy must be completed.

PUBLIC WORKS AND ENGINEERING CONDITIONS OF APPROVAL

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF AN ENCROACHMENT AND/OR GRADING PERMIT:

29. GENERAL. All public improvements shall be made according to the latest adopted City Standard Drawings and Specifications. All work shall conform to the applicable City ordinances. The adjacent public right-of-way shall be kept clear of all job-related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the City performing the required maintenance at the developer's expense.

30. ENCROACHMENT PERMIT. All work in the public right-of-way, including any blockage or partial closure of sidewalks will require an Encroachment Permit. Special provisions such as limitations on works hours, protective enclosures, or other means to facilitate public access in a safe manner may be required.

31. GRADING PERMIT. All earthwork must comply with the City's Grading Ordinance. A Grading Permit must be issued by the public works department prior to site disturbance.
32. PUBLIC WORKS INSPECTIONS. The developer or their representative shall notify the Engineering Inspector at least forty-eight (48) hours before starting any

work pertaining to on-site drainage facilities, grading or paving, and all improvements in approved plans. Failure to do so will result in rejection of work that was completed without inspection.

33. PRECONSTRUCTION MEETING. Prior to issuance of any permit or the commencement of any site work, the general contractor shall:

    a) Along with the project applicant, attend a pre-construction meeting with the City Engineer to discuss the project conditions of approval, working hours, site maintenance and other construction matters;
    b) Acknowledge in writing that they have read and understand the project conditions of approval and will make certain that all project sub-contractors have read and understand them prior to commencing work and that a copy of the project conditions of approval will be posted on site at all times during construction.

34. CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the City Engineer.

35. EROSION CONTROL. Interim and final erosion control plans shall be prepared and submitted to the Public Works Department. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the State SMARTS system for projects disturbing more than one acre and obtain a WDID number. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed during the rainy season. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping shall be included. Interim erosion control method shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, City standard seeding specification, filter berms, check dams, retention basins, etc. Provide erosion control measures as needed to protect downstream water quality during winter months. The grading, drainage, erosion control plans and SWPPP shall be in compliance with applicable measures contained in the City of Oakley's NPDES Permit.

36. DUST CONTROL. Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible. Further, water trucks shall be present and in use at the construction site. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the City, or a minimum of three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites in order to insure proper control of blowing dust for the duration of the project. Watering on public streets shall not occur. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the City Engineer, or at

least once a day. Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 5 p.m. and shall include at least one late-afternoon watering to minimize the effects of blowing dust. All public streets soiled or littered due to this construction activity shall be cleaned and swept daily during the workweek to the satisfaction of the City. Demolition or earthwork activities shall be halted when wind speeds (instantaneous gusts) exceed 25 MPH. All trucks hauling soil, sand, or other loose debris shall be covered.

37. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and homeowner to make sure that all dirt tracked into the public right-of-way is cleaned up daily. Mud, silt, concrete and other construction debris SHALL NOT be washed into the City's storm drains. Construction entrances must be in place per the Erosion Control Plan.

38. TRAFFIC CONTROL PLAN. The project sponsor will be required to work with the Public Works Department to develop a traffic control plan per the current California MUTCD. This plan will include, but not be limited to, the following measures:

    a) Construction activities shall be strategically timed and coordinated to minimize traffic disruption for schools, residents, businesses, and special events. The schools located on the haul route shall be contacted to help with the coordination of the trucking operation to minimize traffic disruption.
    b) Flag persons shall be placed at locations necessary to control one-way traffic flow, if required. All flag persons shall have the capability of communicating with each other to coordinate the operation.
    c) Prior to construction, advance notification of all affected residents and emergency services shall be made regarding one-way operation, specifying dates and hours of operation and lane closures on main arterial and collector streets and will be permitted only between the hours of 8:30AM to 2:30PM on M, T, TH & F. 8:30AM to 12:00PM on W.
    d) The traffic control plan shall be reviewed for compliance to the project's Haul Route, approved by the City of Oakley.
    e) A full road closure will require a detour plan and a road closure permit issued by the Public Works Department.

39. CONSTRUCTION MANAGEMENT PLAN. The Applicant shall submit a construction management plan that shall incorporate at a minimum the Earth Movement Plan, Traffic Control Plan, Project Schedule, site security fencing, employee parking, construction staging area, construction trailer, and proposed outhouse locations. The public street shall not be used for any construction related activities, including parking for workers and storage of vehicles.

40. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised

pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Public Works & Engineering Inspector and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.

41. SIDEWALK REPAIR. The developer shall repair and replace to existing City standards any sidewalk damaged now or during construction of this project. Sidewalk repair shall match existing color, texture and design, and shall be constructed per City Standard Details. The limits of sidewalk repair will be determined by the Public Works Inspector during the construction phase of the project.

42. CURB AND GUTTER. The developer shall repair and replace to existing City standards any curb and gutter damaged now or during construction of this project. New curb and gutter shall be constructed per City Standard Details. The limits of curb and gutter repair will be determined by the Public Works Inspector during the construction phase of the project.

43. CONSTRUCTION NOISE. Between the hours of 7:30 a.m. to 5:30 p.m., weekdays and 9:00 a.m. to 5:30 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA. Pickup and delivery of materials and equipment is restricted to the hours listed above unless prior written approval is obtained by the Public Works Department.

44. GOOD HOUSEKEEPING. Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The storing of goods and/or materials on the sidewalk and/or the street will not be allowed unless a special permit is issued by the Engineering Division. The adjacent public right-of-way shall be kept clear of all job-related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the City performing the required maintenance at the developer's expense.

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE APPROVAL OF THE GRADING PLAN:

45. EXISTING WELLS. Provide documentation that any gas wells located onsite have been abandon per regulations.

46. GEOLOGY AND SOIL MITIGATION MEASURES. A geotechnical investigation shall be conducted for the project to determine the surface and sub-surface conditions at the site and to determine the potential for surface fault rupture on the site. The geotechnical study shall provide recommendations for site grading as well as the design of foundations, retaining walls, concrete slab-on-grade construction, excavation, drainage, on-site utility trenching and pavement sections. The soils report shall include specific criteria and standards governing site grading, drainage, pavement design, retaining wall design, and erosion control. All recommendations of the investigation shall be incorporated into project plans. One copy of the geologic report shall be submitted with the grading permit and public improvement application. Prior to issuance of any permit, the applicant's soils engineer shall review the final grading and drainage plans to ensure that designs for foundations, retaining walls, site grading, and site drainage are in accordance with their recommendations. The applicant's soils engineer's approval shall then be conveyed to the City either by letter or by signing the plans.

47. GRADING.

a) Grade any slopes with a vertical height of four (4) feet or more at a slope of 3H to 1V. Retaining walls that may be installed to reduce the slope must be masonry and comply with the City's building code.

b) Retaining wall or other suitable option acceptable by the City Engineer is required where the grade differential between property or adjacent lots are greater than 6". Retaining walls are required to be identified on the grading plans and shall have a note stating a separate building permit is required for retaining wall greater than four (4) feet in height.

c) 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 to the exterior boundary of the project site notice that construction work will commence. The notice shall include a list of contact persons with the name, title, phone number and area of responsibility. The person responsible for maintaining the list shall be included. The list shall always be kept current 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.

d) 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 Engineering 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.

e) Prior to commencement of any site work that will be 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.

f) The burying of any construction debris is prohibited on construction sites

48. NPDES – NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM. Comply with all rules, regulations and procedures of the 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

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.
- Prepare an Operations and Maintenance Manual for the project's storm water control measures.

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE APPROVAL OF THE IMPROVEMENT PLAN:

49. PUBLIC IMPROVEMENTS. Construct the project streets within public right of way 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.

50. ROADWAY IMPROVEMENTS. The following improvements shall be installed by the developer as shown on the Tentative Map. Plans for those improvements shall be prepared by a California registered civil engineer, reviewed and approved by the City.

    a. Frontage Improvements. Fuschia Lane and West Ruby Street shall be constructed with curb, gutter, sidewalk, street lights, pavement widening, signing, striping, and storm drainage as required consistent with the Vesting Tentative Map.

    b. Conduct a stop warrant analysis and install stop signs where necessary for the proposed intersections:

        - Fuschia Lane and West Ruby Street
        - Duarte Avenue and West Ruby Street

    c. Design Fuschia Way and West Ruby Street with traffic calming improvements such as speed tables, speed bumps, or bulb outs where necessary as required by the City Engineer.

51. DRAINAGE IMPROVEMENTS.

    a. 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.

b. 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. The report shall includes study of the downstream stormdrain facilities to confirm its adequacy and mitigate on-site so that the peak flows of post-project conditions do not exceed the pre-project peak flows.
c. Design and construct all storm drainage facilities in compliance with the Municipal Code and City design standards.
d. Prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
e. Dedicate a public drainage easement over the drainage system that conveys storm water run-off from public streets.
f. On-site parking area and driveways shall not surface drain across public sidewalk or driveway aprons.

52. SIGHT DISTANCE EXHIBIT. For the project driveways' ingress and egress, provide an exhibit that will analyze the sight distance required for the appropriate speed limit identified with this project as required by the City Engineer.

53. DESIGN CHANGES. The Applicant's registered Engineer shall notify the City Engineer, in writing, at least 72 hours in advance of all differences between the proposed work and the design indicated on the plans. Any proposed changes shall be subject to the approval of the City before altered work is started. A plan revision must be submitted for approval by the City Engineer.

54. JOINT TRENCH PLANS. The applicant shall submit Joint Trench Composite Plans to the City for review prior to approval of improvement plans or recordation of the final map. 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. The joint trench plans shall include street and/or site lighting and associated photometrics. A letter shall be provided by PG&E stating that public streetlight billing will be per Rule LS2A, and that private lights shall be metered with billing to the owner. Pole numbers, assigned by PG&E, shall be clearly delineated on the plans.

55. UTILITIES & UNDERGROUNDING.
a) Underground all new and existing utility distribution facilities per City of Oakley code section Title 6 Chapter 8 Underground Utility Districts.

b) 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.

c) Above ground utility boxes shall be camouflaged per the review and approval of the City Engineer.

d) A written approval from Diablo Water District and Iron House Sanitary District must be provided that all underground utility improvements have passed all testing requirements prior to commencement of paving a street.

56. STREET LIGHTS. Install streetlights along all public streets as required by the City Engineer. The City Engineer shall determine the final number and location of the lights, and the lights shall be on an LS2-A rate service. Street lights shall be spun aluminum "cobra head" style as required by the City of Oakley Standard Plans.

57. LANDSCAPING IN PUBLIC RIGHT OF WAY.
   a) Prepare landscape plans for landscape improvements within the public right of way. Landscape plans shall be prepared by a licensed landscape architect.
   b) Install public right-of-way landscaping along the project's frontages as required by the City Engineer and Community Development Director.
   c) Maintain all landscaping within the public right-of-way until such time that the adjacent private properties have assumed maintenance of front yard landscaping.
   d) Prior to the issuance of certificate of occupancy, an inspection will be performed to verify the health and location of the street trees. Trees in poor health or those without adequate clearance from utilities will require replacement or relocation.

58. FENCING. Any proposed fencing and walls shall be located on private property and maintained by the property owner or owner.

59. SOUNDWALL. Soundwalls shall be installed within private property and not within public right of way.

60. MAINTENANCE EXHIBIT. Submit a maintenance exhibit showing the responsible maintenance entity of proposed subdivision improvements. Exhibit must clearly show which areas are to be maintained by the City of Oakley.

THE FOLLOWING PUBLIC WORKS AND ENGINEERING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE APPROVAL OF THE <u>FINAL MAP</u>:

61. BONDS. The applicant shall supply suitable securities for all improvements that are a part of the development in a form acceptable to the City in the amount of 100% (performance), 50% (labor and material) prior to issuance of any permit.

62. FINAL MAP. Submit a Final Map prepared by a Licensed Land Surveyor. The final map shall be recorded, and the Subdivision Agreement must be executed before

any building permits are issued. Insurance shall be provided per the terms of the Subdivision Agreement.

63. DEDICATIONS. The following shall be dedicated on the final map. The dedication shall be recorded before any permits are issued and under specific timelines listed below:

    a) Dedicate the required right-of-way along the project frontage as shown in the typical sections of the Tentative Map.
    b) Public Utility Easement (PUE): 5' PUE beyond public right of way as required.
    c) Ingress-egress, storm drainage easements, emergency access easements as required.

    Any 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 shall be furnished to the City. Prior to the issuance of the first building permit, the applicant must provide the necessary documentation that any existing easements no longer necessary have been quitclaimed.

64. PRIVATE EASEMENTS. Agreements detailing rights, limitations, and responsibilities of involved parties shall accompany each private easement. The easements and associated agreements shall be recorded simultaneously with the final map.

65. UTILITY SETBACKS. Building foundations shall be set back from utility lines a sufficient distance to allow excavation of the utility without undermining the house foundation. The City Engineer shall determine the appropriate setback based on the depth of the utility, input from the project soils engineer, and the type of foundation.

66. DRAINAGE FEES. This project is located within Drainage Area 52D (DA 52D) and Drainage Area 130 (DA 130), for which drainage fees are due in accordance with Flood Control Ordinance Number 2006-52 and 2007-06 respectively. By ordinance, all building permits or subdivision maps filed in this area are subject to the provisions of the drainage fee ordinances.

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF THE BUILDING PERMIT:

67. PAD CERTIFICATION. A letter from a licensed land surveyor stating that the building pad was constructed in accordance with the approved plans shall be provided prior to the issuance of the building permit.

68. SOILS ENGINEER CONSTRUCTION OBSERVATION. During construction, all excavations and grading shall be inspected by the applicant's soils engineer prior

to placement of concrete and/or backfill so they can verify that the actual conditions are as anticipated in the design-level geotechnical report and recommend appropriate changes in the recommendations contained in the report, if necessary. The results of the construction observation and testing should be documented in an "as-built" letter/report prepared by the applicants' soils engineer and submitted to the City before any building permit is granted.

69. AGREEMENT FOR STORMWATER BEST MANAGEMENT PRACTICES INSPECTION AND MAINTENANCE OBLIGATIONS. The property owner shall enter into an agreement with the City for maintenance of the stormwater filtration devices required to be installed on this project. The agreement will specify that certain routine maintenance shall be performed by the property owner and will specify device maintenance reporting requirements. The agreement will also specify routine inspection requirements, permits and payment of fees. The agreement shall be recorded prior to release of any occupancy permits.

70. AS-BUILT PLANS. After completion of the construction of all work, the original plans shall have all changes (change orders and field changes) clearly marked. The "as-built" plans shall again be signed and "wet-stamped" by the civil engineer who prepared the plans, attesting to the changes. The original "as-built" plans shall be review and approved the Engineering Inspector. A Mylar and AutoCAD disk of the approved "as-built" plans shall be provided to the City before acceptance of improvements.

71. IMPACT FEES. Comply with the requirements of the development impact fees listed below, in addition to those noticed by the City Council in Resolution 85-00 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. Fire Facilities Impact Fee (adopted by Resolution No. 24-21);

G. General Plan Fee (adopted by Resolution No. 53-03);

The applicant should contact the City Engineer prior to constructing any public improvements to determine if any of the required improvements are eligible for credits or reimbursements against the applicable traffic benefit fees or from future developments.

72. ANNEXATIONS

a) Annex the property to the City of Oakley Community Facilities District No. 2020-1 Fire Protection Services (CFD) for funding certain services within the boundaries of the City of Oakley including fire protection services. The applicant shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of the annexations shall be paid by the applicant. The assessment shall be the per parcel annual amount set by CFD at the time of the annexation. Annexation shall be completed prior to filing of the final map.

b) Participate in the provision of funding to maintain police services by voting to approve a special tax for the parcels created by the 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. If the homes are occupied prior to the City receiving the first disbursement from the tax bill, the project proponent shall be responsible for paying the pro-rate share for the remainder of the tax year prior to the City conducting a final inspection.

c) Annex the property to the City of Oakley Community Facilities District No. 2015-2 (CFD) for funding the maintenance and operation costs associated with regional, community and neighborhood parks, public area landscaping, streetlights, and storm water facilities. The applicant shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of the annexations shall be paid by Applicant. The assessment shall be the per parcel annual amount set by CFD at the time of annexation. Annexation shall be completed prior to filing of the final map.

ADVISORY NOTES

The following Advisory Notes are provided to the applicant as a courtesy but are not a part of the conditions of approval. Advisory Notes are provided for the purpose of informing the applicant of additional ordinance requirements that must be met in order to proceed with development.

A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.

B. The project will require a grading permit pursuant to the Ordinance Code.

C. Applicant shall comply with the requirements of Iron House 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. 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.

I. East Contra Costa County Habitat Conservation Plan Fee (adopted by Resolution No. 112-07 & 124-07.)

PASSED, APPROVED AND ADOPTED this 2nd day of August, 2022 by the following vote:

AYES: Chuiko, Henderson, Price, Shaw, Verduzco
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

Shannon Shaw, Chair

ATTEST:

Libby Vreonis, City Clerk

8/10/22
Date

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: September 27, 2022

TO: Joshua McMurray, City Manager *Approved and Forwarded to the City Council*

FROM: Kevin Rohani, P.E., Public Works Director/City Engineer

SUBJECT: Approve the Formation of the City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services), hold a Public Hearing and Special Landowner Election, Declare the Results of the Election and Introduce an Ordinance to Levy a Special Tax for Community Facilities District No. 2022-1 (HCP/NCCP Services)

Background and Analysis

Vesting Tentative Maps 9156, 9311, 9401, and 9404 within the East Cypress Corridor ("ECC") Specific Plan are collectively known as the Cypress Preserve (the "Project"). The Project area is within Planning Areas 1, 3, and 4 of the ECC Specific Plan and is expected to consist of a total of over 3,100 attached and detached single-family residential units at build-out. The Project encompasses existing Assessor Parcel Numbers 020-140-048, 020-150-003, 032-050-003, 032-082-001, 032-082-005, and 032-082-013 located along East Cypress Road on the eastern edge of the City.

The applicant for the Project, ACD-TI Oakley, LLC (the "Developer"), is conditioned to permanently protect the approximately 255-acre North Preserve (Planning Area 1) and its 76 acres of wetlands; create approximately 15 acres of new wetland habitat in the North Preserve; permanently protect the approximately 13-acre wetland area in the Project's southeast corner also known as the South Preserve (Planning Area 4); and permanently protect 43.1 acres of wetlands located within the Project but outside of the North and South Preserve areas.

In December of 2006, the East Contra Costa County Habitat Conservation Plan Association, which included Contra Costa County (the "County"), the City of Oakley (the "City"), and other local government entities, completed preparation of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan ("HCP/NCCP"). The purpose of the HCP/NCCP is to conserve species covered by the HCP/NCCP while allowing for compatible economic development and growth in east Contra Costa County and the cities of Brentwood, Clayton, Oakley, and Pittsburg (collectively the "Cities"). For this purpose, the HCP/NCCP includes a conservation strategy that will establish a system of habitat preserves

linked to existing protected land to form a network of protected areas (the "Preserve System"). The East Contra Costa County Habitat Conservancy (the "Conservancy") was established on April 16, 2007, pursuant to a joint powers agreement amongst the County and the Cities, to serve as the implementing entity for the HCP/NCCP responsible for overseeing the assembly and day-to-day operations of the Preserve System. The services provided by the Conservancy (the "HCP/NCCP Services") include, but are not limited to, program administration, management, maintenance, monitoring, and research associated with the Preserve System.

The Conservancy, the City, the Developer, and the Wildlife Heritage Foundation entered into an agreement on June 13, 2018 regarding the extension of authorization for the incidental take of certain covered species identified in the HCP/NCCP for the Project (the "Take Authorization Agreement"). The Take Authorization Agreement was subsequently amended on July 23, 2021. The amendment included revised terms for payment of the permanent impact mitigation fee amount due for the Project, including a reduction of $2,500,000 in Developer fees, on condition of the formation of an assessment district or community facilities district that will provide on-going revenue to offset the value of the reduction.

The City has received a signed petition from the Developer requesting the formation of CFD No. 2022-1 to satisfy the condition of the Take Authorization Agreement related to the formation of a community facilities district. On August 9, 2022, the City Council adopted Resolution No. 84-22 ("Resolution of Intention"), declaring its intention to establish CFD No. 2022-1. The Public Hearing pursuant to the Resolution of Intention was set for Tuesday, September 27, 2022 and the Notice of Public Hearing was published in the East County Times on September 16, 2022. The rate and method of apportionment of special tax is attached to the Resolution of Formation (Attachment 2) as Exhibit B thereto.

Pursuant to Section 53316.2 of the California Government Code, the City may fund the proposed HCP/NCCP Services through CFD No. 2022-1 only pursuant to a Joint Community Facilities Agreement ("JCFA") between the City, as the public agency forming CFD No. 2022-1, and the Conservancy, as the public agency that will provide the HCP/NCCP Services. The Board of Directors for the Conservancy adopted a Resolution authorizing the Conservancy's Executive Director to execute a JCFA with the City at their August 22, 2022 Board meeting. City Council is scheduled to adopt a Resolution authorizing execution of the JCFA at the September 27, 2022 City Council meeting to ratify the agreement.

The remaining process that must be followed to finalize the formation of CFD No. 2022-1 is described below. Following the opening of the Public Hearing at the September 27, 2022 City Council meeting, any comments from the public are to be solicited and heard by City Council. After taking the public testimony, the

hearing will be considered closed, and City Council is requested to consider the attached two Resolutions.

- Resolution of Formation that approves the formation of CFD No. 2022-1 (Attachment 2);
- Resolution Calling the Special Landowner Election (Attachment 3);

Should the above Resolutions be adopted by City Council, the landowner special election would then be conducted. ACD-TI Oakley, LLC is the only qualified elector within CFD No. 2022-1 at this time. Therefore, ACD-TI Oakley, LLC's ballot will be opened, and the vote tallied by the City Clerk at the City Council meeting. Following the vote, and assuming the election is successful, City Council is requested to consider the following:

- Resolution Declaring the Results of the Special Landowner Election and Directing Recording of Notice of Special Tax Lien (Attachment 4); and
- Introduction of Ordinance Establishing the Levy of the Special Tax (Attachment 5).

Should City Council adopt the Resolutions and introduce the Ordinance, the City Clerk would subsequently record the Notice of Special Tax Lien with the Contra Costa County Recorder's office. A second reading of the Ordinance would be scheduled for the October 11, 2022 City Council Meeting. Final publication of the Ordinance would then take place within 15 days after the October 11, 2022, City Council meeting, completing the formation of CFD No. 2022-1.

Consistency with the Oakley Strategic Plan 27+

This item is consistent with the Strategic Plan 27+ Park and Open Space and Finance and Fiscal Responsibility section goals.

Local Goals & Polices

On December 9, 2014, the City adopted Resolution No. 126-14, which amended the "City of Oakley's Statement of Local Goals and Policies and Appraisal Standards Concerning the Use of the Mello-Roos Community Facilities Act of 1982". In the future, if it is determined that the "Amended and Restated Local Goals and Policies and Appraisal Standards Concerning the Use of Mello-Roos Community Facilities Act of 1982" need to be further amended, the Council has the authority to amend them at any time. The proposed formation of CFD No. 2022-1 complies with the City's "Amended and Restated Local Goals and Policies and Appraisal Standards Concerning the Use of Mello-Roos Community Facilities Act of 1982".

Fiscal Impact

There will be no financial impact to the City's General Fund. The Developer for the Project has funded all costs associated with the formation of CFD No. 2022-1. The proposed annual maximum special tax rate for CFD No. 2022-1 to fund HCP/NCCP

Services and CFD administration, in FY 2022-23 dollars, is $119.66 per Detached Single-Family parcel.

Detached Single-Family Residential Parcels located within the boundaries of CFD No. 2022-1 may be taxed for the ensuing fiscal year if the City has issued a final inspection report for the parcel, approving the property for occupancy by June 30th prior to the ensuing fiscal year. The taxes are anticipated to be placed on the property tax rolls commencing in FY 2023-24.

As specified in the attached Resolution of Intention Exhibit "B" (Rate and Method of Apportionment of Special Tax), the annual maximum special tax shall be increased by applying the percentage increase, if any, in the Consumer Price Index for San Francisco-Oakland-Hayward, CA (All Urban Consumers) for the prior year (April to April) to the maximum special tax in effect for the current fiscal year. Each annual adjustment of the maximum special tax shall become effective on the subsequent July 1.

The City will annually transfer all funds collected through the CFD, minus CFD administration costs, to the Conservancy at a minimum rate of $109.66 per Detached Single-Family Residential Parcel (in FY 2022-23 dollars) increased annually by the Consumer Price Index described above.

Staff Recommendation

Staff recommends that the City Council adopt the following three Resolutions and introduce one Ordinance:

1. Adopt Resolution of Formation approving the formation of CFD No. 2022-1;
2. Adopt Resolution Calling the Special Landowner Election;
3. Adopt Resolution Declaring the Results of the Special Landowner Election and Directing Recording of Notice of Special Tax Lien; and
4. Introduce Ordinance Establishing the Levy of the Special Tax.

Attachments

1. Community Facilities District Report;
    a. Exhibit A - Description of Services;
    b. Exhibit B - Boundary Map;
    c. Exhibit C - Cost Estimate; and
    d. Exhibit D - Rate and Method of Apportionment of Special Tax
2. Resolution of Formation;
    a. Exhibit A - Description of Services; and
    b. Exhibit B - Rate and Method of Apportionment of Special Tax.
3. Resolution of Calling the Special Landowner Election;
    a. Exhibit A - Official Ballot Special Tax Election.
4. Resolution Declaring the Results of Special Landowner Election and Directing Recording of Notice of Special Tax Lien; and
5. Ordinance Establishing the Levy of the Special Tax.

CITY OF OAKLEY
COMMUNITY FACILITIES DISTRICT NO. 2022-1
(HCP/NCCP Services)

COMMUNITY FACILITIES DISTRICT REPORT

CONTENTS

Introduction

A. Description of Services

B. Proposed Boundaries of the Community Facilities District

C. Cost Estimate

D. Rate and Method of Apportionment of Special Tax

* * * * * * * * * * * *

EXHIBIT A – Description of Services

EXHIBIT B – Boundary Map

EXHIBIT C – Cost Estimate

EXHIBIT D – Rate and Method of Apportionment of Special Tax

CITY OF OAKLEY
COMMUNITY FACILITIES DISTRICT NO. 2022-1
(HCP/NCCP Services)

INTRODUCTION

On August 9, 2022, the City Council (the "Council") of the City of Oakley (the "City") adopted a "Resolution of Intention to Establish a Community Facilities District" (the "Resolution of Intention"), stating its intention to form the City of Oakley Community Facilities District No. 2022-1 (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, Sections 53311 et. seq., California Government Code (the "Act") to finance certain public services (the "Services") to be provided by the East Contra Costa County Habitat Conservancy by levying special taxes (the "Special Taxes") in the area within the boundaries of the CFD.

In the Resolution of Intention, the Council expressly ordered the preparation of a written report (the "Report"), for the CFD containing the following:

1. A Description of the Services by type which will be required to adequately meet the needs of the CFD; and

2. An estimate of the fair and reasonable cost of the Services included therewith.

For particulars, reference is made to the Resolution of Intention, as previously approved and adopted by the Council.

NOW, THEREFORE, the undersigned does hereby submit the following data:

A. DESCRIPTION OF SERVICES. A general description of the proposed services is set forth in Exhibit "A" attached hereto and hereby made a part hereof.

B. PROPOSED BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT. The proposed boundaries of the CFD are those properties and parcels in which special taxes may be levied to pay for the costs and expenses of the Services. The proposed boundaries of the CFD are described on the boundary map on file with the City Clerk, to which reference is hereby made.

A reduced copy of the proposed boundaries of the CFD is set forth in Exhibit "B" attached hereto and hereby made a part hereof.

C. COST ESTIMATE. The cost estimate for the Services for the CFD is set forth in Exhibit "C" attached hereto and hereby made a part hereof.

D. RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX. The method of financing the Services is through the imposition and levy of a special tax to be apportioned on the properties in the CFD under the rate and method of apportionment of special tax for the CFD (the "Rate and Method"). The proposed Rate and Method was attached as Exhibit "B" to the Resolution of Intention and is attached hereto as Exhibit "D".

Dated as of _____, 2022

For and on behalf of the City Administrator
of the City of Oakley

By:_____

EXHIBIT A

CITY OF OAKLEY
COMMUNITY FACILITIES DISTRICT NO. 2022-1
(HCP/NCCP SERVICES)

DESCRIPTION OF SERVICES

The City of Oakley (the "City") is establishing the captioned community facilities district (the "CFD") to finance, in whole or in part, services ("services" shall have the meaning given to that term in the Mello-Roos Community Facilities Act of 1982) to implement and support the East Contra Costa County Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP). The East Contra Costa County Habitat Conservancy (the "Conservancy"), a Joint Powers Authority, oversees the assembly and the management of the HCP/NCCP Preserve System. The purpose of the HCP/NCCP is to protect natural resources and to streamline the environmental permitting process for impacts on endangered species. The purpose of the Preserve System is to preserve major habitats, to manage habitats to enhance populations of covered species and maintain ecosystem processes, and to compensate for habitat loss. The services that may be provided include but are not limited to the following:

- Program administration related to the HCP/NCCP.
- Management and maintenance of the Preserve System as described in the HCP/NCCP.
- Monitoring, research, and adaptive management of the Preserve System as described in the HCP/NCCP.

In addition, the following costs will be funded by the special taxes levied within the CFD:

- Administrative Expenses including costs incurred to determine, levy and collect the special taxes, including compensation of City staff for administrative work performed in relation to the CFD and a proportionate amount of the City's general administrative overhead related thereto, the fees of consultants and legal counsel, the costs of collecting installments of the special taxes upon the property tax rolls, preparation of required reports, and any other costs incurred in the administration of the CFD by the City.
- Any amounts needed to cure actual or estimated delinquencies in CFD special taxes for the current or previous fiscal years.

EXHIBIT B

CITY OF OAKLEY
COMMUNITY FACILITIES DISTRICT NO. 2022-1
(HCP/NCCP SERVICES)

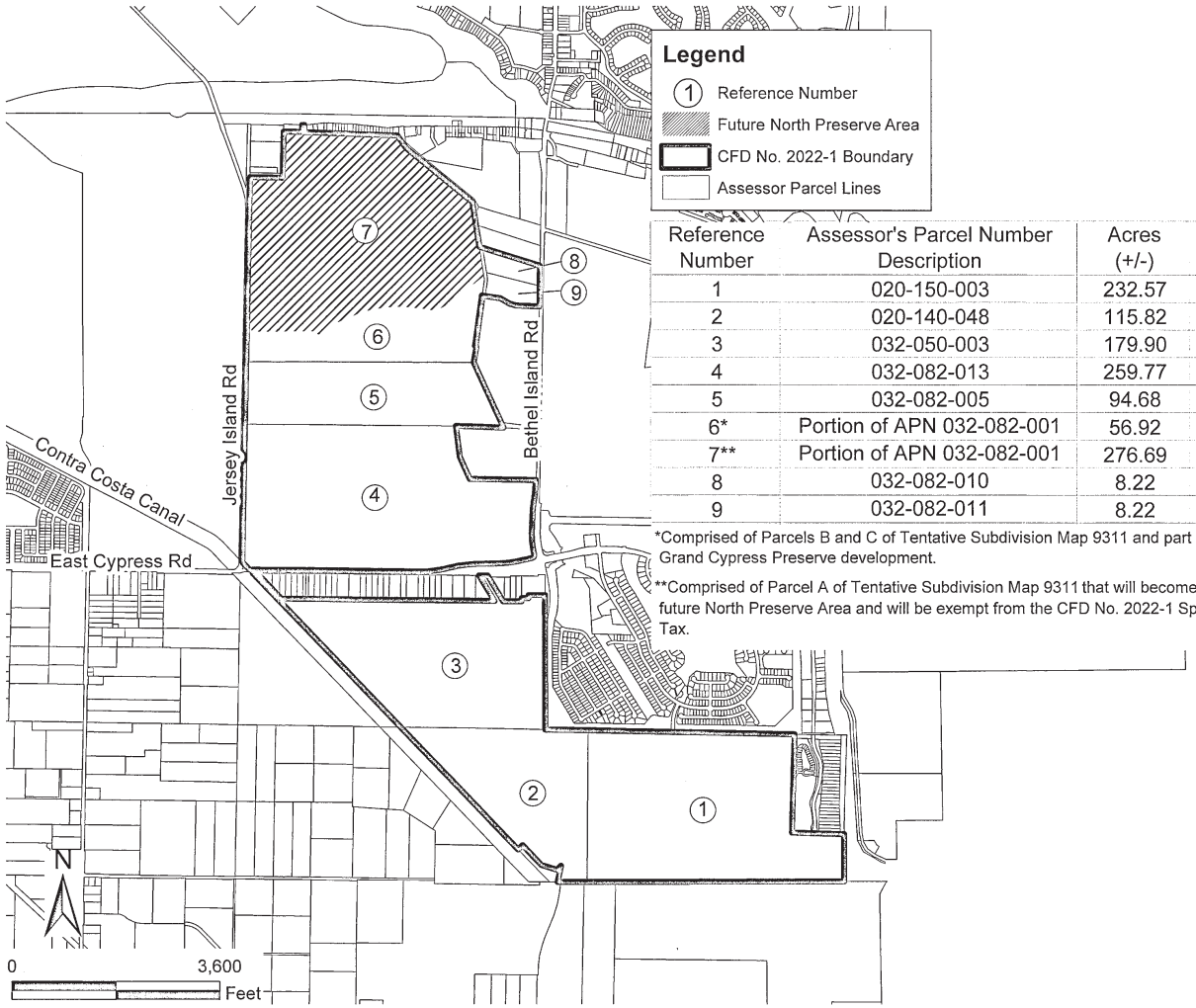
BOUNDARY MAP

Reference is hereby made to the map on file in the office of the City Clerk for a description of the boundaries of the CFD. A reduced copy of the boundary map for Community Facilities District No. 2022-1 (HCP/NCCP Services) is included on the following page.

PROPOSED BOUNDARY MAP

CITY OF OAKLEY COMMUNITY FACILITIES DISTRICT No. 2022-1 (HCP/NCCP SERVICES)

CITY OF OAKLEY
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA



Reference Number	Assessor's Parcel Number Description	Acres (+/-)	Tax Zone
1	020-150-003	232.57	1
2	020-140-048	115.82	1
3	032-050-003	179.90	1
4	032-082-013	259.77	1
5	032-082-005	94.68	1
6*	Portion of APN 032-082-001	56.92	1
7**	Portion of APN 032-082-001	276.69	2
8	032-082-010	8.22	1
9	032-082-011	8.22	1

*Comprised of Parcels B and C of Tentative Subdivision Map 9311 and part of the Grand Cypress Preserve development.

**Comprised of Parcel A of Tentative Subdivision Map 9311 that will become the future North Preserve Area and will be exempt from the CFD No. 2022-1 Special Tax.

Prepared by Francisco & Associates

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OAKLEY THIS 15th DAY OF August, 2022.

Kim Snodgrass
for LIBBY VREONIS, CITY CLERK
CITY OF OAKLEY
CONTRA COSTA COUNTY
STATE OF CALIFORNIA

Kim Snodgrass, Deputy City Clerk

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF OAKLEY COMMUNITY FACILITIES DISTRICT No. 2022-1, CITY OF OAKLEY, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF OAKLEY, AT A REGULAR MEETING THEREOF, HELD ON THE 9th DAY OF August, 2022, BY ITS RESOLUTION No. 84-22.

Kim Snodgrass
for LIBBY VREONIS, CITY CLERK
CITY OF OAKLEY
CONTRA COSTA COUNTY
STATE OF CALIFORNIA

Kim Snodgrass, Deputy City Clerk

FILED THIS 25th DAY OF August, 2022, AT THE HOUR OF 15:58 p.M IN BOOK 90 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 5, DOCUMENT No. 2022-0131660 IN THE OFFICE OF THE COUNTY RECORDER IN CONTRA COSTA COUNTY, STATE OF CALIFORNIA.

Julia Spence
COUNTY RECORDER By: L. Spence Deputy Clerk
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA
Deborah Cooper

ASSESSOR PARCELS WITHIN BOUNDARY: FOR PARTICULARS OF LINES AND DIMENSIONS OF PARCELS, REFERENCE IS MADE TO THE ASSESSOR PARCEL MAPS OF CONTRA COSTA COUNTY. MINERAL RIGHTS PARCELS ARE EXCLUDED FROM THE BOUNDARIES OF COMMUNITY FACILITIES DISTRICT No. 2022-1.

8/25/22 15:58 PM Book 90, Pg 5

EXHIBIT C

CITY OF OAKLEY
COMMUNITY FACILITIES DISTRICT NO. 2022-1
(HCP/NCCP SERVICES)

COST ESTIMATE
(FY 2022-23 DOLLARS)

HCP/NCCP Services: $340,000

EXHIBIT D

CITY OF OAKLEY
Community Facilities District No. 2022-1
(HCP/NCCP Services)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes (as hereafter defined) in the City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services) (the "CFD" or "CFD No. 2022-1") shall be levied and collected each Fiscal Year according to the tax liability determined by the Administrator through the application of the appropriate Special Tax rate for Taxable Property, as described below. All property in CFD No. 2022-1, unless exempted by law or by the provisions of Section E herein, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2022-1, unless a separate Rate and Method of Apportionment of Special Tax is adopted for such annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accessory Unit" means a second Residential Unit of reduced size (e.g., granny cottage, etc.) that is constructed following the construction of a primary Residential Unit that shares a Parcel with a Residential Unit. An Accessory Unit shall not be considered a separate Residential Unit for purposes of this RMA and will not be levied a Special Tax.

"Acre" or **"Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map, Parcel Map or functionally equivalent map or instrument recorded in the Office of the County Recorder. In the absence of such map, the Administrator will make the final "Acre" or "Acreage" determination as needed, utilizing in the Administrator's discretion, available resources, including but not limited to available spatial and Geographic Information Systems (GIS) data.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the actual or reasonably estimated costs incurred by the City or their designee, acting for and on behalf of the CFD as the Administrator thereof, to compute, determine, levy and collect the Special Taxes, including salaries of City staff and a proportionate amount of the City's general administrative overhead related thereto, and the fees of consultants and legal counsel providing services related to the administration of the CFD; the costs of collecting installments of the Special Taxes, including charges levied by the County, the costs related to the preparation of required reports; and any other costs required to administer the CFD as determined by the Administrator. Administrative expenses shall also include amounts estimated or advanced by the City, public agency, or the CFD for any other administrative purposes related to the CFD.

"Administrator" means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

"Assessor's Parcel Map" means an official map of the County Assessor designating Parcels by Assessor's Parcel Number.

"Assessor's Parcel Number" or **"APN"** means a unique number assigned to an Assessor's Parcel by the County Assessor for purposes of identifying a property.

"Authorized Services" means the public services authorized to be funded by CFD No. 2022-1 as set forth in the documents adopted by the Council when CFD No. 2022-1 was formed.

"Building Permit" means a building permit issued by the City to construct a building structure improvement with a valuation over $50,000. Building Permits for the construction of ancillary structures such as fences, swimming pools, retaining walls, etc. are excluded.

"**CFD" or "CFD No. 2022-1"** means the City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services).

"City" means the City of Oakley.

"City Manager" means the City Manager of the City of Oakley.

"Council" means the City Council of the City of Oakley, acting as the legislative body for CFD No. 2022-1.

"County" means the County of Contra Costa.

"County Assessor" means the Contra Costa County Assessor.

"County Land Use Code" means the land use code assigned to an Assessor's Parcel as indicated in the records of the County Assessor.

"Developed Property" means, in any Fiscal Year, all Single-Family Parcels for which a final inspection report approving the property for occupancy has been issued by the City on or prior to June 30 of the preceding Fiscal Year in which Special Taxes are to be levied. In the absence of a final inspection report, any Single-Family Parcel shall be classified as "Developed Property" if it has been occupied by a user as determined by the Administrator on or prior to June 30 of the preceding Fiscal Year.

"Final Map" or "Parcel Map" means a final Subdivision Map, parcel map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.), that creates lots that do not need to be further subdivided prior to issuance of a Building Permit for a residential structure. The term "Final Map" or "Parcel Map" shall not include an Assessor's Parcel Map or subdivision map or portion thereof, that

does not create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting on July 1 and ending on the following June 30.

"Land Use Classification" means the current or intended use of a Taxable Parcel as determined by the Taxable Parcel's County Land Use Code.

"Maximum Special Tax" means the maximum Special Tax determined in accordance with Section C herein, which can be levied in any Fiscal Year.

"Property Owner" means the Property Owner of record per current County Assessor records unless more current information is available such as a recorded deed of sale, etc.

"Proportionately" means, for Developed Property, that the ratio of the actual annual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Developed Property within each respective Tax Zone.

"Public Property" means, for each Fiscal Year: (i) any property within the boundaries of CFD No. 2022-1 that is owned by or irrevocably offered for dedication to the federal government, the State of California, the City or any other public agency; provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act (as such section may be amended or replaced) shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2022-1 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

"RMA" means this Rate and Method of Apportionment of Special Tax.

"Residential Unit" means an individual dwelling for residential use as defined per the County Assessor.

"Single-Family Parcel" means a Parcel having a detached Residential Unit and designated by the County Land Use Code as having a single-family residential land use. If it is determined by the Administrator that the County Assessor has assigned an incorrect County Land Use Code, or the assigned County Land Use Code does not correctly describe the intended or current use of the Taxable Parcel, the Administrator may assign the appropriate Land Use Classification to the Taxable Parcel described in Section C below.

"Special Tax" means the tax levied on Taxable Property within CFD No. 2022-1 to pay the annual Special Tax Requirement.

"Special Tax Requirement" means, the amount of revenue needed in any Fiscal Year for each Tax Zone to pay for the following: (i) Authorized Services; (ii) Administrative Expenses; and (iii) amounts needed to cover any delinquencies in the payment of the Special Tax which occurred in the previous Fiscal Year or, based on delinquency rates in prior years, that may be expected to occur in the Fiscal Year in which the Special Tax will be collected.

"Taxable Property" or "Taxable Parcels" means all Assessors' Parcels within the boundaries of CFD No. 2022-1 that are not exempt from the Special Tax pursuant to law or Section E herein.

"Tax Zone" means a mutually exclusive geographic area within CFD No. 2022-1 designated on the CFD boundary or annexation map. All property within CFD No. 2022-1 at the time of CFD Formation is within either Tax Zone 1 or Tax Zone 2. Additional Tax Zones may be created when property is annexed to CFD No. 2022-1, and a separate Maximum Special Tax shall be identified for property within the new Tax Zone at the time of such annexation. The Assessor's Parcels included within a new Tax Zone established when such Parcels are annexed to CFD No. 2022-1 shall be identified by Assessor's Parcel Number at the time of annexation.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property in CFD No. 2022-1 that are not classified as Developed Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall: (i) identify the current Assessor's Parcel Numbers for all Parcels of Taxable Property within CFD No. 2022-1, (ii) determine the Land Use Classification for each Taxable Parcel, (iii) determine whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (iv) determine which Tax Zone each Parcel of Taxable Property is located in, and (v) determine the Special Tax Requirement for the CFD.

In any Fiscal Year, if it is determined that a Final Map or Parcel Map for a portion of property in CFD No. 2022-1 was recorded after the last date upon which the County Assessor will incorporate the newly-created Parcels into the then current tax roll, and the County Assessor does not yet recognize the new Parcels that will be created by the Final Map or Parcel Map, and one or more of the newly-created Parcels would meet the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map or Parcel Map by determining the Special Tax that applies separately to each new Parcel that will be created by that Final Map or Parcel Map, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map or Parcel Map.

C. MAXIMUM SPECIAL TAXES

1. The Fiscal Year 2022-23 Maximum Special Tax for all Taxable Parcels of Developed Property within Tax Zone 1 is shown below in Table No. 1. No Special Tax shall be levied on Undeveloped Property or Parcels within Tax Zone 2.

Table No. 1 - Developed Property (Tax Zone 1)

Land Use Classification	Fiscal Year 2022-23 Maximum Special Tax
Single-Family Parcel	$119.66 per parcel

2. Escalation of Maximum Special Tax

Commencing on July 1, 2023, and each July 1 thereafter, the Maximum Special Tax rates for Developed Property shown in Table No. 1, shall be increased by applying the percentage increase, if any, in the Consumer Price Index for San Francisco-Oakland-Hayward, CA (All Urban Consumers) for the prior year (April to April) to the Maximum Special Tax in effect for the current Fiscal Year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1. In the event the Consumer Price Index for San Francisco-Oakland-Hayward, CA (All Urban Consumers) ceases to be published, the Maximum Special Tax may be increased based on a comparable index as determined by Administrator at the Administrator's discretion.

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAXES

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for each Tax Zone for that Fiscal Year and levy all Parcels of Taxable Property therein as follows:

Step 1: Each Parcel of Developed Property shall be levied Proportionately up to 100% of the Maximum Special Tax for such Fiscal Year until the amount levied is equal to the Special Tax Requirement.

The Special Tax for CFD No. 2022-1 shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of CFD No. 2022-1.

E. EXEMPTIONS

No Special Tax shall be levied on Parcels of Undeveloped Property, Public Property, mineral rights Parcels, or any privately-owned Parcels that are non-developable, such as common areas, wetlands, open space, preserve areas, parks, etc. except as otherwise provided in this RMA and in the Act. In addition, no Special Tax shall be levied on Parcels within Tax Zone 2.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City through an ordinance or resolution of the Council for purposes of clarifying any vagueness or ambiguity in this RMA.

G. TERM OF THE SPECIAL TAX

The Special Tax shall be levied in indefinitely if Authorized Services are being provided and is necessary to pay the Special Tax Requirement.

H. PREPAYMENT OF SPECIAL TAX

The Maximum Special Tax may not be prepaid and shall continue to be levied in accordance with Section D of this Rate and Method of Apportionment on an annual basis on all Taxable Property in CFD No. 2022-1 for the purpose of funding ongoing Authorized Services.

I. REVIEW/APPEALS OF THE SPECIAL TAX

The Administrator may establish such procedures, as it deems necessary to undertake the review of any such appeal. The Administrator shall interpret this Rate and Method of Apportionment and make determinations relative to the annual administration of the Special Tax and any property owner appeals, as herein specified.

Any property owner who believes that the amount of the Special Tax levied on their Assessor's Parcel is in error shall first consult with the Administrator regarding such error. If following such consultation, the Administrator determines that an error has occurred; the Administrator in consultation with the City Manager shall take any of the following actions to correct the error:

- Amend the Special Tax levy on the property owner's Property Tax Bill for the current Fiscal Year, or

- Have the CFD reimburse the property owner for the amount of overpayment for the current Fiscal Year if CFD funds are available, or

- Grant a credit against, eliminate, or reduce the future Special Taxes on the property owner's Assessor's Parcel(s) for overpayment for the current Fiscal Year.

If following such consultation and action (if any by the Administrator), the property owner believes such error still exists, such person may file a written notice with the City Manager appealing the amount of the Special Tax levied on such Assessor's Parcel. If following such consultation and action (if any by the City Manager), the property owner believes such error still exists, such person may file a written notice with the City Council appealing the amount of the Special Tax levied on such Assessor's Parcel. If the City Council determines an error exists; the Administrator shall take any actions as described above, in order to correct the error. The decision of the City Council shall be final and binding to all persons.

J. SEVERABILITY

The invalidity or unenforceability of any provisions of this Rate and Method of Apportionment of Special Tax shall not affect the validity or enforceability of any other provision of this Rate and Method of Apportionment of Special Tax, which shall remain in full force and effect.

RESOLUTION NO. ____-22

A RESOLUTION OF THE CITY COUNCIL OF FORMATION OF COMMUNITY FACILITIES DISTRICT

CITY OF OAKLEY
Community Facilities District No. 2022-1
(HCP/NCCP Services)

WHEREAS, the City Council (the "Council") of the City of Oakley (the "City") has adopted a resolution entitled "A Resolution of Intention to Establish a Community Facilities District" (the "Resolution of Intention"), stating its intention to form the "City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services)" (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act");

WHEREAS, the Resolution of Intention, incorporating a map of the proposed boundaries of the CFD and stating the services to be provided and the rate and method of apportionment of the special tax to be levied within the CFD to pay for the services, is on file with the City Clerk and the provisions thereof are incorporated herein by this reference as if fully set forth herein;

WHEREAS, on this date, this Council held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed formation of the CFD;

WHEREAS, at the hearing all interested persons desiring to be heard on all matters pertaining to the formation of the CFD, the services to be provided therein and the levy of such special tax were heard and a full and fair hearing was held;

WHEREAS, at the hearing evidence was presented to this Council on such matters before it, including a special report (the "Report") as to the services to be provided through the CFD and the costs thereof, a copy of which is on file with the City Clerk, and this Council at the conclusion of said hearing is fully advised in the premises;

WHEREAS, written protests with respect to the formation of the CFD, the furnishing of specified types of services and the rate and method of apportionment of the special taxes have not been filed with the City Clerk by 50% or more of the registered voters residing within the territory of the CFD or property owners of one-half or more of the area of land within the CFD and not exempt from the proposed special taxes.

NOW, THEREFORE, the City Council of the City of Oakley resolves as follows:

1. Recitals Correct. The foregoing recitals are true and correct.

2. No Majority Protest. The proposed CFD and the proposed special tax to be levied within the CFD have not been precluded by majority protest pursuant to section 53324 of the Act.

3. Prior Proceedings Valid. All prior proceedings taken by this City Council in connection with the establishment of the CFD and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the Act.

4. Name of the CFD. The community facilities district designated "City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services)" is hereby established pursuant to the Act.

5. Boundaries of CFD. The boundaries of the CFD, as set forth in the map of the CFD heretofore recorded in the Contra Costa County Recorder's Office on August 25, 2022, at 3:58 p.m., in Book 90 of Maps of Assessment and Community Facilities Districts at Page 5, as Document No. 2022-0131661, are hereby approved, are incorporated herein by reference and shall be the boundaries of the CFD.

6. Description of Services. The type of public services proposed to be financed by the CFD and pursuant to the Act shall consist of those items shown in Exhibit A hereto and by this reference incorporated herein (the "Services").

7. Special Tax.

a. Except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax (the "Special Tax") sufficient to pay the costs thereof, secured by the recordation of a continuing lien against all non-exempt real property in the CFD, is intended to be levied annually within the CFD, and collected in the same manner as ordinary ad valorem property taxes or in such other manner as may be prescribed by this Council.

b. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD, in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are shown in Exhibit B attached hereto and hereby incorporated herein.

8. Increased Demands. It is hereby found and determined that the Services are necessary to meet increased demands placed upon local agencies, including the City, as the result of development occurring in the CFD. The Services are in addition to those provided in the territory of the CFD as of the date hereof and will not supplant services already available within the territory of the CFD as of the date hereof.

9. Responsible Official. The Finance Director (or his or her designee) of the City of Oakley, City Hall, 3231 Main Street, Oakley, California 94561, telephone number (925) 625-7000, is the officer of the City who will be responsible for preparing annually a current roll of the levy of the Special Tax obligations by assessor's parcel number and who will be responsible for estimating future levies of the Special Tax.

10. Tax Lien. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all nonexempt real property in the CFD and this lien shall continue in force and effect until the Special Tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the Special Tax by the City ceases.

11. Appropriations Limit. In accordance with the Act, the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the CFD is hereby preliminarily established at $400,000, and such appropriations limit shall be submitted to the voters of the CFD as hereafter provided. The proposition establishing such annual appropriations limit shall become effective if approved by the qualified electors voting

thereon and shall be adjusted in accordance with the applicable provisions of the Act and the Constitution.

12. Election. Pursuant to the Act, the proposition of the levy of the Special Tax and the proposition of the establishment of the appropriations limit specified above shall be submitted to the qualified electors of the CFD at an election the time, place and conditions of which election shall be as specified by a separate resolution of this Council.

13. Effective Date. This resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 27th day of September 2022 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

EXHIBIT A

CITY OF OAKLEY
Community Facilities District No. 2022-1
(HCP/NCCP Services)

DESCRIPTION OF SERVICES

The City of Oakley (the "City") is establishing the captioned community facilities district (the "CFD") to finance, in whole or in part, services ("services" shall have the meaning given to that term in the Mello-Roos Community Facilities Act of 1982) to implement and support the East Contra Costa County Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP). The East Contra Costa County Habitat Conservancy (the "Conservancy"), a Joint Powers Authority, oversees the assembly and the management of the HCP/NCCP Preserve System. The purpose of the HCP/NCCP is to protect natural resources and to streamline the environmental permitting process for impacts on endangered species. The purpose of the Preserve System is to preserve major habitats, to manage habitats to enhance populations of covered species and maintain ecosystem processes, and to compensate for habitat loss. The services that may be provided include but are not limited to the following:

- Program administration related to the HCP/NCCP.
- Management and maintenance of the Preserve System as described in the HCP/NCCP.
- Monitoring, research, and adaptive management of the Preserve System as described in the HCP/NCCP.

In addition, the following costs will be funded by the special taxes levied within the CFD:

- Administrative Expenses including costs incurred to determine, levy and collect the special taxes, including compensation of City staff for administrative work performed in relation to the CFD and a proportionate amount of the City's general administrative overhead related thereto, the fees of consultants and legal counsel, the costs of collecting installments of the special taxes upon the property tax rolls, preparation of required reports, and any other costs incurred in the administration of the CFD by the City.
- Any amounts needed to cure actual or estimated delinquencies in CFD special taxes for the current or previous fiscal years.

EXHIBIT B

Community Facilities District No. 2022-1
(HCP/NCCP Services)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes (as hereafter defined) in the City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services) (the "CFD" or "CFD No. 2022-1") shall be levied and collected each Fiscal Year according to the tax liability determined by the Administrator through the application of the appropriate Special Tax rate for Taxable Property, as described below. All property in CFD No. 2022-1, unless exempted by law or by the provisions of Section E herein, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2022-1, unless a separate Rate and Method of Apportionment of Special Tax is adopted for such annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accessory Unit" means a second Residential Unit of reduced size (e.g., granny cottage, etc.) that is constructed following the construction of a primary Residential Unit that shares a Parcel with a Residential Unit. An Accessory Unit shall not be considered a separate Residential Unit for purposes of this RMA and will not be levied a Special Tax.

"Acre" or **"Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map, Parcel Map or functionally equivalent map or instrument recorded in the Office of the County Recorder. In the absence of such map, the Administrator will make the final "Acre" or "Acreage" determination as needed, utilizing in the Administrator's discretion, available resources, including but not limited to available spatial and Geographic Information Systems (GIS) data.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the actual or reasonably estimated costs incurred by the City or their designee, acting for and on behalf of the CFD as the Administrator thereof, to compute, determine, levy and collect the Special Taxes, including salaries of City staff and a proportionate amount of the City's general administrative overhead related thereto, and the fees of consultants and legal counsel providing services related to the administration of the CFD; the costs of collecting installments of the Special Taxes, including charges levied by the County, the costs related to the preparation of required reports; and any other costs required to administer the CFD as determined by the Administrator. Administrative expenses shall also include amounts estimated or advanced by the City, public agency, or the CFD for any other administrative purposes related to the CFD.

"Administrator" means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

"Assessor's Parcel Map" means an official map of the County Assessor designating Parcels by Assessor's Parcel Number.

"Assessor's Parcel Number" or **"APN"** means a unique number assigned to an Assessor's Parcel by the County Assessor for purposes of identifying a property.

"Authorized Services" means the public services authorized to be funded by CFD No. 2022-1 as set forth in the documents adopted by the Council when CFD No. 2022-1 was formed.

"Building Permit" means a building permit issued by the City to construct a building structure improvement with a valuation over $50,000. Building Permits for the construction of ancillary structures such as fences, swimming pools, retaining walls, etc. are excluded.

"**CFD" or "CFD No. 2022-1"** means the City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services).

"City" means the City of Oakley.

"City Manager" means the City Manager of the City of Oakley.

"Council" means the City Council of the City of Oakley, acting as the legislative body for CFD No. 2022-1.

"County" means the County of Contra Costa.

"County Assessor" means the Contra Costa County Assessor.

"County Land Use Code" means the land use code assigned to an Assessor's Parcel as indicated in the records of the County Assessor.

"Developed Property" means, in any Fiscal Year, all Single-Family Parcels for which a final inspection report approving the property for occupancy has been issued by the City on or prior to June 30 of the preceding Fiscal Year in which Special Taxes are to be levied. In the absence of a final inspection report, any Single-Family Parcel shall be classified as "Developed Property" if it has been occupied by a user as determined by the Administrator on or prior to June 30 of the preceding Fiscal Year.

"Final Map" or "Parcel Map" means a final Subdivision Map, parcel map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.), that creates lots that do not need to be further subdivided prior to issuance of a Building Permit for a residential structure. The term "Final Map" or "Parcel Map" shall not include an Assessor's Parcel Map or subdivision map or portion thereof, that does not

create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting on July 1 and ending on the following June 30.

"Land Use Classification" means the current or intended use of a Taxable Parcel as determined by the Taxable Parcel's County Land Use Code.

"Maximum Special Tax" means the maximum Special Tax determined in accordance with Section C herein, which can be levied in any Fiscal Year.

"Property Owner" means the Property Owner of record per current County Assessor records unless more current information is available such as a recorded deed of sale, etc.

"Proportionately" means, for Developed Property, that the ratio of the actual annual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Developed Property within each respective Tax Zone.

"Public Property" means, for each Fiscal Year: (i) any property within the boundaries of CFD No. 2022-1 that is owned by or irrevocably offered for dedication to the federal government, the State of California, the City or any other public agency; provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act (as such section may be amended or replaced) shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2022-1 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

"RMA" means this Rate and Method of Apportionment of Special Tax.

"Residential Unit" means an individual dwelling for residential use as defined per the County Assessor.

"Single-Family Parcel" means a Parcel having a detached Residential Unit and designated by the County Land Use Code as having a single-family residential land use. If it is determined by the Administrator that the County Assessor has assigned an incorrect County Land Use Code, or the assigned County Land Use Code does not correctly describe the intended or current use of the Taxable Parcel, the Administrator may assign the appropriate Land Use Classification to the Taxable Parcel described in Section C below.

"Special Tax" means the tax levied on Taxable Property within CFD No. 2022-1 to pay the annual Special Tax Requirement.

"Special Tax Requirement" means, the amount of revenue needed in any Fiscal Year for each Tax Zone to pay for the following: (i) Authorized Services; (ii) Administrative Expenses; and (iii) amounts needed to cover any delinquencies in the payment of the Special Tax which occurred in the previous Fiscal Year or, based on delinquency rates in prior years, that may be expected to occur in the Fiscal Year in which the Special Tax will be collected.

"Taxable Property" or "Taxable Parcels" means all Assessors' Parcels within the boundaries of CFD No. 2022-1 that are not exempt from the Special Tax pursuant to law or Section E herein.

"Tax Zone" means a mutually exclusive geographic area within CFD No. 2022-1 designated on the CFD boundary or annexation map. All property within CFD No. 2022-1 at the time of CFD Formation is within either Tax Zone 1 or Tax Zone 2. Additional Tax Zones may be created when property is annexed to CFD No. 2022-1, and a separate Maximum Special Tax shall be identified for property within the new Tax Zone at the time of such annexation. The Assessor's Parcels included within a new Tax Zone established when such Parcels are annexed to CFD No. 2022-1 shall be identified by Assessor's Parcel Number at the time of annexation.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property in CFD No. 2022-1 that are not classified as Developed Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall: (i) identify the current Assessor's Parcel Numbers for all Parcels of Taxable Property within CFD No. 2022-1, (ii) determine the Land Use Classification for each Taxable Parcel, (iii) determine whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (iv) determine which Tax Zone each Parcel of Taxable Property is located in, and (v) determine the Special Tax Requirement for the CFD.

In any Fiscal Year, if it is determined that a Final Map or Parcel Map for a portion of property in CFD No. 2022-1 was recorded after the last date upon which the County Assessor will incorporate the newly-created Parcels into the then current tax roll, and the County Assessor does not yet recognize the new Parcels that will be created by the Final Map or Parcel Map, and one or more of the newly-created Parcels would meet the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map or Parcel Map by determining the Special Tax that applies separately to each new Parcel that will be created by that Final Map or Parcel Map, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map or Parcel Map.

C. MAXIMUM SPECIAL TAXES

1. The Fiscal Year 2022-23 Maximum Special Tax for all Taxable Parcels of Developed Property within Tax Zone 1 is shown below in Table No. 1. No Special Tax shall be levied on Undeveloped Property or Parcels within Tax Zone 2.

Table No. 1 - Developed Property (Tax Zone 1)

Land Use Classification	Fiscal Year 2022-23 Maximum Special Tax
Single-Family Parcel	$119.66 per parcel

2. Escalation of Maximum Special Tax

Commencing on July 1, 2023, and each July 1 thereafter, the Maximum Special Tax rates for Developed Property shown in Table No. 1, shall be increased by applying the percentage increase, if any, in the Consumer Price Index for San Francisco-Oakland-Hayward, CA (All Urban Consumers) for the prior year (April to April) to the Maximum Special Tax in effect for the current Fiscal Year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1. In the event the Consumer Price Index for San Francisco-Oakland-Hayward, CA (All Urban Consumers) ceases to be published, the Maximum Special Tax may be increased based on a comparable index as determined by Administrator at the Administrator's discretion.

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAXES

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for each Tax Zone for that Fiscal Year and levy all Parcels of Taxable Property therein as follows:

Step 1: Each Parcel of Developed Property shall be levied Proportionately up to 100% of the Maximum Special Tax for such Fiscal Year until the amount levied is equal to the Special Tax Requirement.

The Special Tax for CFD No. 2022-1 shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of CFD No. 2022-1.

E. EXEMPTIONS

No Special Tax shall be levied on Parcels of Undeveloped Property, Public Property, mineral rights Parcels, or any privately-owned Parcels that are non-developable, such as common areas, wetlands, open space, preserve areas, parks, etc. except as otherwise provided in this RMA and in the Act. In addition, no Special Tax shall be levied on Parcels within Tax Zone 2.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City through an ordinance or resolution of the Council for purposes of clarifying any vagueness or ambiguity in this RMA.

G. TERM OF THE SPECIAL TAX

The Special Tax shall be levied in indefinitely if Authorized Services are being provided and is necessary to pay the Special Tax Requirement.

H. PREPAYMENT OF SPECIAL TAX

The Maximum Special Tax may not be prepaid and shall continue to be levied in accordance with Section D of this Rate and Method of Apportionment on an annual basis on all Taxable Property in CFD No. 2022-1 for the purpose of funding ongoing Authorized Services.

I. REVIEW/APPEALS OF THE SPECIAL TAX

The Administrator may establish such procedures, as it deems necessary to undertake the review of any such appeal. The Administrator shall interpret this Rate and Method of Apportionment and make determinations relative to the annual administration of the Special Tax and any property owner appeals, as herein specified.

Any property owner who believes that the amount of the Special Tax levied on their Assessor's Parcel is in error shall first consult with the Administrator regarding such error. If following such consultation, the Administrator determines that an error has occurred; the Administrator in consultation with the City Manager shall take any of the following actions to correct the error:

- Amend the Special Tax levy on the property owner's Property Tax Bill for the current Fiscal Year, or

- Have the CFD reimburse the property owner for the amount of overpayment for the current Fiscal Year if CFD funds are available, or

- Grant a credit against, eliminate, or reduce the future Special Taxes on the property owner's Assessor's Parcel(s) for overpayment for the current Fiscal Year.

If following such consultation and action (if any by the Administrator), the property owner believes such error still exists, such person may file a written notice with the City Manager appealing the amount of the Special Tax levied on such Assessor's Parcel. If following such consultation and action (if any by the City Manager), the property owner believes such error still exists, such person may file a written notice with the City Council appealing the amount of the Special Tax levied on such Assessor's Parcel. If the City Council determines an error exists; the Administrator shall take any actions as described above, in order to correct the error. The decision of the City Council shall be final and binding to all persons.

J. SEVERABILITY

The invalidity or unenforceability of any provisions of this Rate and Method of Apportionment of Special Tax shall not affect the validity or enforceability of any other provision of this Rate and Method of Apportionment of Special Tax, which shall remain in full force and effect.

RESOLUTION NO. ____-22

A RESOLUTION OF THE CITY COUNCIL CALLING SPECIAL LANDOWNER ELECTION FOR COMMUNITY FACILITIES DISTRICT

CITY OF OAKLEY
Community Facilities District No. 2022-1
(HCP/NCCP Services)

WHEREAS, the City Council (the "Council") of the City of Oakley (the "City") has adopted a resolution entitled "A Resolution of the City Council of Formation of Community Facilities District" (the "Resolution of Formation"), ordering the formation of the "City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services)" (the "CFD"), defining the public services (the "Services") to be provided by the CFD, authorizing the levy of a special tax on property within the CFD and preliminarily establishing an appropriations limit for the CFD, all pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act"); and

WHEREAS, pursuant to the Resolution of Formation, the propositions of the levy of the special tax and the establishment of the appropriations limit shall be submitted to the qualified electors of the CFD as required by the Act.

NOW, THEREFORE, the City Council of the City of Oakley resolves as follows:

1. Issues Submitted. Pursuant to the Act, the issues of the levy of the special tax and the establishment of the appropriations limit shall be submitted to the qualified electors (as defined below) of the CFD at an election called therefor as provided below.

2. Qualified Electors. This Council hereby finds that fewer than 12 persons have been registered to vote within the territory of the CFD for each of the 90 days preceding the close of the public hearings heretofore conducted and concluded by this Council for the purposes of these proceedings. Accordingly, and pursuant to Section 53326 of the Act, this Council finds that, for these proceedings, the qualified electors are the landowners within the CFD and that the vote shall be by such landowners or their authorized representatives, each having one vote for each acre or portion thereof such landowner owns in the CFD as of the close of the public hearing.

3. Conduct of Election. This Council hereby calls a special election to consider the issues described in section 1 above, which shall be held on September 27, 2022, and the results thereof canvassed at the meeting of this Council on September 27, 2022. The City Clerk is hereby designated as the official to conduct the election and to receive all ballots until the close of business on the election date. It is hereby acknowledged that the Clerk has on file the Resolution of Formation, a map of the boundaries of the CFD, and a sufficient description to allow the Clerk to determine the electors of the CFD. Pursuant to Section 53327 of the Act, the election shall be conducted by messenger or mail-delivered ballot pursuant to Section 4000 of the California Elections Code, except that Sections 53326 and 53327 of the Act shall govern for purposes of determining the date of the election.

4. Ballot. As authorized by Section 53353.5 of the Act, the issues described in Section 1 above shall be combined into a single ballot measure, the form of which as attached hereto as Exhibit "A" is hereby approved. The City Clerk is hereby authorized and directed to

cause a ballot, in substantially the form of Exhibit "A," to be delivered to each of the qualified electors of the CFD. Each ballot shall indicate the number of votes to be voted by the respective landowner to which the ballot pertains. Each ballot shall be accompanied by all supplies and written instructions necessary for the use and return of the ballot. The envelope to be used to return the ballot shall be enclosed with the ballot, have the return postage prepaid, and contain the following: (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of record or authorized representative of the landowner entitled to vote and is the person whose name appears on the envelope, (c) the printed name, signature and address of the voter, (d) the date of signing and place of execution of the declaration pursuant to clause (b) above, and (e) a notice that the envelope contains an official ballot.

5. Waivers. This Council hereby further finds that the provisions of Section 53326 of the Act requiring a minimum of 90 days following the adoption of the Resolution of Formation to elapse before the special election are for the protection of the qualified electors of the CFD. There is on file with the Clerk a written waiver executed by all of the qualified electors of the CFD allowing for a shortening of the time for the special election to expedite the process of formation of the CFD and waiving any requirement for notice, analysis and arguments in connection with the election. Accordingly, this Council finds and determines that the qualified electors have been fully apprised of and have agreed to the shortened time for the election and waiver of analysis and arguments, and have thereby been fully protected in these proceedings. This Council also finds and determines that the City Clerk has concurred in the shortened time for the election. Analysis and arguments with respect to the ballot measures are hereby waived, as provided in Section 53327 of the Act.

6. Accountability. Under Section 50075.1 of the Government Code, the following accountability provisions shall apply to the special taxes: (a) the provision of the Services and the incidental costs thereof, all as defined in the Resolution of Formation, shall constitute the specific single purpose; (b) the proceeds shall be applied only to the specific purposes identified in (a) above; (c) there shall be created special account(s) or funds(s) into which the proceeds shall be deposited; and (d) there shall be caused to be prepared an annual report if required by Section 50075.3 of the Government Code.

7. Effective Date. This Resolution shall take effect upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 27th day of September 2022 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

EXHIBIT A

CITY OF OAKLEY
Community Facilities District No. 2022-1
(HCP/NCCP Services)

OFFICIAL BALLOT
SPECIAL TAX ELECTION

This ballot is for a special, landowner election. You must return this ballot in the enclosed postage paid envelope to the office of the City Clerk of the City of Oakley no later than the hour of 5:00 p.m. on Tuesday, September 27, 2022, either by mail or in person. The City Clerk's office is located at 3231 Main Street, Oakley, California.

To vote, mark a cross (X) on the voting line after the word "YES" or after the word "NO". All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Oakley and obtain another.

> **BALLOT MEASURE**: Shall the City of Oakley (the "City") be authorized to annually levy a special tax solely on lands within the City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services) (the "CFD") in accordance with the rate and method contained in the Resolution of Formation of the CFD adopted by the City Council of the City on September 27, 2022, commencing in the City's Fiscal Year 2023-24, to pay for the public services authorized to be provided by the CFD and to pay the costs of the City in administering the CFD, and shall the initial annual appropriations limit of the CFD be established in the amount of $400,000? The estimated amount of money authorized to be raised annually ranges between $0 and $1,000,000 over the first 30 years of the levy.

YES: _____

NO: _____

By execution in the space provided below, you also confirm your written waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure.

Number of acres: 1,232.79
Number of votes entitled to be cast: 1,233
Property Owner: ACD-TI OAKLEY, LLC, A DELAWARE LIMITED LIABILITY COMPANY

_____
Authorized Representative

RESOLUTION NO. ____-22

**A RESOLUTION OF THE CITY COUNCIL
DECLARING RESULTS OF SPECIAL LANDOWNER ELECTION
AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN**

**CITY OF OAKLEY
Community Facilities District No. 2022-1
(HCP/NCCP Services)**

WHEREAS, the City Council (the "Council") of the City of Oakley (the "City") has adopted a resolution entitled "A Resolution of the City Council of Formation of Community Facilities District" (the "Resolution of Formation"), ordering the formation of the "City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services)" (the "CFD"), authorizing the levy of a special tax on property within the CFD, and preliminarily establishing an appropriations limit for the CFD, all pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act");

WHEREAS, under the Resolution of Formation and a resolution entitled "A Resolution of the City Council Calling Special Landowner Election for Community Facilities District" (the "Election Resolution") heretofore adopted by this Council, the propositions of the levy of the special tax and the establishment of the appropriations limit were submitted to the qualified electors of the CFD as required by the provisions of the Act;

WHEREAS, pursuant to the Election Resolution, which are by this reference incorporated herein, the special election has been held and the City Clerk has on file a Canvass and Statement of Results of Election, (the "Canvass") a copy of which is attached hereto as Exhibit A; and

WHEREAS, this Council has been informed of the Canvass, finds it appropriate and wishes to complete its proceedings for the CFD.

NOW, THEREFORE, the City Council of the City of Oakley resolves as follows:

1. Recitals. The foregoing recitals are all true and correct.

2. Issues Presented. The issues presented at the special election were the levy of a special tax within the CFD and the approval of an annual appropriations limit of not to exceed $400,000, all pursuant to the Resolution of Formation.

3. Canvass and Issues Approved. The Council hereby approves the Canvass and finds that it shall be a permanent part of the record of its proceedings for the CFD. Pursuant to the Canvass, the issues presented at the special election were approved by the qualified electors of the CFD by more than two-thirds of the votes cast at the special election.

4. Proceedings Approved. Pursuant to the voter approval, the CFD is hereby declared to be fully formed with the authority to levy the special taxes and to have the established appropriations limit, all as heretofore provided in these proceedings and in the Act. It is hereby found that all prior proceedings and actions taken by this Council with respect to the CFD were valid and in conformity with the Act.

5. Notice of Tax Lien. The City Clerk is hereby directed to complete, execute and cause to be recorded in the office of the County Recorder of the County of Contra Costa a notice of special tax lien in the form required by the Act, such recording to occur no later than 15 days following adoption of this resolution by the Council

6. Effective Date. This Resolution shall take effect upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 27th day of September 2022 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

EXHIBIT A

CANVASS AND STATEMENT OF RESULT OF ELECTION

CITY OF OAKLEY
Community Facilities District No. 2022-1
(HCP/NCCP Services)

I hereby certify that on September 27, 2022, I canvassed the returns of the election held on September 27, 2022, in the City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services) and the total number of ballots cast in such District and the total number of votes cast for and against the measure are as follows and the totals as shown for and against the measure are full, true and correct:

	Qualified Landowner Votes	Votes Cast	YES	NO
City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services) Special Tax Election, September 27, 2022	____	_____	_____	_____

BALLOT MEASURE: Shall the City of Oakley (the "City") be authorized to annually levy a special tax solely on lands within the City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services) (the "CFD") in accordance with the rate and method contained in the Resolution of Formation of the CFD adopted by the City Council of the City on September 27, 2022, commencing in the City's Fiscal Year 2023-24, to pay for the public services authorized to be provided by the CFD and to pay the costs of the City in administering the CFD, and shall the initial annual appropriations limit of the CFD be established in the amount of $400,000? The estimated amount of money authorized to be raised annually ranges between $0 and $1,000,000 over the first 30 years of the levy.

YES: _____

NO: _____

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND on September 27, 2022.

By: _____
City Clerk
City of Oakley

ORDINANCE NO. _____

ORDINANCE LEVYING SPECIAL TAX

CITY OF OAKLEY
Community Facilities District No. 2022-1
(HCP/NCCP Services)

SECTION 1. FINDINGS

A. The City Council (this "Council") of the City of Oakley (the "City") has adopted a resolution entitled "A Resolution of Intention to Establish a Community Facilities District" (the "Resolution of Intention"), and has conducted proceedings (the "Proceedings") to establish "City of Oakley Community Facilities District No. 2022-1 (HCP/NCCP Services)" (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act") to fund certain municipal services (the "Services) as provided in the Act.

B. Pursuant to notice as specified in the Act, and as part of the Proceedings, the Council has held a public hearing under the Act relative to the determination to proceed with the formation of the CFD and the rate and method of apportionment of the special tax ("Special Tax") to be levied within the CFD to finance the Services, and at such hearing all persons desiring to be heard on all matters pertaining to the formation of the CFD and the levy of the Special Tax were heard, substantial evidence was presented and considered by this Council and a full and fair hearing was held.

C. Upon the conclusion of the hearing, this Council adopted a resolution entitled "A Resolution of the City Council of Formation of Community Facilities District" (the "Resolution of Formation"), pursuant to which it completed the Proceedings for the establishment of the CFD, the authorization of the levy of the Special Tax within the CFD and the calling of an election within the CFD on the propositions of levying the Special Tax and establishing an appropriations limit within the CFD, respectively.

D. On September 27, 2022, a special election was held among the landowner voters within the CFD at which such voters approved such propositions by the two-thirds vote required by the Act, which has been confirmed by resolution of this Council.

SECTION 2. By the passage of this Ordinance, the Council hereby authorizes and levies the Special Tax within the CFD pursuant to the Act, at the rate and in accordance with the rate and method of apportionment of Special Tax set forth in the Resolution of Formation which rate and method is by this reference incorporated herein. The Special Tax is hereby levied commencing in fiscal year 2023-24 and in each fiscal year thereafter to pay for the Services for the CFD, as contemplated by the Resolution of Formation and the Proceedings and all costs of administering the CFD.

SECTION 3. The Finance Director or designee, or an employee or consultant of the City, is hereby authorized and directed each fiscal year to determine the specific Special Tax to be levied for the next ensuing fiscal year for each parcel of real property within the CFD, in the manner and as provided in the Resolution of Formation.

SECTION 4. Exemptions from the levy of the Special Tax shall be as provided in the Resolution of Formation and the applicable provisions of the Act. In no event shall the Special Tax be levied on any parcel within the CFD in excess of the maximum Special Tax specified in the Resolution of Formation.

SECTION 5. All of the collections of the Special Tax shall be used as provided in the Act and in the Resolution of Formation, including, but not limited to, the payment of costs of the Services, the payment of the costs of the City in administering the CFD, and the costs of collecting and administering the Special Tax.

SECTION 6. The Special Tax shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that the Council may provide for other appropriate methods of collection by resolution(s) of the Council. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent Special Tax payments. The Finance Director of the City is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of Contra Costa in order to effect proper billing and collection of the Special Tax, so that the Special Tax shall be included on the secured property tax roll of the County of Contra Costa for fiscal year 2023-24 and for each fiscal year thereafter until no longer required to pay for the Services or until otherwise terminated by the City.

SECTION 7. If for any reason any portion of this ordinance is found to be invalid, or if the Special Tax is found inapplicable to any particular parcel within the CFD, by a court of competent jurisdiction, the balance of this ordinance and the application of the Special Tax to the remaining parcels within the CFD shall not be affected.

SECTION 8. The Mayor shall sign this Ordinance and the City Clerk shall cause the same to be published immediately after its passage at least once in a newspaper of general circulation circulated in the City.

SECTION 9. This Ordinance shall take effect 30 days from the date of final passage.

PASSED, APPROVED, AND ADOPTED this 27th day of September 2022 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: **September 27, 2022**

TO: **Joshua McMurray, City Manager** *Approved and Forwarded to the City Council*

FROM: **Harumi Murata, Economic Development Analyst**

SUBJECT: **Adopting a Resolution Amending the Fiscal Year 2022/2023 Budget and Authorizing the City Manager to Execute the Contract for the Preparation of an Economic Development Work Plan Update**

Background and Analysis

At the July 12, 2022 Council Meeting, the City Council directed staff to distribute a Request for Proposals (RFP) for Economic Development Work Plan Update, which remained open for submissions until August 12, 2022. The Economic Development Work Plan Update Project Committee conducted interviews with all applicants and seeks to execute an agreement with the top candidate, Chabin Concepts, Inc., to refurbish an Economic Development Work Plan, which will serve to update the 2016-2017 Economic Development Work Plan, which was re-adopted by the City Council in 2016.

The following four firms submitted proposals:

- Stiletto Group (Fredericton, Canada)
- Alex Greenwood Group (Pleasant Hill, CA)
- HdL Companies (Brea, CA)
- Chabin Concepts, Inc. (Chino, CA)

Among the four, Chabin Concepts, Inc. was chosen by a committee comprised of Vice Mayor Aaron Meadows, Councilmember George Fuller, the City Manager, the Director of Community Development, and the Economic Development Analyst.

Chabin Concepts has broad experience in conducting the type of work that will be needed to update the 2016-2017 Work Plan, having recently completed similar economic development projects for the Central Sierra Economic Development District, California; City of Canon City, Colorado; City of Hannibal, Missouri; City of Fairfield, California, and

City of Vacaville, California. In particular, Chabin Concepts, Inc. is equipped with the necessary tools to work efficiently, collaboratively, and meet established timelines within budget as it was noted by its references and past clients to have key strengths in stakeholder and community engagement, which the City Council Sub-Committee and Staff viewed as critical for the ongoing aspects of this project.

Timeframe

The work is expected to commence in October/November of 2022. Chabin Concepts, Inc. proposes a six-month timeline to complete this project. A draft Work Plan will be reviewed and evaluated by other Economic Development professionals working in the same field, with a final draft expected to be delivered to the City Council in May 2023.

Consistency with the Oakley Strategic Plan 27+

The recommended action aligns with the following goals and objectives:

- Community and Economic Development Goal
  Strategic and Thoughtful Growth Objective: strategically plan and thoughtfully align the City's commercial and industrial growth to meet both its short and long-term goals.

Fiscal Impact

The approval of this resolution will not have a fiscal impact on the General Fund. The proposed $50,000 consulting contract will be funded with ARPA funds if the contract and the related budget amendment are approved. The goals and action items in the Updated Work Plan will have their own budgetary impact and will be accounted for in the upcoming Economic Development budget.

Staff Recommendation

Adopting a resolution amending the Fiscal Year 2022/2023 budget and authorize the City Manager to execute an agreement with Chabin Concepts, Inc. for the preparation of the Economic Development Work Plan Update in an amount not to exceed $50,000.

Attachments

1. Draft Resolution
2. Chabin Concepts Proposal (August 22, 2022)

RESOLUTION NO. XX-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING AN AGREEMENT FOR CONSULTING SERVICES WITH CHABIN CONCEPTS, INC. FOR THE ECONOMIC DEVELOPMENT WORK PLAN UPDATE, IN AN AMOUNT NOT TO EXCEED $50,000, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND ADOPTING A $50,000 AMENDMENT TO THE FISCAL YEAR 2022/2023 BUDGET

WHEREAS, the City of Oakley adopted its first Economic General Plan Element in 2002; and the 2016-2017 Economic Development Work Plan was re-adopted in 2016; and

WHEREAS, the City is required to update its Economic Development Work Plan no later than May 2023; and

WHEREAS, the City of Oakley requested the services of a highly qualified Economic Development consultant to assist the City in completing the Economic Development Work Plan Update; and

WHEREAS, the Economic Development Work Plan Update will provide the City's economic development staff with a roadmap and strategies to strengthen the competitiveness for new business investment, workforce skills, talent pipeline, and overall economic development readiness; and

WHEREAS, the City of Oakley staff released a Request for Proposals on July 13, 2022; and

WHEREAS, four responses were received, and one consultant was selected and is being recommended; and

WHEREAS, it is proposed that this contract be funded by the American Rescue Plan Act (ARPA) which requires an amendment to the City of Oakley Fiscal Year 2022/2023 Budget to appropriate $50,000 for Consulting services;

NOW, THEREFORE, BE IT RESOLVED by the City Council that the Agreement for Consulting Services with Chabin Concepts, Inc. for an update to the City's Economic Development Work Plan, in an amount not to exceed $50,000, is hereby approved in the form attached hereto as Exhibit A, the City Manager is authorized to execute the Agreement and a budget amendment to appropriate $50,000 of ARPA funding for consulting services is hereby adopted.

PASSED, APPROVED AND ADOPTED this 27th day of September by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____ _____
Libby Vreonis, City Clerk Date

August 12, 2022

Harumi Murata
Economic Development Manager
City of Oakley
3231 Main Street
Oakley, CA 94561

murata@ci.oakley.ca.us

RE: Request for Proposal Economic Development Work Plan Update

Thank you again for spending time with us last week reviewing your RFP and hearing about what is happening in the city. Our team has extensive experience working from both sides of the manufacturing recruitment table—with communities looking to attract manufacturing investment and with private groups looking at sites and communities for manufacturing expansion or relocation. As we do in all our strategic planning work, we brought together a multi-disciplined team to meet your objectives.

Chabin Concepts will lead the team that includes:

- Audrey Taylor, Chabin Concepts, President/CEO—brings to each project her philosophy of collaboration and the 35 years of experience in economic development and marketing strategies.
- Vicki Doll, Chabin Concepts—has been with Chabin since its inception and has worked closely with all our affiliate partners to ensure projects stay on track and clients receive seamless service.
- Don Schjeldahl, Principal, DSG Advisors—a professional site consultant for over 30 years, Don is highly experienced in assessing communities and real estate for a broad spectrum of industries and facility types.
- Thatch Moyle, President, Urban Scenarios—brings his innovative approach to demonstrating community and site opportunities through 3D visualization, GIS modeling and Story Maps.

Each team member has experience working with both private and public sectors which provides you a unique perspective in understanding market trends, industry decision factors, and best practices in economic development. We will deliver to you an action-oriented, forward-thinking strategic work plan that will guide you through the changing economy and help to queue up selected sites for development.

We look forward to reviewing our proposed scope of work with you,

Audrey E Taylor

Audrey Taylor
President
Audrey@chabinconcepts.com



Proposal to

City of Oakley, CA

Economic Development Work Plan Update

August 12, 2022

Submitted by:
Chabin Concepts, Inc.
2550 Lakewest Drive, Suite 10
Chico, CA 95928
530.345.0364 | www.chabinconcepts.com

CONTENTS

General Qualifications 1
Key Staff Proposed for City of Oakley 5
Project Workplan 12
References 16
Budget and Timeline 17
Disadvantaged Business Enterprises 19

General Qualifications

Chabin Concepts is organized with four key staff members and a network of affiliates who have worked together for over 25 years. We use this unique collaborative approach on *every* project. Our partners bring specific expertise that adds value to clients' projects.

Our network consists of renowned professionals in community and program assessment, site location analysis, rural and urban planning, downtown development, marketing, economic development tools, graphic design, and data analysis.

Chabin will be the lead consultant for the City of Oakley economic development plan update, responsible for contract administration, project management and deliverables. Chabin's corporate profile is included on the next page. The firms proposed for the City of Oakley are presented below followed by resumes for key project personnel.

> *Long before COVID forced remote workers and virtual meetings, Chabin and our network of professionals worked projects across the nation and Canada. Being early adopters of collaborative tools made this possible and helped us to not miss a beat when COVID impacted the workplace.*

CHABIN CONCEPTS, INC.

2550 Lakewest Drive, Ste 10 | Chico, California | 530.345.0364 | **www.chabinconcepts.com**

Chabin, an economic development firm, has served national clients since 1989. We have had the privilege of serving over 350 communities including four state-level assignments in California, Washington, Oklahoma, and Oregon. These assignments ranged from strategy and initiative development to back-office economic development services—*launching and implementing the plan.* We have also assisted clients in receiving **$89 million** in grant investments and **$26.6 million in CalCompetes tax credits** awarded to California employers.

DSG ADVISORS, INC.

122 N. Mantua Street | Kent, Ohio | 828.772.9374 | **www.DSG-Advisors.com**

DSG Advisors is an industry leader in corporate location selection and economic development best practices. With more than 35 years of experience in U.S. and international corporate consulting, DSG founder, Don Schjeldahl, is an expert in corporate location strategy and site selection for manufacturing and specialized industrial facilities.

URBAN SCENARIOS

5806 SE 46th Avenue | Portland, Oregon 97206 | 503.539.1921 | **www.urban-scenarios.com**

Thatch Moyle founded Urban Scenarios to help decision-makers find new ways to envision solutions, make choices for an equitable, sustainable and resilient future, and communicate the vision. The company focuses on harnessing geospatial "big" data into easy-to-understand models that help all stakeholders understand the impact of policy decisions, assess investment opportunities, and envision future growth in cities and regions across the globe.

Chabin Concepts, Inc. Corporate Profile

Core Competency	Providing realistic, achievable, and measurable actions for strategic plans, creative marketing, and economic development program implementation
Core Services	Strategic Plans and Implementation Guides for Economic and Workforce Development, Business Attraction, Business Retention, Downtown and Retail Development, and Marketing. We also provide back-office staff assistance for a limited number of economic development departments.
Office Location	2550 Lakewest Drive, Suite 10 | Chico, CA 95928
Contact	Audrey Taylor 530.345.0364 ext. 27 audrey@chabinconcepts.com Vicki Doll 530.345.0364 ext. 26 vicki@chabinconcepts.com
Employer I.D.	Federal 68-0190084 | California 363-3366-4
Incorporated	State of California, June 1989
Primary Business	Economic development and marketing consulting services
Insurance	General Liability: $2 million | Aggregate: $4 million Professional Liability: $2 million| Aggregate: $2 million Automobile: $ 1 million combined single limit Workers Compensation per state requirements
Organization Capacity	2 Economic Development Professionals, 1 Graphic Designer, 1 Comptroller
Nondiscrimination Policy	It is Chabin Concepts' policy to be fair and equitable in relations with its employees and applicants. Recruitment, hiring, placements, transfers and promotions will be made solely on the basis of individual qualifications for the positions being filled, and all other personnel actions such as compensation, benefits, layoffs, returns from layoffs, family care leave, terminations, education and training, and any other programs are also to be administered regardless of race, color, religion, ancestry, national origin, age (over 40), sex, sexual orientation, marital status, political affiliation, veterans' status, disabilities (physical and mental), and medical condition (including cancer and HIV status). Chabin Concepts is committed to the concept of equal employment opportunity as a necessary element of operating the business including subcontract agreements as well as staff employees. All persons shall be afforded equal access to positions limited only by their ability to do the job. Additionally, employment efforts will focus on establishing and maintaining a diverse work force reflective of the relevant labor market areas.
Certified Small Business	Chabin Concepts, Inc. is designated a California Certified Small Business (SB) by the Department of General Services, Supplier # 1736380. Certificate is valid to 11-30-23.

Similar Projects

Chabin Concepts and members of the consulting team have provided a variety of economic development services to communities across the nation. Below are three projects with a similar scope of work, as requested in the RFP.

CITY OF FAIRFIELD

Although a much larger project than the City of Oakley, the **Fairfield economic strategy** update focused on place development for key economic centers—the Heart of Fairfield (downtown) and the industrial parks. The project included extensive site analysis and business interviews in the industrial sector. One deliverable was a **Business Park Story Map** and target marketing and business attraction campaigns.

Contact: Dwayne Dalman, ED Manager, City of Fairfield
707.428.7649 | **ddalman@fairfield.ca.gov**

CITY OF BENICIA

Chabin and its network of partners have been providing the City of Benicia with economic development services since 2011 when we were contracted to help the City realign its economic development efforts. Identifying the community's economic drivers was a critical first step. The resulting plan addressed three economic generators—Benicia Industrial Park, Downtown, Tourism and Commercial Centers. A *Business Development Action Plan* was prepared, and an aggressive 120-day launch schedule was adopted by the City Council. Chabin continues to work with the City of Benicia conducting a more in-depth **Industrial Park Market Study**, updating the work plan, and several special projects. We recently prepared the Economic Development Department's **2019-2021 Biennial Report**.

Contact: Mario Giuliani, Deputy City Manager
City of Benicia
707.746.4289 | **Mario.Giuliani@ci.benicia.ca.us**

KINGMAN, AZ

Kingman, Arizona, just 100 miles south of Las Vegas, is well-positioned for manufacturing, logistics, and distribution operations given its location among interstates and state highways, and the rail lines that traverse the Kingman Airport Industrial Park. Unfortunately, the area had not recovered from the 2008 recession as well as other areas in Arizona. In 2018-19 the City of Kingman contracted with a Chabin Concepts Team to develop an **Economic Development Strategic Plan**. The Team included Don Schjeldahl (DSG Advisors) for the industrial development; Mary Bosch (Marketek) for the population and visitor markets; and Chabin led the organizational and marketing strategies and the implementation plan.

Contact: Bennett Bratley, Economic Development Manager
Kingman Airport Industrial Park
928.565-1416 | **bbratley@cityofkingman.gov**

ECONOMIC DEVELOPMENT STRATEGY EXPERIENCE

Following is a list of clients for which Chabin is or has provided economic development services since 2017. Additional information on these projects can be provided upon request.

Year	Client	Services
2022	Central Sierra EDD	EDA Comprehensive Economic Development Strategy
2022	City of Canon City, CO	Economic Development Strategic Plan
2021	City of Hannibal, MO	Economic Development Strategic Plan
2021	City of Fairfield, CA	Economic Development Roadmap
2020	City of Vacaville, CA	Economic Development Bridge Strategy for Recovery
2020	Amador County, CA	EDA Comprehensive Economic Development Strategy
2020	Rosecrans Airport, St. Joseph, MO	Airport Business Plan
2019-22	City of Los Banos, CA	Industrial Development Services and Staff Assistance
2017-22	City of Benicia, CA	Economic Development Services and Staff Assistance
2017-22	City of Merced, CA	Economic Development Services and Staff Assistance
2019-22	Butte Community College, Oroville, CA	North Far North Strong Workforce Region Plan
2019	Robert C. Byrd Institute, Marshall University, Huntington, WV	Recreational Trail Feasibility
2019	San Joaquin County	EDA Comprehensive Economic Development Strategy
2019	City of Kingman, AZ	Opportunity Zone Prospectus & Strategy
2018	Fresno County EDC, Fresno, CA	Opportunity Analysis
2017	West Valley, AZ	Workforce Gap Analysis and Implementation Plan
2017	City of Hillsboro, OR	Downtown Market Analysis and Marketing Plan
2017	Solano County, CA	EDA Comprehensive Economic Development Strategy

Key Staff Proposed for City of Oakley

Summary qualifications of the Chabin Team are presented below, followed by team resumes.

TEAM MEMBER	EXPERTISE
Audrey Taylor Chabin Concepts	• 42 years in marketing, economic and community development • Strategic initiatives and economic development roadmaps • Competitive assessments, positioning and sector strategies • Facilitation and capacity building
Vicki Doll Chabin Concepts	• 36 years in economic development • Competitive and organization assessment • Economic development tools • Industrial and retail strategies and implementation plans • Program and best practices research
Lindy Hoppough Chabin Concepts	• 35 years in economic development • Business-to-business communications, copywriting • Graphic design and publishing • Web content development and usability
Don Schjeldahl DSG Advisors	• 35 years in corporate and property location selection for manufacturing, logistics, and distribution, aviation, food processing • Infrastructure capacity, property due diligence, cost and risk analysis • Incentive negotiation • Labor market analysis
Thatch Moyle, AICP Urban Scenarios	• 15 years of experience in all aspects of land development, due diligence, master planning, feasibility • GIS-supported modeling and analysis and 3D visualization



Audrey Taylor | Chabin Concepts, Inc.

Audrey@chabinconcepts.com
Tel: 530.345.0364 ext. 27 | Cell: 530.520.2521

Audrey sees the bigger picture. She can toss out ten new ideas in five minutes. Her team's job is to capture them before they disappear into the ether.

Economic Development Experience

42 years in marketing, economic and community development
32 years with Chabin, 10 years with economic development corporations

Since 1989, Audrey has led Chabin Concepts to be one of the leading full-service economic development firms in the nation. Success has been built on her philosophy of collaboration and bringing each client the best expertise and experience available by organizing Chabin Teams to work with clients.

Not only has she assisted communities, regions, and states with strategic planning, she has successfully prepared over $89.6 million in grant applications for clients and private companies—including the first rice straw based MDF plant in the world. Her portfolio of work is diverse and includes working directly with companies to access incentives to assisting communities with roadmaps that lead to results.

Audrey is a frequent speaker and instructor on economic development, workforce, and community readiness. She was appointed to the Workforce Development Board by five California Governors and participated in many committees and commissions from rural development to jobs initiatives.

She was best described upon receiving CALED's prestigious *Golden Bear Award* "for her vision, drive, enthusiasm, creativity, and commitment to the economic development profession."

Expertise

Strategic Initiatives
Economic Development Roadmaps
Community and Organizational Assessment
Marketing and Sector Strategies
Facilitation
Capacity Building

Education

California State University, Chico, B.S., Business Administration (Marketing)
Economic Development Finance Professional
Economic Development Training Certificates, IDRC and CoreNet

Select Projects

North Far North Regional Plan (California Community Colleges)

Moving Solano Forward Strategy (Solano County)

Economic Development Strategy; Winner of America's Best Community Award! (Lake Havasua AZ)

Lead Development, High Speed Rail Facility (City of Merced, CA)

Market Assessment (Grand Junction, CO)

Opportunity Analysis (Fresno, CA)

BioMass Project USDA (Davis, CA)

NoRTEC Regional Workforce Development (Chico, CA)

Community Technical Assistance (Oklahoma City Partnership)

Comparative Location Indicators & Marketing Strategy (Shenandoah Valley Partnership, Harrisonburg, VA)

Action Plan and On-Call Services (City of Benicia CA)

Private Sector:

- *3M*
- *Roplast Industries*
- *Graphic Packaging International*
- *CalPlant I*
- *Lundberg Family Farms*
- *Air Spray USA*
- *Entreka Building*



Vicki Doll | Chabin Concepts, Inc.

Vicki@chabinconcepts.com

Tel: 530.345.0364 ext. 26 | Cell: 530.520.3150

Vicki has a practical nature, honed from being a small business owner and working in an ED organization which ensures your strategy is not only creative but eminently doable.

Economic Development Experience

30 years with Chabin Concepts
Six years with nonprofit county economic development corporations

Vicki's range of experience includes having been a small business owner herself and founding and managing a nonprofit. She has lived in both major urban cities and small, rural communities.

During her years in economic development, she has written and implemented business retention and attraction strategies for industrial and retail/commercial markets, conducted feasibility studies, community assessments, industry and retail research and cluster analysis.

Vicki is also the lead contact for Chabin partners' tools for marketing and economic development which include:

Economic Impact Analyses
Metro Comp (operating cost comparison)
Project Websites
ArcGIS StoryMap
eImpact (economic dashboard)
ExecutivePulse (business retention)

Expertise

- Competitive Assessment
- Data Collection and Analysis
- Site and Building Documentation
- Stakeholder Interviews
- Strategies and Implementation Plans
- Program and Best Practices Research
- Economic Development Tools
- Entrepreneurial and Downtown Development Strategies
- Industrial Development Strategies

Education

California State University, Chico B.S., Business Administration with an emphasis on Strategic Management

Recent Portfolio

North Far North Regional Consortium Community College Districts' Strong Workforce Plan (2016-current)

Canon City, CO Market and Industry Opportunities (2021-22)

Amador County, CA Comprehensive Economic Development Strategy (2021)

Hannibal, MO Economic Development Plan (2021)

St. Joseph, MO Regional Development Opportunities (2020)

Kingman, AZ Economic Development Strategy (2019)

Economic Center Profiles and Action Plan, City of Martinez CA (2018-2019)

Regional Workforce Development Analysis and Strategy, West Valley AZ (2017-18)

Economic Diversification Plan, East Kern County CA (2017)

Los Banos, CA Industrial Site Profile and Marketing (2017-current)

Downtown Revitalization Plan, Hillsboro OR (2017)

Tactical Marketing Plan, Klamath Falls Downtown OR (2015)

EDA Comprehensive Economic Development Stratgies and Annual Reports (2009-2022)



Lindy Hoppough | Chabin Concepts, Inc.

Lindy@chabinconcepts.com

Tel: 530.345.0364 ext. 24

Lindy takes our complex notions and translates them into understandable pieces that are easily read and graphically appealing.

Professional Experience

With a background encompassing graphic design, writing, and web development, Lindy spreads her time between creating business-to-business communications, punching up marketing copy and preparing web content. Under those broad categories, her flexible skills may be applied to data analysis, keyword development, image editing, map creation, copywriting and editing. She loves to learn and apply a variety of technologies, including extensive work in Adobe InDesign, Photoshop, Wix, and Squarespace.

She has worked in the economic development field since 1987. Her portfolio includes websites, business cases, retail market pieces and print ads for communities throughout the country.

Lindy strives to approach all projects armed with complete information. To that end, she devised and conducted a website user study for economic development (Apex Award winner); co-wrote So You Want to Make a Company's Short List, Huh?, a data collection guide for business attraction; and contributed a chapter to Journey to Jobs, an economic development how-to guide.

Expertise

Written communication
Copywriting and business-to-business communication
Graphic design, printing, and publishing
Web content development and usability
College-level instruction
Operating a design business (sole proprietor)

Education

M.A., Instructional Technology, CSU, Chico; 1992;
B.S., Graphic Communication, Cal Poly, San Luis Obispo, 1982

Selected Projects

Benicia, CA –annual report; website admin

City of Merced, CA – website creation and content management (COVID-19 and ED sites); print materials

Fresno EDC – report, maps, infographic

RE3vision – naming strategy, messaging, website, design

City of Morro Bay, CA – executive summary

West Virginia Craft Beverage Trail–report design

Wilsonville, OR – retail marketing sheet

Suisun City, CA – fact sheet

Los Banos, CA – website creation: retail recruitment package

Choose Chico, CA – data book and web content

TeamCalifornia – advertising and event support

Butte County, CA – entrepreneur plan

Don Schjeldahl, DSG Advisors



Company founder Don Schjeldahl is a leading expert in corporate location strategies, community, and property selection for manufacturing and specialized industrial facilities.

Don spent nearly 30 years as Director and Vice President of Austin Consulting's Location Practice where he completed more than 300 client location assignments for manufacturing plants, distribution centers, aviation facilities, research and development centers, newspaper plants, broadcast studios and information processing centers.

Don is a founding member of the Site Selectors Guild and of the CompetitiveReady consulting consortium. He is a frequent presenter at professional meetings and contributor to industry-specific publications and location selection journals including Area Development, Business Facilities, Site Selection, and Solar Industry.

Experience: 35 years of experience in developing and implementing corporate location strategies and site selection for commercial and industrial clients and business recruitment for economic development

Expertise: Evaluating labor markets, supply chain, real estate, infrastructure capacity, community attributes, tax structure, incentive programs, costs, and risks

Urban centers and rural areas throughout the United States, Canada, Mexico, United Kingdom and Europe

Mature and emerging industries in technology, manufacturing, distribution, aviation, R&D, print and broadcast media, and information processing

Education: B.A. Urban Geography, University of Minnesota. M.A. Economic Geography, Wayne State University.

Publications

"Food Industry Investment Patterns" (Expansion Management Magazine)

"Sustainability: The Invisible Hand Shapes Next Generation Location Selection" (Area Development Magazine)

"When Making Location Decisions it's Time to Rethink Energy" (Trade and Industry Development Magazine)

"Renewable Energy Coming of Age" (Expansion Solutions Magazine)

"Location Matters in the Age of Sustainability" (Trade and Industry Development Magazine)

"Capturing Market Share via Strategic Plant Locations" (Solar Industry Magazine)

Speaking Engagements

Reinvesting in American Manufacturing (Houston)

GSA Energy Summit (South Carolina)

Indiana Economic Development Association



THATCH MOYLE- PRINCIPAL, URBAN SCENARIOS



Years' Experience
20

Education
B.A. Economics
Willamette University

Masters Urban & Region Planning
University of Colorado-Denver

Affiliations
American Planning Association, Oregon Chapter

Woodstock Neighborhood Association—Land Use Committee

Southeast Portland in Active Motion (SEAM)

SUMMARY OF EXPERIENCE

Urban Planner and Project Manager with 20 years of experience in master planning, data visualization, GIS analysis and scenario modeling. My background in land use planning, economic development and project management is supported by a vision for collaborative input to achieve quality design and project consensus. Project experience includes both public and private economic development action plans, StoryMap platforms, master plans for districts and regions, office parks, industrial sites, retail centers, municipal facilities, and single-family and multi-family residential developments.

SIGNIFICANT PROJECTS

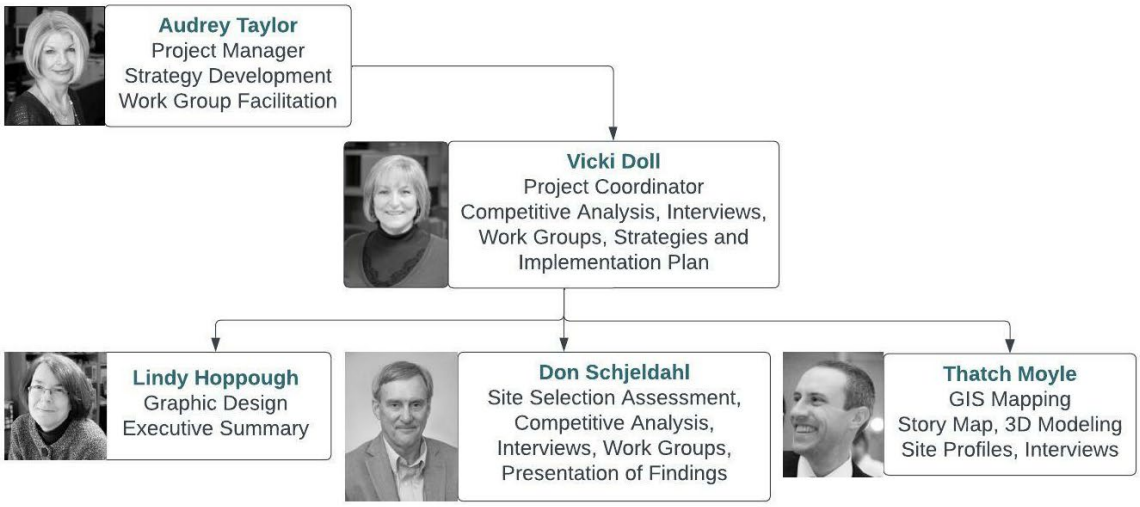
- Fairfield Economic Development Strategic Plan StoryMap, Fairfield, CA
- Vacaville Economic Recovery Plan StoryMap, Vacaville, CA
- Canon City Market/Industry Opportunity & Site Analysis, Canon City, CO
- Rosecrans Airport Economic Development Action Plan StoryMap, St. Joseph, MO
- Downtown Federal Way Retail Market Analysis, Federal Way, WA
- West Glendale Sustainable Transportation & Land Use Study, Glendale, CA
- Washington County Urban Streetscape Toolkit
- Baixa Partial Urbanization Plan, Maputo, Mozambique
- Martinez Economic Development Action Plan StoryMap, Martinez, CA
- Los Banos Industrial Areas in StoryMap, Los Banos, CA
- West Virginia Craft Beverage Trail Feasibility Study
- Benicia Commercial Feasibility Study, Benicia, CA
- City of Kingman Opportunity Zone Redevelopment Options, Kingman, AZ
- Nyberg Rivers Commercial Master Plan, Tualatin, OR
- Port of Ridgefield, Miller's Landing Waterfront Master Plan, Ridgefield, WA
- Port of Chehalis Industrial Area Master Plan, Chehalis, WA
- Cedar Hills Crossing II Commercial Redevelopment, Beaverton, OR
- AES Renewable Energy, Facility Site Selection Analysis
- Colwood Golf Course Comprehensive Plan Amendment, Portland, OR
- City of Hillsboro Baseball Stadium, Hillsboro, OR
- Guayaquil Master Plan, Guayaquil, Ecuador
- Northwest Corridor Beltway Expansion, Colorado Department of Transportation
- State Highway 9 Frisco to Breckenridge- Corridor Improvements, Breckenridge, CO
- North I-25 Corridor Expansion- Denver to Fort Collins, CO

5806 SE 46TH Avenue | Portland, OR 97206 | 503.539.1921 | thatch@urban-scenarios.com

PROJECT MANAGEMENT

Chabin Concepts will lead the Team assembled for the City of Oakley project. Chabin is equipped with the necessary tools to work efficiently, collaboratively and meet established timelines within budget. We will manage the overall project, coordinate the team, provide regular status reports, and manage all administrative duties associated with the project.

- Status reports will be prepared and emailed on an agreed upon schedule to keep you apprised of the progress being made.
- Conference calls using Zoom or Google Meets (whichever you prefer) will be scheduled regularly or as requested to monitor due dates, answer questions, address any problems in meeting project requirements, present interim findings and discuss upcoming tasks. These calls will allow the project team to achieve consensus and provide an opportunity to refine our work product.
- Basecamp is an online, private workspace we use for the project team, client, and stakeholders to facilitate information and document sharing, track timelines and action items. Basecamp will become a repository of materials and documents associated with the project.



Project Workplan

We understand that the City of Oakley's project objective is to update the 2017 Economic Development Work Plan which consists of five goals and 20 action items. Currently, the overall economic development goal is job creation.

The City has an updated General Plan, 2022. We will incorporate the goals and objectives identified there with the strategies developed for the Economic Development Plan. We will also connect with the City's partners to understand their goals and objectives as they relate to the City. The City has an economic development staff of one, therefore we hope to leverage work currently being performed by other organizations and formulate them into the City's plan.

The final deliverable will be a forward-thinking, actionable work plan that can be reasonably implemented with the City's resources.

Project Approach

Communities have three distinct industry sectors driving their economy—traded, population-serving, and visitor-serving.

- The traded sector are those businesses that provide goods and services to customers outside of the region; they export goods and import dollars. Typically, they are part of an industry supply chain, a producer or supplier. Businesses in the traded sector provide the highest economic impact to a community.
- The population-serving sector is made up of businesses that provide goods and services to residents, e.g., medical care, groceries. Because it is a circulation of the same dollars (earned and spent), the economic impact of these businesses is much smaller than those in the traded sector, but still important to the local economy and quality of life.

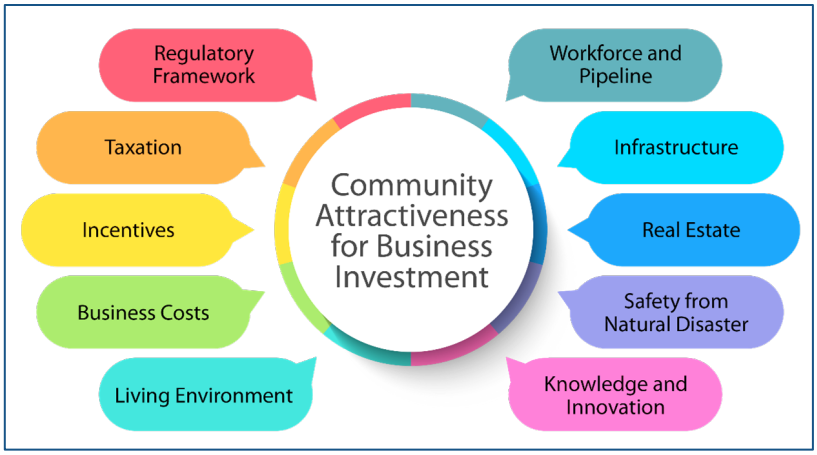


- The visitor-serving market consists of venues and businesses that attract or serve visitors to the community, e.g., hotels, destination attractions. The size and economic impact of this sector can be less for communities that are not considered a "visitor destination." When tourism is not a major part of the economy, the "visitor" can be those travelling to the community for other reasons e.g., business or medical care.

Each sector has a unique and vital role to play in Oakley's economy. Our approach is a holistic one; the consulting team will conduct their investigation keeping each economic driver in mind. The graphic on the next page illustrates the factors that contribute to economic development readiness and success.

Our strategies acknowledge the complexities of business investment decisions that include this myriad of metrics that collectively document that a community is right and ready for corporate investment.

Our approach is modeled after a typical site selection process—determining what you have that is attractive to employers, and what is absent or could be improved. We will:



THE WAY TO ATTRACT BUSINESS INVESTMENT IS BY BEING COMPETITIVE IN THESE TEN SITE SELECTION FACTORS.

- Evaluate local and regional demographic, industry, education, regulatory, infrastructure, quality of place, and workforce characteristics to assess how the community stacks up against the competition
- Visit employment centers (sites, industrial and business parks, downtowns) to document advantages and constraints associated with development, identify properties that are best suited for investment, and look to uncover new opportunities
- Interview city staff, employers, infrastructure providers, vocational schools, colleges, and universities to document the local and regional business climate, programs, and identify any gaps
- Combine these findings into a competitive analysis which will serve as the basis of an action-oriented work plan with recommendations to improve the City's competitive position which in turn will attract investment and create job opportunities

Scope of Work

TASK 1 – PROJECT INITIATION CALL

Once the project contract is executed, we will schedule a kick-off call with the project management staff during which we will:

- Agree on a schedule for team calls, status updates, and other administrative items
- Confirm availability of recently completed reports, studies, and other relevant materials
- Discuss access to GIS data and contacts
- Set aside potential dates for site visit and discuss our typical agenda
- Begin a list of stakeholders including major employers, workforce development, training and education personnel, elected officials, and community stakeholders that we will contact for telephone interviews prior to the site visit or personal visits while on site
- Address any pending local, state, or federal legislation of interest to the region; capital or development projects underway or pending that will impact economic development

TASK 2 – COMPETITIVE ANALYSIS

Using state and federal data resource, we will prepare an Economic Scan of the City to help understand assets, opportunities and challenges. The scan will look at five-year trends of population growth, workforce demographics, educational attainment, industry concentration, and quality of life factors such as the housing market—factors that support the community's value proposition for business investment.

During this phase of the project, we will also conduct confidential telephone interviews with key stakeholders to further build an asset inventory, identify potential opportunities, and uncover challenges that must be addressed to make the City attractive for business investment.

This section will present the readiness gaps that the consulting team believes need to be addressed to improve the city's economic development competitiveness. The draft Competitive Analysis will be further investigated and confirmed during the site visit.

SAMPLE COMPETITIVE ANALYSIS

Competitive Communities Offer	*Sample Community's Competitive Positioning*
A supply of workers with industry-specific skills and a strong work ethic	Civilian labor force ranges from 39% to a high of 58%; lower than the state (61%) and nation (63%)
Documentation of a pipeline of future workers, e.g., population growth, enrollment and graduates from regional colleges	Population growth is slow in the region. The percent of population over the age of 65 is greater than that of the state and nation
Industrial parks, business parks, and retail centers that have a positive modern image	Community has established industrial and business parks. Available buildings are limited.
Robust economic centers and future employment lands	Economic centers are encouraging investment by both local entrepreneurs and new businesses

TASK 3 – COMMUNITY ON-SITE ANALYSIS

Two Chabin Team members will spend three full days in the City of Oakley. The site visit will be led by Don Schjeldahl, an experienced site selector with knowledge of and experience in California and the Bay Area. Don will conduct a multi-pronged assessment of the area based on the standards of your most-demanding and sought-after audience—corporate site selectors. This is a rigorous, participatory process which involves field investigation of priority industrial sites and buildings, transportation networks, utility services and costs, permitting and regulatory process, workforce, and training—all the factors that are considered for business investment.

With help from the City's project staff we will:

- Set up an agenda and individual or small group meetings with stakeholders
- Visit key employers, employment centers, downtowns, and training facilities
- Visit with elected officials, city, and county staff
- At the conclusion of the visit, Don Schjeldahl will lead a council work session to present findings from interviews, research, and site visit. Presentation may include some initial recommendations and strategies to take advantage of opportunities and remediate challenges and gaps.

TASK 4 – TARGET INDUSTRY VALUE PROPOSITIONS

The Chabin Team will weigh community assets against our experience with economic development and corporate investment trends at local, regional, national, and global levels. Put simply, we will look at the unique set of assets the City has and suggest specific industries or types of businesses or operations that would be a best match to your location and offer the best chance of attracting new job-creating investments.

We will prepare a value proposition for investment targets that aligns with the City's competitive assets and opportunities. We will craft answers to the question "*Why would a business choose your city over any other place?*" These industry value propositions will be supported with fact-based data (proof points) and be incorporated into messaging and marketing materials.

TASK 5 – MARKETING MATERIALS

The Chabin Team will prepare an electronic marketing piece to supplement the City's economic development website. Built on the ArcGIS/StoryMap platform the site will convey the value proposition of each investment target, promote priority properties, investment opportunities, and other assets to potential investors. You can view these recently developed Story Maps prepared by the same Chabin Team as proposed for the City of Oakley.

Available Properties in Benicia, CA
Los Banos Industrial Opportunities, CA
Martinez, CA
Fairfield, CA
St. Joseph, MO

TASK 6 – STRATEGIES AND WORK PLAN

The objective of the Economic Development Work Plan is to provide the City's economic development staff with strategies and a game plan to strengthen their competitiveness for new business investment, workforce skills, talent pipeline, and overall economic development readiness. The Chabin Team will draw on our 30+ years of experience to identify the most effective economic development strategies. The City of Oakley Economic Development Work Plan will:

- Include goals, economic development and marketing strategies, and action items
- Consider the City's human and financial capacity to implement
- Suggest possible lead and partner organizations
- Recommend performance measurements that reflect progress and improvement
- Recommend resources that can aid implementation (funding, tools, technology, etc.)
- Provide an implementation guide to ensure strategies are initiated, activities are completed, and goals are achieved. **See a sample here**.

References

Christina Ratcliffe
City of Vallejo, CA
Planning Manager
Formerly with City of Martinez
christina.ratcliffe@cityofvallejo.net
707.648.4326

Project:	Martinez Economic Development Action Plan
Date:	2018-2019
Budget:	$59,500
Consulting Team:	Audrey Taylor, Chabin Concepts (lead) Vicki Doll, Chabin Concepts Thatch Moyle, Urban Scenarios

Frank Quintero
Deputy City Manager
City of Merced, CA
quinterof@cityofmerced.org
209.385.4788

Project:	Economic Development Plan, Special Projects and on-call Staff Assistance
Date:	2003-Present
Budget:	$25,000 to 50,000
Consulting Team:	Audrey Taylor, Chabin Concepts (lead) Lindy Hoppough, Chabin Concepts Vicki Doll, Chabin Concepts Thatch Moyle, Urban Scenarios Don Schjeldahl, DSG Advisors

Rick Harrmann
Economic Development Manager
City of Cañon City, CO
rlharrmann@canoncity.org
719.276.5279

Project:	Market and Industry Opportunities
Date:	2021
Budget:	$50,000
Consulting Team:	Don Schjeldahl, DSG Advisors (lead) Vicki Doll, Chabin Concepts Thatch Moyle, Urban Scenarios

Budget and Timeline

Chabin has three professional staff working on client projects along with our affiliates. The City of Oakley's six-month timeline to complete this project is sufficient time for staff and affiliates to begin and complete assignment if work is authorized and contracts completed before third quarter 2022.

Chabin offices are in Chico, CA (140 miles and about a two-hour drive from the City of Oakley). Chabin has worked with several clients in the Bay Area—Cities of Fairfield, Vacaville, Martinez, Benicia, and the County of Solano—where our location has been an advantage. We can typically accommodate a request to be on-site within two or three days.

Task	Budget	1	2	3	4	5	6
Project coordination, scheduling, reporting, contract management	$2,160	■	■	■	■	■	■
Task 1. Project Kick-Off	$720	■					
Task 2. Competitive Analysis, Economic Scan, and telephone interviews	$9,720	■	■				
Task 3. Site Visit (two consulting team members) and council work session	$13,200			■			
Task 4. Industries and value proposition	$2,520			■	■		
Task 5. Marketing material (Story Map)	$11,160			■	■		
Task 6. Strategies, Work Plan, Implementation, Performance Metrics, Council presentation	$7,380				■	■	■
Travel costs for on-site visit and council work session, final council presentation	$3,000						
TOTAL PROJECT BUDGET	**$49,860**						

BUDGET AND TIMELINE NOTES

- Services will be invoiced monthly throughout the term of the project coinciding with the project tasks and level of work accomplished during the period.
- Project-related direct expenses are included in the proposed budget. They include but are not limited to, copying and printing, packaging materials, telephone, postage, and shipping.
- Travel costs for two visits are presented separately. Budget is planned to accommodate one multi-day trip to the City of Oakley by two professionals which includes a council work session. The second visit is a council presentation of the final work plan. These all assume overnight stays.
- Additional travel requested would be billed separately beyond this scope at cost (mileage at IRS designated rate, hotel if necessary, and hours on site at $200/hour, travel time at $75/hour.
- Electronic draft reports will be made available in PDF for client review.

- Budget provides for one review/comment period, and one revision.
- An electronic version of the final report will be prepared and emailed in PDF. The final report will include the Plan, Implementation Guide, Executive Summary, Appendix items, and other relevant materials. No printed copies will be delivered.

Disadvantaged Business Enterprises

Chabin Concepts, Inc. is a woman-owned Certified Small Business (SB) designated by the California Department of General Services. We are committed to supporting and working with disadvantaged and small businesses as opportunities are presented. Our network of affiliate and strategic partners includes several woman-owned and small businesses.

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: **September 27, 2022**

TO: **City Council**

Approved and Forwarded to the City Council

FROM: **Joshua McMurray, City Manager**

SUBJECT: **Authorize for the City Manager to Execute a Purchase and Sale Agreement with Roy and Erica Pantle for the sale of real property located at 3980 Empire Avenue (APN: 034-010-033)**

Background and Analysis

As background, in September 2021, Staff brought an item forward that identified surplus properties and asked the City Council for authorization to move forward with the notification process as required by AB 1255 and AB 1486. Essentially, that notification process allowed affordable housing developers to show early interest and required the City to negotiate in good faith in the hopes of disposing of the property, in the event an affordable housing developer submitted a Letter of Intent. That authorization from September 2021 was granted and Staff proceeded with the notification process, which included the property at 3980 Empire Avenue, the subject of this report. The City did not receive any interest on the property at 3980 Empire Avenue from the notification process.

The property owners of 3920 Empire Avenue have been interested in acquiring 3980 Empire Ave for over 10 years and Staff has been engaged with them several times over this period of time. By acquiring the parcel, the property owners would have what is considered in the industry to be a “hard corner”, meaning the parcel is located at the intersection of two streets. A “hard corner” is more attractive and would give any potential development access to Laurel Road, which is one of the busiest roadways in the City. The owners have not decided if they want to pursue residential development, which is allowed by right at a density of 2.8-3.5 dwelling units per acre, or if they would want to seek additional density or even change the land use to a Commercial designation. A change in density or land use designation would require a General Plan Amendment which would require a Planning Commission review and recommendation to the City Council and a City Council approval.

Chapter 8 of Title 2 of the Oakley Municipal Code deals with the disposition of property. Oakley Municipal Code Section 2.8.106(d) allows for the City to negotiate directly with an adjacent property owner if combining the parcel to an adjacent parcel would provide better development from a planning perspective than development of the surplus property by itself. The parcel at 3980 Empire Avenue is 0.39-acres or approximately 16,988 square feet in size and is rectangular shaped with a 233 foot frontage on Laurel and a 70 foot frontage on Empire Avenue. The site is several feet below grade and would require approximately 4,500 cubic yards of fill to bring the property up to a developable grade. The site also has a storm drain catch basin located towards the middle of the property that would need to be relocated. Staff estimates that the fill and storm drain work would cost in excess of $150,000. Those improvements would be required in order to develop the parcel and the parcel by itself is constrained with both the shape, long frontage and the necessary improvements needed for development. The parcel itself is not ideal for development and combining it with the parcel to the south would result in a better planned project regardless of the type of development. Left alone, and if the parcel to the south develops, the Successor Agency owned parcel would become an undevelopable remnant and would continue to be a maintenance issue for the City. In the event the parcel, when combined with the property to the south, is never developed, the new property owner would be required to maintain the parcel, thus taking that responsibility away from the City.

Approval of this item would allow the City to formally enter into the attached Purchase and Sale Agreement, thereby formally agreeing to sell the property to Roy and Erica Pantle. The sale price is $5,000 and Staff is supportive of this agreement and recommends approval.

Consistency with the Oakley Strategic Plan 27+

This item is consistent with the Community and Economic Development goal of Strategic and Thoughtful Growth. Specifically the Business Friendly Environment Subgoal that states: Our business-friendly environment will attract residential, commercial, and industrial partners to revitalize Oakley where people will come to Live, Work, and Play.

Fiscal Impact

Although the sale price is $5,000, since this property is a Successor Agency parcel contained within the City's Long Range Property Management plan, we will have to work through the Contra Costa County Auditor Controller's office to ensure the proceeds are split between the appropriate taxing agencies. Staff has already been in contact with the County and they are aware of the potential sale of property and have instructed Staff where to send the proceeds in the event the City moves forward with this item.

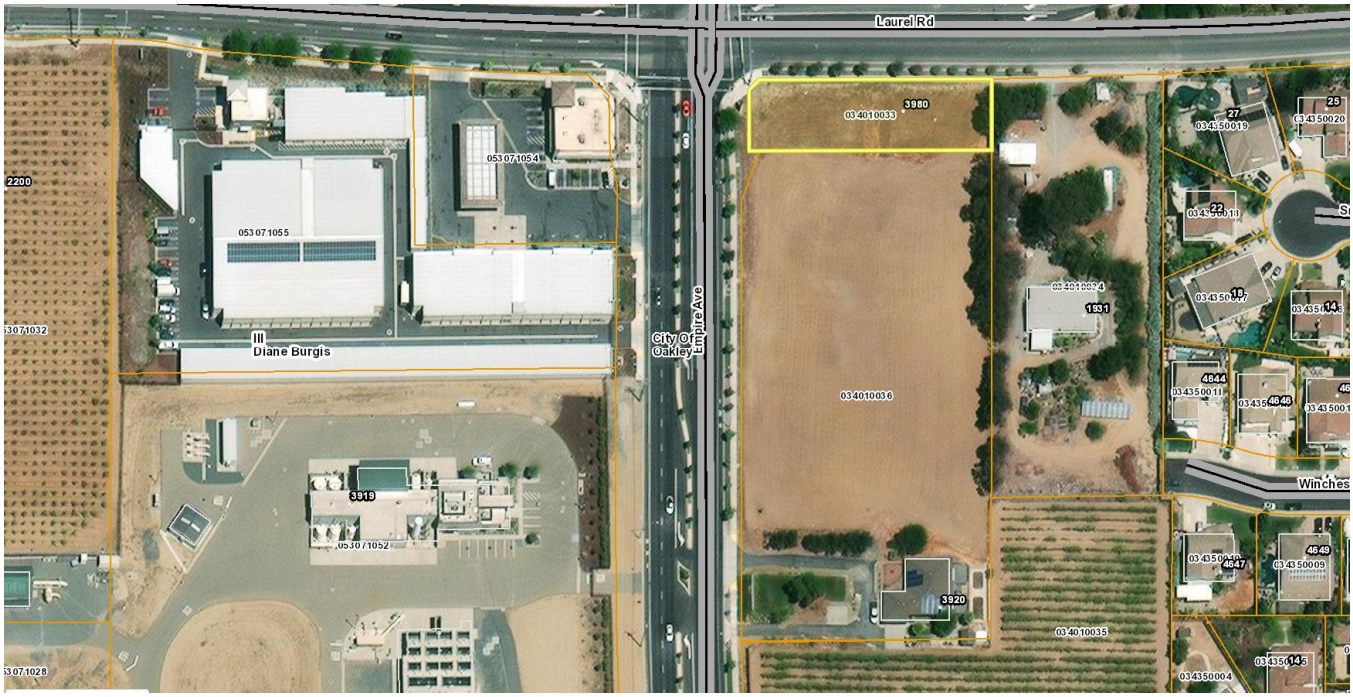
Staff Recommendation

Staff recommends that the Council adopt the resolutions approving the Purchase and Sale Agreement with Roy and Erica Pantle for the sale of real property located at 3980 Empire Avenue (APN: 034-010-033). One resolution is for the City Council and the other is for the Successor Agency to the Oakley Redevelopment Agency.

Attachments

1. Vicinity Map
2. Draft Purchase and Sale Agreement
3. Draft Resolution CC
4. Draft Resolution Successor Agency
5. Chapter 8 of Title 2 of the Oakley Municipal Code

Vicinity Map
3980 Empire Avenue
APN: 034-010-033



PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("Agreement") is made by and between the Successor Agency to the Oakley Redevelopment Agency, a public body ("Seller"), and Roy Pantle Jr. and Erica Pantle (collectively, "Buyer"). The effective date of this Agreement is September ___, 2022 ("Effective Date").

In consideration of the respective agreements hereinafter set forth, Seller and Buyer agree as follows:

RECITALS

A. Seller is the owner of the Property. as defined in Paragraph 1 below.

B. Buyer desires to purchase the Property from Seller, and Seller desires to sell the Property to Buyer, subject to the terms and conditions described within.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. Property Included in Sale. Seller shall sell and convey to Buyer, and Buyer shall purchase from Seller, subject to the terms and conditions set forth herein, the following:

1.1 The Real Property which is described in Exhibit "A", attached hereto, consisting of a 16,988-square foot parcel of vacant unimproved land, Assessor's Parcel Number 034-010-033.

1.2 All of Seller's right, title and interest in and to all rights, privileges and easements appurtenant to the Real Property, including without limitation all development rights, permits, entitlements and any rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Real Property (collectively, the "Appurtenances"). The Real Property and Appurtenances are collectively referred to herein as the ("Property").

2. Purchase Price. The purchase price for the Property shall be the sum of $5,000 (the "Purchase Price").

3. Opening of Escrow. The parties shall open an escrow with Chicago Title Company ("Title Company"), 675 N. First Street, Suite 900, San Jose, California 95112, Escrow number 98205078. The parties designate Escrow officer is Sherri Keller, (408) 993-2325, as the Escrow Officer for this transaction. Within five calendar days of the opening of escrow, Buyer will deposit the sum of $1,000.00 into escrow as the initial deposit for this transaction.

4. Title to the Property. At the closing of the purchase and sale contemplated hereunder (the "Closing"), Seller shall convey to Buyer insurable title to the Property by a duly executed and acknowledged Grant Deed in Title Company's standard form (the "Grant Deed"). At Closing, Title Company shall issue to Buyer a California Land Title Association Owner's

Policy of Title Insurance in the amount of the Purchase Price insuring fee simple title to the Property in Buyer. The cost of the Title Policy shall be paid by the Buyer.

5. Conditions to Closing. The following conditions are conditions precedent to Buyer's obligation to purchase the Property (the "Conditions Precedent"):

5.1 Buyer's Review and Approval of Title to the Property. Seller shall use reasonable efforts to cause Title Company to deliver to Buyer a preliminary title report on the Property within twenty (10) days after the Effective Date, which preliminary title report shall be issued by Title Company and accompanied by copies of all documents referred to in the report (collectively, the "Preliminary Report"). Buyer shall advise Seller, within thirty (30) days after the Effective Date, what exceptions to title, if any, will be accepted by Buyer. Seller shall have ten (10) days after receipt of Buyer's objections to give Buyer: (i) notice that such exceptions will be removed on or before the Closing Date; or (ii) notice that Seller elects not to cause such exceptions to be removed. If Seller gives Buyer notice under clause (ii), Buyer shall notify Seller within ten (10) days after Buyer's receipt of Seller's notice whether Buyer elects to proceed with the purchase or terminate this Agreement. If Buyer shall fail to give Seller notice of its election within such ten-day period, Buyer shall be deemed to have elected to terminate this Agreement.

6. Closing and Escrow.

6.1 Execution of Agreement. The parties hereto shall deposit executed counterparts of this Agreement with the Title Company and this Agreement shall serve as instructions to the escrow holder for consummation of the donation, purchase, and sales contemplated hereby. Seller and Buyer agree to execute such additional escrow instructions as may be appropriate to enable the escrow holder to comply with the terms of this Agreement; provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall control.

6.2 Closing Date. Escrow shall close within 45 days of the opening of Escrow.

6.3 Delivery of Documents. At or before the Closing Date (except to the extent otherwise specifically provided below), Seller shall deliver to Buyer the following:

(i) The grant deed for the Property, duly executed and acknowledged by Seller;

(ii) Such other documents or records as may be required under applicable law or as specified by the Title Company to ensure completion of all transactions described hereby.

6.4 Apportionment. The following are to be apportioned as of the Closing Date, as follows:

(i) Real Estate Taxes and Assessments. Buyer shall assume responsibility for all real estate taxes and assessments on the Property from the Closing Date forward.

(ii) Closing Costs. Buyer shall pay the recording fees, any County of Contra Costa transfer tax and the premium for the Title Policy and escrow fees and such other costs and charges of the escrow for the sale not otherwise provided for in this paragraph or elsewhere in this Agreement.

7. Party Representations. Seller or Buyer hereby represent as follows:

7.1 Full Authority. Seller and Buyer have full power and authority and have taken all action necessary to execute this Agreement and to fulfill all obligations hereunder.

7.2 Hazardous Materials. Seller represents the Property is free of contamination and hazardous materials.

7.3 Storm Drains. Seller represents that City storms drain and catch basin are the only improvements on the Property. The catch basin connects to the Laurel Road storm drain system via a 50-foot storm drain pipe. The storm drain catch basin and pipe can be disconnected and removed from the Property.

7.4 Water and Sewer. Seller represents that here is no water or sewer line(s) on the Property.

7.5 Zoning. Seller represents the current zoning of the Property is R-10.

8. As-Is Acquisition. Buyer represents and warrants that as of the Close of Escrow, Buyer will have satisfied itself as to the physical, environmental, legal and economic condition and all other aspects of the Property and its suitability for the purposes intended by Buyer. Buyer acknowledges and agrees that Buyer is acquiring the Property subject to all existing laws, ordinances, rules and regulations, and that neither Seller nor any of Seller's agents, representatives and attorneys (collectively, "Seller's Agents") have made any warranties, representations or statements regarding the availability of any approvals, or the laws, ordinances, rules or regulations of any governmental or quasi-governmental body, entity, district or agency having authority with respect to the ownership, possession, development, occupancy, condition and/or use of the Property except as expressly provided herein. Buyer, moreover, acknowledges that Buyer has entered into this Agreement with the intention of relying upon its own investigation of the physical, environmental, economic and legal condition of the Property, including, without limitation, the compliance of the Property with laws and governmental regulations and the operation of the Property, and that Buyer is not relying on any representations and warranties made by Seller or anyone acting or claiming to act on Seller's behalf concerning the Property except as expressly provided herein. Buyer further acknowledges that it has not received from Seller any accounting, tax, legal, architectural, engineering, property management or other advice with respect to this transaction and is relying upon the advice of its own accounting, tax, legal, architectural, engineering, property management and other advisors. Buyer shall purchase the Property in its "As-Is" condition on the Closing Date and assumes the risk that adverse physical, environmental, economic or legal conditions may not have been revealed by its investigations. Seller shall have no liability for any subsequently discovered defects, whether latent or patent.

9. Miscellaneous.

9.1 Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, or (ii) three (3) days after being deposited in the U.S. Mail, and addressed as follows:

If to Buyer:

Roy and Erica Pantle
3920 Empire Road
Oakley, California 94561
rpantle@sbcglobal.net

With Copy to:

Todd Fujinaga
Law Office of Todd Roger Fujinaga
158 Jackson Street
San Jose, California
todd@tfujinaga.com

If to Seller:

Joshua McMurray, City Manager
City of Oakley
3231 Main Street
Oakley, California 94561
McMurray@ci.oakley.ca.us

Seller and Buyer shall each have the right from time to time to change the place notice is to be given under this section by written notice thereof to the other party.

9.2 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs, administrators and assigns.

9.3 Amendments. Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.

9.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

9.5 Merger of Prior Agreements. This Agreement and the exhibits hereto constitute the entire agreement between the parties and supersede all prior agreements and understandings between the parties relating to the subject matter hereof.

9.6 Negotiated Agreement. Seller and Buyer acknowledge that this Agreement has been negotiated and that each party has had an opportunity to have the Agreement reviewed by legal counsel. Accordingly, notwithstanding the fact that this Agreement was prepared by Seller's counsel, the doctrine that ambiguities in an agreement shall be construed against the drafting party shall not be employed in connection with this Agreement.

9.7 Enforcement. If either party commences legal proceedings to enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party its attorneys' fees and court costs incurred therein.

9.8 Time of the Essence. Seller and Buyer agree that time is of the essence of this Agreement. If either party fails to perform an obligation contained herein by the date such performance is required, it shall not be deemed to be unreasonable for the other party to pursue its remedies hereunder, including termination of this Agreement.

9.9 Severability. If any provision of this Agreement or the application thereof to any person, place or circumstance shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

9.10 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SELLER:

Successor Agency to the Oakley Redevelopment Agency

_____

Joshua McMurray, City Manager

BUYER:

_____

_____

_____

Roy Pantle, Jr.

_____

_____

Erica Pantle

APPROVED AS TO FORM:

By: _____

Derek Cole, City Attorney

EXHIBIT A

[PROPERTY DESCRIPTION]

RESOLUTION NO. XX-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE AND SALE AGREEMENT WITH ROY AND ERICA PANTLE FOR THE SALE OF REAL PROPERTY LOCATED AT 3980 EMPIRE AVENUE (APN: 034-010-033)

BE IT RESOLVED by the City Council of the City of Oakley that the City Manager is hereby authorized and directed to sign on behalf of the City that certain Purchase and Sales Agreement between the City and with Roy and Erica Pantle for the sale of real property located at 3980 Empire Avenue (APN: 034-010-033).

PASSED, APPROVED AND ADOPTED this 27th Day of September, 2022 by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date

RESOLUTION NO. SA XX-22

A RESOLUTION OF THE BOARD OF THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE AND SALE AGREEMENT WITH ROY AND ERICA PANTLE FOR THE SALE OF REAL PROPERTY LOCATED AT 3980 EMPIRE AVENUE (APN: 034-010-033)

WHEREAS, the Successor Agency is the owner of real property, a former Oakley Redevelopment Agency property, located at 3201 Main Street, Oakley, California, commonly known as Contra Costa County Assessor's Parcel Number 035-090-078 ("the Property"); and

WHEREAS, a Long Range Property Management Plan, required for all former Oakley Redevelopment Agency properties, was approved by the State Department of Finance on December 30, 2015 and calls for the sale of the Property; and

NOW, THERFORE, BE IT RESOLVED by the Board of the Successor Agency to the Oakley Redevelopment Agency hereby approves the sale of the former Oakley Redevelopment Agency Parcel and that the Executive Director (City Manager) is hereby authorized and directed to sign on behalf of the Successor Agency to the Oakley Redevelopment Agency that certain Purchase and Sales Agreement between the City and with Roy and Erica Pantle for the sale of real property located at 3980 Empire Avenue (APN: 034-010-033).

PASSED, APPROVED AND ADOPTED this 27th day of September, 2022 by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date

CHAPTER 8
DISPOSAL AND LEASE OF REAL PROPERTY

Article 1 SALE OF SURPLUS REAL PROPERTY

2.8.102 Applicability.

The procedure set forth in this section shall be applicable to the disposal of real property owned by the City of Oakley and determined to be surplus and excess property no longer necessary for public purposes. The provisions of these rules shall not apply to the abandonment of streets or the vacation of easements owned by the City of Oakley and governed by the statutes of the State of California, nor shall the provisions of these rules apply to the termination, rejection or abandonment of offers of dedication pursuant to Section 66477.2 of the Government Code.

2.8.104 Determination of Surplus Property.

a. All departments within the City of Oakley shall submit to the City Manager a report showing any real property in the possession, custody or control of such department that is no longer used and is otherwise surplus and excess for the needs of the department. If the City Manager finds that such real property is not required for any other public use, he/she shall so report to the City Council and the City Council may declare it surplus and cause to be prepared a written estimate of its market value.

b. Prior to disposal of surplus real property by public sale, the City Manager shall provide written notice to public agencies in the manner prescribed by Section 54220 et seq. of the Government Code.

c. The following procedures apply if the property is not purchased by a public agency pursuant to Section 54222 et seq. of the Government Code.

2.8.106 Manner of Disposal.

a. The City Manager may dispose of any surplus real property which has an estimated market value of less than $5,000 without advertising for bids.

b. If the surplus real property has an estimated market value of $5,000 or more, the City Manager shall dispose of the property in the manner set forth herein and shall require City Council approval for final agreement of the sale.

c. If the parcel which is surplus real property is an uneconomic remnant such that it is not buildable by itself under the current zoning, then the City Manager may renegotiate a sale price with the adjoining property owner(s) without advertising for bids.

d. If the parcel which is surplus real property is a buildable parcel under the current zoning, and the combining of the parcel to an adjacent parcel would provide better development from a planning perspective than development of the surplus property by itself, then the City Manager may negotiate a sale with the adjoining property owner(s). If an acceptable price (to the City) is not reached, then the City shall dispose of the property in the manner set forth herein.

2.8.108 City Personnel Prohibited. SHARE

No City official, officer or employee shall bid or be financially interested in any bid for surplus real property sold in accordance with these rules.

2.8.110 Sale Procedures. SHARE

The conveyance of surplus real property by the City shall be made to the highest responsible bidder who most closely meets the terms and conditions of the notice inviting bids pursuant to the following procedures:

a. A notice inviting bids shall be published at least once ten (10) days before the opening of the bids in a newspaper of general circulation in the City printed and published within Contra Costa County. The notice inviting bids shall include a legal description of the subject property, a vicinity map showing the general location of the subject property, the time and place of opening bids, and the terms and conditions for bids.

b. Sealed bids, including a bid deposit of ten percent (10%) of the bid price, but not exceeding $10,000, shall be submitted to the City Clerk. Said bid deposit shall be in the form of cashier's check, certified check or bidder's bond executed by an authorized surety company.

c. At the time and place fixed in the notice to bidders, all sealed proposals which have been received shall be publicly opened, examined and declared by the City Clerk. Of the proposals submitted which conform to all terms and conditions of the sale, the proposal which is the highest shall be referred to the City Council unless a higher oral bid is received or the City Manager rejects all bids, or if the Council determines that a lower bid is more responsive for the reasons specified in subsection (e) of this section.

d. The City Manager may set a minimum acceptable bid amount and may reject any and all bids presented.

e. In cases where the City wishes the surplus property to be developed or used in a manner to support specified economic development, retail, industrial or housing goals and policies, the notice inviting bids shall require bidders to specify end-uses for the property and the City may specify deadlines for the accomplishment of the end-use. Preference shall be given to the bid with the highest monetary purchase

price which most closely accomplishes the end-use goals. As to all cases, the City and the purchaser shall enter into a purchase agreement approved by the City Council.

f. After opening bids, the City Clerk shall call for oral bids from those bidders tendering written proposals. If, upon the call for oral bidding, any responsible person offers to purchase the property, upon the terms and conditions specified and for a price exceeding the highest written proposal by at least five percent, then the responsible oral bid shall be received for presentation to the City Council if it meets the after-use criteria specified in subsection (e) of this section. Final receipt by the City Clerk shall not be made, however, until the oral bid is reduced to writing and signed by the offeror and an additional deposit in the amount of ten percent (10%) over the offeror's original written bid is tendered, though not to exceed an additional $10,000. This reduction of the bid to writing and submittal of deposit shall be completed within one business day (banking) after determination of the highest bidder has been announced by the City Manager, or the offeror shall forfeit his/her bid deposit.

g. Unless otherwise specified in the notice to bidders, sale of surplus property shall be completed in an escrow of the City's choice. All successful bids shall be incorporated into a sale and purchase agreement to be approved by the City Council.

h. The successful bidder shall close escrow as specified in the purchase agreement.

i. All bidders' deposits shall be retained until escrow closes. If the apparent purchaser fails to complete the transaction and to close escrow, then the City may enter into a purchase agreement with the next lowest monetary bidder who most closely meets the requirements of subsection (e) of this section and retain the original apparent purchaser's deposit.

(Sec. 2, Ordinance No. 02-12, adopted May 8, 2012)

2.8.112 Deed – Additional Costs. SHARE

(Repealed by Ordinance No. 02-12, on May 8, 2012)

2.8.114 Funds. SHARE

(Repealed by Ordinance No. 02-12, on May 8, 2012)

2.8.116 Effect On Validity. SHARE

(Repealed by Ordinance No. 02-12, on May 8, 2012)

2.8.118 Forms. SHARE

(Repealed by Ordinance No. 02-12, on May 8, 2012)

OAKLEY
CALIFORNIA

STAFF REPORT

Date: September 27, 2022

To: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

From: Libby Vreonis, City Clerk and Kim Snodgrass, Deputy City Clerk

SUBJECT: Waive the First Reading and Introduce an Ordinance Amending Sections 2.9.002 through 2.9.012 of the City of Oakley Conflict of Interest Code to Adopt and Incorporate by Reference the Terms of 2 California Code of Regulations Section 18730 and Any Amendments to it Duly Adopted by the Fair Political Practices Commission (FPPC), and Repeal Sections 2.9.014 through 2.9.020 of the Oakley Municipal Code, and Adopt a Resolution Providing Disclosure Categories and updating Designated Positions, to become the 'Appendix' of the City of Oakley Conflict of Interest Code

---

Background

The overarching purpose of the California Political Reform Act is to help ensure that a public officer or employee, during his or her official duties, is not involved in making, or participating in the making of, decisions which may foreseeably have a material effect on any financial interest of the public officer or employee. To that end, Government Code Sections 87300, *et seq.,* require every local agency to promulgate a Conflict of Interest Code which contains (1) a specific listing of the positions within the City which involve the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, and (2) for each such position, the specific types of investments, business positions, interests in real property and sources of income which are reportable. All such designated positions are required to disclose financial interests by filing an annual Fair Political Practices Commission Statement of Economic Interests Form 700, as well as assuming and leaving office statements within 30 days of hire and separation.

The Political Reform Act requires the City to conduct a biennial review of its Conflict of Interest Code on even-numbered years. The last update was adopted in September 2020. The biennial notice must be submitted to the Council before October 3, 2022.

Ordinance

Currently, the City of Oakley Conflict of Interest Code provides detailed descriptions of designated employees/positions, their disclosure categories, time and place of filing statements of economic interests, manner of reporting (investments and real property, personal income disclosure, business entity disclosure, business position disclosure, and acquisition or disposal during reporting period), prohibition of receipt of honoraria, prohibition of receipt of gifts in excess of the current approved amount, loans to designated employees, personal loans determined to be gifts, disqualification, legally required participation, manner of disqualification and violations.

Except for positions and disclosure categories, items addressed in the City's current Conflict of Interest Code (Oakley Municipal Code Sections 2.9.010 through 2.9.020) mentioned above, are addressed by the Fair Political Practices Commission through its adoption of 2 California Code of Regulations Section 18730 which can be incorporated by reference into the City's Conflict of Interest Code. An advantage to adopting and incorporating 2 California Code of Regulations Section 18730 and any amendments by reference is that it would conform to any amendments made in the Political Reform Act. For example, the total value of gifts a filer may receive in a calendar year from any single source is often updated before the City performs its biennial review. In calendar year 2020, the total value was $500; it increased to $520 for calendar years 2021 and 2022. This update, along with any others, would be captured by adopting and incorporating 2 California Code of Regulations Section 18730 and any amendments by reference, ensuring the City's Code is current and any updates to the Political Reform Act are not overlooked.

Resolution

If the City Council waives the first reading and introduces the ordinance this evening adopting and incorporating 2 California Code of Regulations Section 18730 and any amendments by reference and it adopts the ordinance during its next meeting, the City Council may adopt a resolution to create an 'Appendix' to the ordinance, providing a list of designated positions and disclosure categories. Positions and disclosure categories are currently established and updated by resolution in accordance with Oakley Municipal Code Section 2.9.008(c). Adoption of this resolution would not change the procedure of positions and disclosure categories being updated; it would simply title the list, as updated, as the 'Appendix', if the ordinance is adopted. If the ordinance is not adopted, the resolution would become part of the existing ordinance under Oakley Municipal Code Section 2.9.008(c).

The proposed resolution updates the following designated positions and their respective disclosure categories.

Staff recommends the City Council add the following approved job classifications and related disclosure categories:

Job Classification	Disclosure Categories
• Accounting Manager	2, 3, 4, 5
• Capital Projects Engineer	2, 4, 5
• Deputy City Clerk	2, 3, 4
• Economic Development Analyst	1
• Human Resources Director	1
• Human Resources Technician	5
• IT Manager	4, 5
• Parks and Landscape Maintenance Division Manager	3, 4, 5
• Parks and Landscape Maintenance Foreman	5
• Park Ranger	2, 4, 5
• Permit Technician	5
• Planning Manager	2, 4, 5
• Police Records Supervisor	4
• Principal Engineer	2
• Recreation Director	1

Staff also recommends amending the following positions to reflect changes to inactive positions:

- Associate Engineer
- Building Official
- Capital Project Coordinator
- Citizen Planning Advisors
- Community Program Coordinator
- Economic Development Manager
- Human Resources Manager
- Management Analyst
- Network Manager
- Parks and Landscape Maintenance Superintendent
- Principal Planner
- Project Manager
- Recreation Manager/Website Coordinator
- Senior Accountant
- Stormwater Coordinator

Consistency with the Oakley Strategic Plan 27+

Updating the City's Conflict of Interest Code biennially helps to communicate and uphold the City's information systems to reinforce transparency and access to build trust by maintaining a current database and public access to filings made by Conflict of Interest Code filers.

Fiscal Impact

None.

Staff Recommendation

Staff recommends the City Council waive the first reading and introduce an ordinance amending Sections 2.9.002 through 2.9.012 of the City of Oakley Conflict of Interest Code to adopt and incorporate by reference the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission (FPPC), and repeal Sections 2.9.014 through 2.9.020 of the Oakley Municipal Code, and adopt a resolution providing disclosure categories and updating designated positions to become the 'Appendix' of the City of Oakley Conflict of Interest Code.

Attachments

1. Biennial Notice
2. Proposed Ordinance
3. Proposed Resolution
4. Proposed Disclosure Categories and Updated Designated Positions

2022 Local Agency Biennial Notice

Name of Agency: City of Oakley

Mailing Address: 3231 Main Street, Oakley, CA 94561

Contact Person: Libby Vreonis Phone No. 925-625-7013

Email: vreonis@ci.oakley.ca.us Alternate Email: snodgrass@ci.oakley.ca.us

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that *(check one BOX):*

☑ **An amendment is required. The following amendments are necessary:**

(Check all that apply.)

- ☑ Include new positions
- ☐ Revise disclosure categories
- ☑ Revise the titles of existing positions
- ☑ Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- ☐ Other *(describe)* _____

☐ **The code is currently under review by the code reviewing body.**

☐ **No amendment is required.** (If your code is over five years old, amendments may be necessary.)

Verification **(to be completed if no amendment is required)**

This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.

_____ 09/27/2022

Signature of Chief Executive Officer *Date*

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 3, 2022**, or by the date specified by your agency, if earlier, to:

(PLACE RETURN ADDRESS OF CODE REVIEWING BODY HERE)

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

ORDINANCE NO.____-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY AMENDING SECTIONS 2.9.002 THROUGH 2.9.012 OF THE CITY OF OAKLEY CONFLICT OF INTEREST CODE TO ADOPT AND INCORPORATE BY REFERENCE THE TERMS OF 2 CALIFORNIA CODE OF REGULATIONS SECTION 18730 AND ANY AMENDMENTS TO IT DULY ADOPTED BY THE FAIR POLITICAL PRACTICES COMMISSION (FPPC) AND REPEALING SECTIONS 2.9.014 THROUGH 2.9.020 OF THE OAKLEY MUNICIPAL CODE

The City Council of the City of Oakley does ordain as follows:

Section 1. Section 2.9.002 through 2.9.012 are hereby amended to read as follows:

"**2.9.002 Purpose**

The Political Reform Act prohibits public officials from using their official position to influence governmental decisions in which they have a financial interest. A conflict of interest code identifies all officials and employees within the agency who make governmental decisions based on positions they hold and those persons must disclose their financial interests by filing the Fair Political Practices Commission form called the Statement of Economic Interests (Form 700). In appropriate circumstances, official and employees should be disqualified from acting in order that conflicts of interest may be avoided.

2.9.004 Incorporation (Terms of the Code)

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix, designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the City of Oakley (City).

2.9.006 Filing and Retention of Fair Political Practices Commission Statements of Economic Interests (Form 700)

Individuals holding designated positions shall file their statements of economic interests with the City, which will make the statements available for public

inspection and reproduction (Gov. Code Sec. 81008). Upon receipt of statements being filed pursuant to Gov. Code Sec. 87200, the City shall make and retain copies and forward the originals to the Fair Political Practices Commission. All other statements will be retained by the City. Originals and copies of all statements shall be maintained in accordance with Fair Political Practices Commission retention guidelines. The provisions of this section shall not prohibit electronic filing of statements of economic interests.

2.9.008 Positions Stated in Government Code Section 87200

Positions including, but not limited to City Councilmembers, Planning Commissioners, City Manager, City Attorney and Finance Director, and candidates for any of these positions, shall file the Fair Political Practices Commission Statement of Economic Interests form (Form 700) in accordance with Government Code Section 87200 et seq.

2.9.010 Ethics Training

Positions stated in Sections 2.9.006 and 2.9.008 are required to complete ethics training within thirty (30) days of assuming the position and every two (2) years thereafter until separation from the position.

2.9.012 Amendments to Appendix Designating Positions and Disclosure Categories

Amendments to designated positions and disclosure categories may be made by adoption of a resolution by the Oakley City Council."

Section 2. Sections 2.9.014 through 2.9.020 of the Oakley Municipal Code are hereby repealed.

Section 3. Severability.

In the event that any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 4. California Environmental Quality Act ("CEQA") finding.

This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), Review for Exemption, because it can be seen with certainty that this ordinance will not have a significant effect on the environment; therefore, it is not subject to CEQA.

Section 5. Effective Date and Publication.

This ordinance shall take effect and be in force and effect thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the office of the City Clerk at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, 2022 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk Date

RESOLUTION NO. XX-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY PROVIDING DISCLOSURE CATEGORIES AND UPDATING DESIGNATED POSITIONS FOR THE CITY OF OAKLEY CONFLICT OF INTEREST CODE

BE IT RESOLVED that attached disclosure categories are provided and attached designated positions are updated for the City of Oakley Conflict of Interest Code and are hereby approved by the Oakley City Council.

PASSED, APPROVED AND ADOPTED this 27th day of September, 2022 by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____ _____
Libby Vreonis, City Clerk Date

City of Oakley Conflict of Interest Code

Disclosure Categories and Designated Positions

Designated positions as updated and proposed below are required to file the Fair Political Practices Commission Statement of Economic Interest Form 700. The disclosure categories for such designated positions are adopted and described as follows:

Disclosure Category 1: Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the agency; and investments and business positions in business entities; and income, including loans, gifts, and travel payments from all sources.

Disclosure Category 2: Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the City.

Disclosure Category 3: Investments and business positions in business entities; and income, including loans, gifts, and travel payments, from sources that provide services, supplies, materials, machinery, or equipment of the type utilized by the City.

Disclosure Category 4: Investments and business positions in business entities; and income, including loans, gifts, and travel payments, from sources that provide services, supplies, materials, machinery, or equipment of the type utilized by the department or division to which the designated employee is assigned duties.

Disclosure Category 5: Investments and business positions in business entities; and income, including loans, gifts, and travel payments, from sources that are of the type to request an entitlement from the City, or an entitlement to use City property or facilities, including but not limited to:

- A license;
- A vendor permit;
- A use permit;
- A regulatory permit;
- A grant or other form of financial assistance;
- Any development-related permit or entitlement.

Designated Employee	Disclosure Categories
Accounting Manager	Categories 2,3,4,5
Administrative Hearing Officer	Category 1
Assistant City Attorney	Category 1
Assistant to the City Manager	Categories 3, 5
Building Inspector	Categories 2, 5
Capital Project Engineer	Categories 2,4,5
Chief of Police	Category 1
City Clerk	Category 1
City Engineer / Public Works Director	Category 1
City Surveyor	Category 1
Code Enforcement Officer	Categories 2, 3, 4
Code Enforcement Technician	Categories 2, 3, 4
Community Development Director	Category 1
Deputy City Clerk	Categories 2,3,4
Economic Development Analyst	Category 1,
Engineering Technician	Category 2,
Human Resources Director	Category 1
Human Resources Technician	Category 5
IT Manager	Categories 4, 5
Paralegal	Categories 2, 3, 5
Park Ranger	Categories 2,4,5
Parks and Landscape Maintenance Division Manager	Categories 3,4,5
Parks and Landscape Maintenance Foreman	Category 5
Permit Center Manager	Category 1
Permit Technician	Category 5

Planning Manager	Categories 2, 4, 5
Planning Technician	Categories 2,5
Police Lieutenant	Categories 2,3,4
Police Records Supervisor	Category 4
Police Sergeant	Categories 2, 3,4
Principal Engineer	Categories 2,4,5
Public Works Inspector	Categories 2,5
Recreation and Events Coordinator	Categories 4,5
Recreation Director	Category 1
Senior Accounting Technician	Categories 3,5
Streets Maintenance Foreman	Category 5

Agenda Date: _____

Agenda Item: _____

OAKLEY CALIFORNIA

STAFF REPORT

Date: September 27, 2022

To: City Council

From: Joshua McMurray, City Manager

Subject: **Adopt a resolution declaring one property as "Surplus" and direct Staff to provide the notices required by AB 1255 and AB 1486**

Summary and Background

Two specific laws relating to City-owned surplus properties, AB 1255 and AB 1486, became effective January 1, 2020. Both laws provide regulations for cities to prepare a list of its surplus land, and to then make the surplus land available to affordable housing developers, school districts, and other public agencies before disposing of the property. The list of surplus land must also be reported to the California Department of Housing and Community Development (HCD). The term "surplus" is explained as properties "*in excess of its foreseeable needs*" and that are "*no longer necessary for the agency's use*."

The City Council took action a year ago that identified several properties as surplus. The purpose of this staff report is to provide information regarding one additional property that has been identified and to seek the City Council's approval of the property identified in Table 1.

Table 1: Proposed Surplus Properties

	Property Address and APN	Parcel Size	Condition
1.	**4921 Teakwood Drive** 035-322-022	0.24-acres	Vacant

Further, we seek City Council's direction to submit the list to HCD and specific entities mentioned in these new laws. Specifically, those to be notified of the surplus properties list are:

- low- and moderate income housing to housing sponsors that have notified the California Department of Housing and Community Development of their interest in surplus land;

- county park and recreation departments and regional park authorities land that have jurisdiction over the area where the land is located, and the State Resources agency;

- school districts in the city thathave jurisdiction over the area where the land is located; and,

- to any county,city, public transportation agency, or housing authority within whose jurisdiction the surplus land is located.

Any entity receiving a written notice of availability has 60 days to notify the City in writingof its interest in purchasing or leasing the surplus land. If the City receives multiple notices of interest from entities to whom the notice was sent, the City is required to give first priority to the entity that agrees to use the site for affordable housing purposes as specified in the regulations. If more than one entity proposes the same number of affordable units, the city must give priority to the entity that proposes the deepest average level of affordability.

The city is required to negotiate in good faith with the interested entity for at least 90 days. If a price or terms cannot be agreed upon during that time period, or if no entity expresses interest after the initial 60 days, the City may dispose ofthe properties without further regard to the regulations of AB 1255 and AB 1486. There are serious remedies and significant penalties for cities who do not properly follow the provisions of AB 1255 and AB 1486.

Fiscal Impact
Undetermined

Recommendation
Adopt the resolution declaring the property listed in Table 1 as “surplus” and direct Staff to provide the notices required by AB 1255 and AB 1486.

Attachments
1. Resolution
2. Aerial maps of the property location

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY DECLARING PURSUANT TO GOVERNMENT CODE SECTION 54221 THAT CERTAIN REAL PROPERTY OWNED BY THE CITY AND NOT NECESSARY FOR THE CITY'S USE

WHEREAS, the City of Oakley ("City") is the owner in fee simple of certain real property located at various locations within the City and described in Exhibit "A" attached hereto and made a part of hereof ("Properties"); and

WHEREAS, under the Surplus Property Land Act, Government Code Sections 54220-54233 ("Act"), surplus land is land owned in fee simple by the City for which the City Council takes formal action in a regular public meeting declaring the land is surplus and not necessary for the City's use. The land must be declared either surplus land or exempt surplus land; and

WHEREAS, under the Act, land is necessary for the City's use if the land is being used, or is planned to be used pursuant to a written plan adopted by the City Council, for City work or operations; and

WHEREAS, City staff has evaluated the Property for it's potential to be used for City work or operations; and

WHEREAS, City staff has determined that the Property is not suitable for the City's use; and

WHEREAS, the City Council desires to declare that the Property is surplus land and not necessary for the City's use; and

WHEREAS, the Act requires that before the City Council disposes of the Property or engages in negotiations to dispose of the Property, the City shall send a written notice of availability of the Property to certain designated entities; and

WHEREAS, the accompanying staff report provides supporting information upon which the declaration and findings set forth in this Resolution are based;

NOW, THEREFORE, the City Council hereby resolves as follows:

SECTION 1. The above recitals are true and correct and are a substantive part of this Resolution.

SECTION 2. The City Council hereby declares that the Property is surplus land and not necessary for the City's use. The basis for this declaration is that the property is a residential parcel and no planned city facility or building that the City can financially afford is feasible for the site.

SECTION 3. Staff is hereby directed to send a notice of availability, to the entities designated in Government Code Section 54222 ("Designated Entities") by electronic mail or by certified mail.

SECTION 4. This Resolution has been reviewed with respect to the applicability of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"). City staff has determined that the designation of the properties as surplus does not have the potential for creating a significant effect on the environment and is therefore exempt from further review under CEQA pursuant to State CEQA Guidelines Section 15060(c)(3) because it is not a project as defined by the CEQA Guidelines Section 15378. Adoption of the Resolution does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. If and when the properties are sold to a purchaser and that purchaser proposes a use for the property that requires a discretionary permit and CEQA review, that future use and project will be analyzed at the appropriate time in accordance with CEQA.

SECTION 6. The officers and staff of the City are hereby authorized, jointly and severally, to do all things which they may deem necessary or proper to effectuate the purposes of this Resolution, and any such actions previously taken are hereby ratified and confirmed. Such actions include negotiating in good faith in accordance with the requirements of the Act with any of the Designated Entities that submit a written notice of interest to purchase or lease the Property in compliance with the Act.

The foregoing resolution was introduced at a regular meeting of the Oakley City held on the 27th day of September 2022, by Councilmember _____, who moved its adoption, which motion being duly seconded by Councilmember _____, was upon voice vote carried and the resolution adopted by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

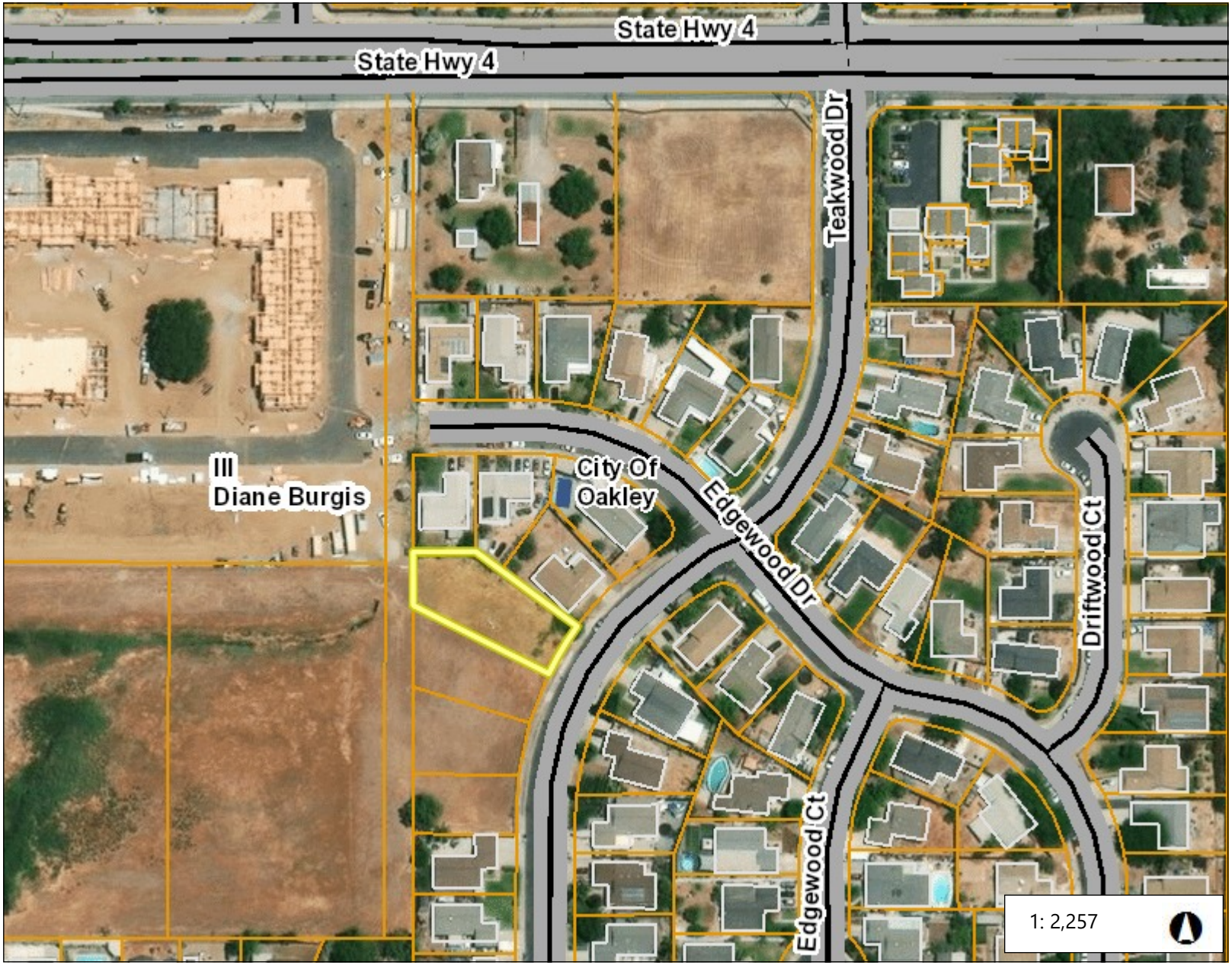
_____
Libby Vreonis, City Clerk

_____
Date

Exhibit “A”

	Property Address and APN	Parcel Size	Condition
1.	**4921 Teakwood Drive** 035-322-022	0.24 acres	Vacant

4921 Teakwood Drive APN: 035-322-022



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Streets
- Building Footprints
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations

Notes

Contra Costa County -DOIT GIS

0.1 0 0.04 0.1 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION