

**Department of
Conservation and
Development**

30 Muir Road
Martinez, CA 94553

Phone: 1-855-323-2626

**Contra
Costa
County**



John Kopchik
Director

Jason Crapo
Deputy Director

Maureen Toms
Deputy Director

Deidra Dingman
Deputy Director

Ruben Hernandez
Deputy Director

Gabriel Lemus
Assistant Deputy Director

October 24, 2023

Kevin Weiss
1731 Technology Drive, Suite 880
San Jose, CA 95110

RE: Notice of Incomplete Subdivision and Development Plan Applications

Site Address: 0 Bethel Island Road, Oakley
APN: 032-112-007
County File: #CDS23-09669 and CDDP23-03040

Dear Mr. Weiss:

On September 25, 2023 the Department of Conservation and Development (DCD) received an application for a development plan and subdivision to develop an approximately 78-acre parcel into 271 residential units. The application was submitted pursuant to SB 330 and the builder's remedy. Staff has determined that the submittal is incomplete, and that additional information is required before the application can be deemed complete.

Based on the information provided with your application, additional information as identified below must be provided prior to the application being deemed complete.

Preliminary Application (SB 330)

1. Item #3 on the Preliminary Application form requires a site plan showing the building(s) location on the individual lots. The location of the duplex buildings was provided; however, this information was not provided for the single-family residential lots.
2. Item #7 requests the proposed number of parking spaces. The response provided on the application was 32 street parking spaces for the duplexes. The response does not include the number of off-street parking spaces that would be provided for single-family residences.

3. Item #12e was checked as having a stream or other resource on the project site. However, no location or description was provided.
4. The County Assessor records indicate that Duong Estuary Cove LLC is the owner of the subject parcel. The Property Owner Affidavit indicates that the agent for service of process or officer of the ownership entity authorized may sign so long as an ownership disclosure is provided. This information was not provided. Please see the attached Property Owner Affidavit (page 8 of Preliminary Application form) for the complete requirement.

Additional Incomplete Items

5. County Code Section 94-2.204 identifies the requirements for a tentative map and County Code Section 94-2.206 identifies data to accompany the tentative map. The following are items that are required.
 - a. A preliminary plan – site plan was submitted with the application. However, no tentative map was provided. Further, the site plan provided does not contain the recorded easements. Based on the recorded Parcel Map for Subdivision 8220, it appears that there is a 20' wide right-of-way and utility easement along Wells Road and a drill site easement on Sandmound Blvd. The drill site easement is likely within the open space public passive park.
 - b. The site plan provided does not include the subdivision number assigned for the application. Please revise to include the subdivision number CSD23-09669.
 - c. The site plan provided identifies the source of water supply as Diablo Water District. However, County records do not identify the project site as being served by the Water District. Please provide any correspondence from the Water District that indicates they will serve the project site. If none, then how will the project be served for water?
 - d. The area of each lot should be indicated on the tentative map.
 - e. Provide a preliminary geologic report. Please refer to the County Geologist's attached email which provides the requirements for the report.
6. Trees within 50 feet of any proposed improvements should be identified on the site plan and should include the location, species, drip line and trunk diameter for trees with a diameter of 6 inches or greater. These trees should also be numbered and identified if they are proposed for removal or altered. Additionally, an arborist report should also be submitted.
7. Dimensioned floor plans, a landscaping plan, and grading plans were not submitted. Please provide these plans.
8. The elevations provided included a color scheme, but not the proposed materials.
9. The project site has a General Plan land use designation of Agricultural Lands (AL) and Off-Island Bonus Area (OIBA). These designations allow for a density of one dwelling unit per 5 acres. However, OIBA allows a density of 1.0-2.9 units per net acre if substantial recreation

facilities are included in the proposed project. The proposed project does not appear to meet either density range.

10. Attached are agency comments received at the time this letter was prepared. Please read through the comments and provide a response or the requirements indicated in the letter. Additional agency comments will be provided to you upon receipt.

If you have additional questions, please feel free to contact me directly at (925) 655-2867 or via email at Jennifer.Cruz@dcd.cccounty.us.

Sincerely yours,



Jennifer Cruz
Principal Planner

Attachments: Preliminary Application Form
Agency Comments

Cc: Duong Estuary Cove LLC, 1211 Embarcadero, Suite 300, Oakland, CA 94606
Bryan Wenter, Miller Starr Regalia, 1331 North California Blvd., Suite 600, Walnut Creek, CA 94596
County Files #CDS23-09669, CDDP23-03040

HOUSING CRISIS ACT of 2019 – SB 330

PRELIMINARY APPLICATION FORM

PURPOSE

This form serves as the preliminary application for housing development projects seeking vesting rights pursuant to SB 330, the Housing Crisis Act of 2019.

GENERAL INFORMATION

An applicant for a housing development project that includes (1) residential units (2) a mix of commercial and residential uses with two-thirds of the project's square footage used for residential purposes; or (3) transitional or supportive housing, shall be deemed to have submitted a preliminary application upon provision of all of the information listed in this Preliminary Application form and payment of the permit processing fee to the agency from which approval for the project is being sought.

After submitting this Preliminary Application to the local agency, an applicant has 180 days to submit a full application or the Preliminary Application will expire.

Submittal Date Stamp*^{1,2}:

*¹Submittal of all the information listed and payment of the permit processing fee freezes fees and development standards as of this date, unless exceptions per Government Code § 65889.5(o) are triggered.

*²Note: Record keeping pertaining to which standards and fees apply at date of submittal is imperative, as **penalties may apply for imposing incorrect standards**

Notes:

1. California Environmental Quality Act (CEQA) and Coastal Act standards apply.
2. After submittal of all of the information required, if the development proponent revises the project to change the number of residential units or square footage of construction changes by 20 percent or more, excluding any increase resulting from Density Bonus Law, the development proponent must resubmit the required information so that it reflects the revisions.

SITE INFORMATION

- 1. **PROJECT LOCATION** - The specific location, including parcel numbers, a legal description, and site address, if applicable.

Street Address _____ Unit/Space Number _____

Legal Description (Lot, Block, Tract) _____ Attached? YES NO

Assessor Parcel Number(s) _____

- 2. **EXISTING USES** - The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.

- 3. **SITE PLAN** - A site plan showing the building(s) location on the property and approximate square footage of each building that is to be occupied.

Attached? YES NO

- 4. **ELEVATIONS** - Elevations showing design, color, material, and the massing and height of each building that is to be occupied.

Attached? YES NO

- 5. **PROPOSED USES** - The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.

a. **RESIDENTIAL DWELLING UNIT COUNT:**

Please indicate the number of dwelling units proposed, including a breakdown of levels by affordability, set by each income category.

	Number of Units
Market Rate	
Managers Unit(s) – Market Rate	
Extremely Low Income	
Very Low Income	
Low Income	
Moderate Income	
Total No. of Units	
Total No. of Affordable Units	
Total No. of Density Bonus Units	

Other notes on units:

6. **FLOOR AREA** - Provide the proposed floor area and square footage of residential and nonresidential development, by building (attach relevant information by building and totals here):

	Residential	Nonresidential	Total
Floor Area (Zoning)			
Square Footage of Construction			

7. **PARKING** - The proposed number of parking spaces:

8. **AFFORDABLE HOUSING INCENTIVES, WAIVERS, CONCESSIONS and PARKING REDUCTIONS** - Will the project proponent seek Density Bonus incentives, waivers, concessions, or parking reductions pursuant to California Government Code Section 65915?

YES NO

If "YES," please describe:

9. **SUBDIVISION** – Will the project proponent seek any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a vesting or tentative map, or a condominium map?

YES NO

If “YES,” please describe: The project is seeking a Vesting Tentative Map and Final Map.

10. **POLLUTANTS** – Are there any proposed point sources of air or water pollutants?

YES NO

If “YES,” please describe:

11. **EXISTING SITE CONDITIONS** – Provide the number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied. Provide attachment, if needed.

	Occupied Residential Units	Unoccupied Residential Units	Total Residential Units
Existing			
To Be Demolished			

12. **ADDITIONAL SITE CONDITIONS** –

a. Whether a portion of the property is located within any of the following:

i. A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection, pursuant to Section 51178?

YES NO

ii. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993)?

YES NO

iii. A hazardous waste site that is listed pursuant to Section 65962.5, or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code?

YES NO

iv. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by any official maps published by the Federal Emergency Management Agency?

YES NO

v. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2?

YES NO

vi. A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code?

YES NO

If "YES" to any, please describe:

b. Does the project site contain historic and/or cultural resources?

YES NO

If "YES," please describe:

c. Does the project site contain any species of special concern?

YES NO

If "YES," please describe:

- d. Does the project site contain any recorded public easement, such as easements for storm drains, water lines, and other public rights of way?

YES NO

If "YES," please describe:

- e. Does the project site contain a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code? Provide an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.

YES NO

If "YES," please describe and depict in attached site map:

13. COASTAL ZONE - For housing development projects proposed to be located within the coastal zone, whether any portion of the property contains any of the following:

- a. Wetlands, as defined in subdivision (b) of Section 13577 of Title 14 of the California Code of Regulations.

YES NO

- b. Environmentally sensitive habitat areas, as defined in Section 30240 of the Public Resources Code.

YES NO

- c. A tsunami run-up zone.

YES NO

- d. Use of the site for public access to or along the coast.

YES NO

14. PROJECT TEAM INFORMATION - The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.

Applicant's Name _____

Company/Firm _____

Address _____ Unit/Space Number _____

City _____ State _____ Zip Code _____

Telephone _____ Email _____

Are you in escrow to purchase the property? YES NO

Property Owner of Record Same as applicant Different from applicant

Name (if different from applicant) _____

Address _____ Unit/Space Number _____

City _____ State _____ Zip Code _____

Telephone _____ Email _____

Optional: Agent/Representative Name _____

Company/Firm _____

Address _____ Unit/Space Number _____

City _____ State _____ Zip Code _____

Telephone _____ Email _____

Optional: Other (Specify Architect, Engineer, CEQA Consultant, etc.) _____

Name _____

Company/Firm _____

Address _____ Unit/Space Number _____

City _____ State _____ Zip Code _____

Telephone _____ Email _____

Primary Contact for Project: Owner Applicant Agent/Representative Other

PROPERTY OWNER AFFIDAVIT

Before the application can be accepted, the owner of each property involved must provide a signature to verify the Preliminary Application is being filed with their knowledge. Staff will confirm ownership based on the records of the City Engineer or County Assessor. In the case of partnerships, corporations, LLCs or trusts, the agent for service of process or an officer of the ownership entity so authorized may sign as stipulated below.

- **Ownership Disclosure.** If the property is owned by a partnership, corporation, LLC or trust, a disclosure identifying the agent for service or process or an officer of the ownership entity must be submitted. The disclosure must list the names and addresses of the principal owners (25 percent interest or greater). The signatory must appear in this list of names. A letter of authorization, as described below, may be submitted provided the signatory of the letter is included in the Ownership Disclosure. Include a copy of the current partnership agreement, corporate articles, or trust document as applicable.
- **Letter of Authorization (LOA).** A LOA from a property owner granting someone else permission to sign the Preliminary Application form may be provided if the property is owned by a partnership, corporation, LLC or trust, or in rare circumstances when an individual property owner is unable to sign the Preliminary Application form. To be considered for acceptance, the LOA must indicate the name of the person being authorized to file, their relationship to the owner or project, the site address, a general description of the type of application being filed and must also include the language in items 1-3 below. In the case of partnerships, corporations, LLCs or trusts, the LOA must be signed by the authorized signatory as shown on the Ownership Disclosure or in the case of private ownership by the property owner. Proof of Ownership for the signatory of the LOA must be submitted with said letter.
- **Grant Deed.** Provide Copy of the Grant Deed if the ownership of the property does not match local records. The Deed must correspond exactly with the ownership listed on the application.
- **Multiple Owners.** If the property is owned by more than one individual (e.g., John and Jane Doe, or Mary Smith and Mark Jones) signatures are required of all owners.

1. I hereby certify that I am the owner of record of the herein previously described property located in Contra Costa County which is involved in this Preliminary Application, or have been empowered to sign as the owner on behalf of a partnership, corporation, LLC, or trust as evidenced by the documents attached hereto.
2. I hereby consent to the filing of this Preliminary Application on my property for processing by the Department of Conservation and Development for the sole purpose of vesting the proposed housing project subject to the Planning and Zoning ordinances, policies, and standards adopted and in effect on the date that this Preliminary Application is deemed complete.
3. Further, I understand that this Preliminary Application will be terminated and vesting will be forfeited if the housing development project is revised such that the number of residential units or square footage of construction increases or decreases by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, and/or an application requesting approval of an entitlement is not filed with Conservation and Development within 180 days of the date that the Preliminary Application is deemed complete.
4. By my signature below, I certify that the foregoing statements are true and correct.

Signature _____
Printed Name Christina Duong
Date 9/21/23

Signature _____
Printed Name _____
Date _____



CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT

4005 PORT CHICAGO HWY, STE 250, CONCORD, CA 94520 • (925) 941-3300 • CCCFPD.ORG

October 18, 2023

Ms. Jennifer Cruz
Contra Costa County
DCD-Community Development Division
30 Muir Rd.
Martinez, CA 94553

Subject: Subdivision – Coronado Estates
Address
Project # CDS23-09669
CCCFPD Project No.: P-2023-004332

Dear Ms. Cruz:

We have reviewed the tentative map application to establish a major subdivision of 271 residential lots at the subject location. The following is required for Fire District approval in accordance with the 2022 California Fire Code (CFC), the 2022 California Building Code (CBC), the 2022 California Residential Code (CRC), and Local and County Ordinances and adopted standards:

The review was completed with the information provided. Additional details would be needed to do a comprehensive review.

1. The Permittee shall request that the Project site be annexed into the most current Community Facilities District for fire protection and emergency response services (if applicable), or developer will provide an alternative funding mechanism acceptable to the Contra Costa Fire Protection District for the provision of fire protection and emergency response services.
2. Required Access:

Provide emergency apparatus access roadways with all-weather (paved) driving surfaces of not less than 20-foot unobstructed width, and not less than 13 feet 6 inches of vertical clearance, to within 150 feet of travel distance to all portions of the exterior walls of every building. Access shall have a minimum outside turning radius of 45 feet, and must be capable of supporting the imposed fire apparatus loading of 37 tons. (503) CFC

Heights of all buildings not provided. See requirement for Aerial Fire Apparatus Access:

Aerial Fire Apparatus Access is required where the vertical distance between grade plane and the highest roof surface exceeds 30 feet as measured in accordance with Appendix D, Section 105 of the 2019 CFC. Aerial access roads shall have a minimum unobstructed width of 26 feet, exclusive of shoulders, in the immediate vicinity of the building or portion thereof. At least one of the required routes shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building. Overhead utility and power

lines shall not be located over the aerial fire apparatus access road or between the aerial fire apparatus road and building.

3. Access roadways of **less than 28-feet** unobstructed width shall have signs posted or curbs painted red with the words: **NO PARKING – FIRE LANE** clearly marked. (22500.1) CVC, (503.3) CFC

Access roadways of **28 feet or greater, but less than 36-feet** unobstructed width shall have **NO PARKING – FIRE LANE** signs posted, allowing for parking on one side only or curbs painted red with the words **NO PARKING – FIRE LANE** clearly marked. (22500.1) CVC, (503.3) CF

4. Any Access gates for Fire District apparatus shall be a minimum of 20-feet wide. Access gates shall slide horizontally or swing inward and shall be located a minimum of 30 feet from the street. Electrically operated gates shall be equipped with a Knox Company key-operated switch. Manually operated gates shall be equipped with a non-casehardened lock or approved Fire District lock. Contact the Fire District for information on ordering the key-operated switch. (D103.5) CFC.
5. The developer shall provide an adequate and reliable water supply for fire protection as set forth in the California Fire Code. (507.1) CFC
6. The developer shall provide hydrants of the East Bay type in compliance with Chapter 5 and Appendix B and C of the California Fire Code. Final locations to be approved by the Fire District. (C103.1) CFC
7. A land development permit is required for access and water supply review and approval prior to submitting building construction plans.

The developer shall submit a minimum of two (2) copies of full size, scaled site improvement plans indicating:

All existing or proposed hydrant locations,
Fire apparatus access to include slope and road surface
Aerial fire apparatus access,
Elevations of building,
Size of building and type of construction,
Gates, fences, retaining walls, bio-retention basins, any obstructions to access.
Detail showing the lowest level of fire department vehicle access and the floor level of the highest occupied floor,
Striping and signage plan to include "NO PARKING-FIRE LANE" markings
This is a separate submittal from the building construction plans. These plans shall be approved prior to submitting building plans for review. (501.3) CFC

8. **Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site.** (501.4) CFC

Note: A temporary aggregate base or asphalt grindings roadway is not considered an all-weather surface for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum roadway material and must be engineered to support the designated gross vehicle weight of 22 / 37 tons.

9. The homes as proposed shall be protected with an approved automatic fire sprinkler system complying with the 2016 edition of NFPA 13D or Section R313.3 of the 2019 California Residential Code. Submit a minimum of two (2) sets of plans to this office for review and approval prior to installation. (903.2) CFC, (R313.3) CRC, Contra Costa County General Plan / Contra Costa County Ordinance 2019-37.
10. The developer shall provide traffic signal pre-emption systems (Opticom) on any new or modified traffic signals installed with this development. (21351) CVC
11. Flammable or combustible liquid storage tanks shall *not* be located on the site without obtaining approval and necessary permits from the Fire District. (3401.4) CFC
12. The owner shall cut down and remove all weeds, grass, vines, or other growth that is capable of being ignited and endangering property. (304.1.2) CFC

CONTACT THE FIRE DISTRICT (MINIMUM 2 WORKING DAYS IN ADVANCE) AT 925-941-3300 EXT 3902 TO SCHEDULE AN INSPECTION OF THE ACCESS AND HYDRANT INSTALLATION PRIOR TO CONSTRUCTION OR THE STORAGE OF COMBUSTIBLE MATERIALS ON THE JOB SITE.

Our preliminary review comments shall not be construed to encompass the complete project. Additional plans and specifications may be required after further review.

If you have any questions regarding this matter, please contact this office at (925) 941-3300.

Sincerely,



Michael Cameron
Fire Inspector

File: 0 BETHEL ISLAND RD-PLN-P-2023-004332

Jennifer Cruz

From: Darwin Myers <dmyersassoc@gmail.com>
Sent: Wednesday, October 4, 2023 10:25 PM
To: Jennifer Cruz
Subject: CDS23-09669 (APN 032-112-007 973.33 ac.)

Jennifer,

I will be on vacation from October 7th thru Oct 21st. I received the Agency Comment Request for the captioned project. My only comment at this time is that the Subdivision Ordinance requires all subdivision applications to include a geotechnical report. Without the investigation, the application must be deemed incomplete.

Furthermore, the project site is in a Seismic Hazard Zone (for earthquake-triggered liquefaction). Therefore the focus of the required investigation should be on analysis of liquefaction potential as well as expansive and corrosive soils. Mitigation measures must be provided for all hazards confirmed to be present on the project site (e.g. risk of a lateral spreading failure, and surface manifestation of liquefaction (i.e. ground cracking, total and differential settlement, etc.). Normally I would expect the investigation to include several 50 ft. deep (or greater) CPTs, along with auger boreholes and laboratory testing of samples.

We should touch base when I'm at work. (week of Oct. 23th- 27th).
Cheers, Darwin

Jennifer Cruz

From: Will Nelson
Sent: Monday, October 23, 2023 4:56 PM
To: Jennifer Cruz
Subject: RE: Anne Nounou shared "Agency Comment Request Packet" with you
Attachments: Advance Planning SD23-9669 and DP23-3040 Comments.docx

Hi Jen,

I've reviewed these applications. The project is inconsistent with the AL/OIBA land use designation in terms of use and density. I have attached several pages of policies and implementation measures from various elements of the General Plan. I am particularly concerned that this project may not be consistent with policies and implementation measures related to availability of utilities (water and sewer), impacts to the natural environment (particularly wetlands and upland habitat), and mitigation of flood hazards.

Let me know if you would like to discuss further.



William R. Nelson
Principal Planner
Contra Costa County
Department of Conservation and Development
30 Muir Road, Martinez, CA 94553
Phone (925) 655-2898
Web www.contracosta.ca.gov

We're planning for the future of Contra Costa County.
Learn more and get involved at envisioncontracosta2040.org.



This message was sent from a public e-mail system and may be subject to disclosure under the California Public Records Act.

LAND USE ELEMENT

Policies

3-9. Areas not suitable for urban development because of the lack of availability of public facilities shall remain in their present use until the needed infrastructure is or can be assured of being provided.

3-22. Housing opportunities for all income levels shall be created. Fair affordable housing opportunities should exist for all economic segments of the county.

3-25. Innovation in site planning and design of housing developments shall be encouraged in order to upgrade quality and efficiency of residential living arrangements and to protect the surrounding environment.

3-28. New residential development shall be accommodated only in areas where it will avoid creating severe unmitigated adverse impacts upon the environment and upon the existing community.

3-64. To retain the characteristics of Bethel Island that make it a unique place in the Delta with its own separate identity, development shall be limited to a low overall density, and open space buffers shall be required. In addition, agricultural, open space, and wetland areas, along with rare plant communities, shall be preserved and protected.

3-65. Residential development on Agricultural Lands, to the extent permitted beyond one unit per parcel in the off-island area, shall be clustered with development rights on the undeveloped land dedicated to the County.

Implementation Measures

3-c. Where appropriate, require the dedication of deeded development rights to the County (or cooperate in dedication to other public agencies) for lands to be protected as open space.

3-d. Review proposed land development projects for consistency with land use designations and relevant policies and standards of each element of the General Plan.

PUBLIC FACILITIES AND SERVICES ELEMENT

Policies

7-21. At the project approval stage, the County shall require new development to demonstrate that adequate water quantity and quality can be provided. The County shall determine whether (1) capacity exists within the water system if a development project is built within a set period of time, or (2) capacity will be provided by a funded program or other mechanism. This finding will be based on information furnished or made available to the County from consultations with the appropriate water agency, the applicant, or other sources.

7-26. The need for water system improvements shall be reduced by encouraging new development to incorporate water conservation measures to decrease peak water use.

7-33. At the project approval stage, the County shall require new development to demonstrate that wastewater treatment capacity can be provided. The County shall determine whether (1) capacity exists within the wastewater treatment system if a development project is built within a set period of time, or (2) capacity will be provided by a funded program or other mechanism. This finding will be based on

information furnished or made available to the County from consultations with the appropriate water agency, the applicant, or other sources.

7-45. On-site water control shall be required of major new developments so that no significant increase in peak flows occurs compared to the site's pre-development condition, unless the Planning Agency determines that off-site measures can be employed which are equally effective in preventing adverse downstream impacts expected from the development or the project is implementing an adopted drainage plan.

7-55. As appropriate and to the extent allowed by law, assess all new development projects at least \$0.35 per square foot of impervious surface created. This drainage fee is to be collected through existing County Flood Control drainage area fee ordinances, newly adopted drainage area fee ordinances, existing and new assessment districts, or other financial entities. The fee may be applied to the cost of any developer-sponsored regional flood control improvements on- or off-site which mitigate the project's flooding impacts. Regional facilities are defined as systems sized to handle at least 15 cubic feet per second and suitable for public agency maintenance, i.e., 24-inch diameter and larger storm drains.

7-56. All residential and non-residential uses proposed in areas of special flood hazards, as shown on FEMA maps, shall conform to the requirements of County Floodplain management applied to all ordinances, approved entitlements (land use permits, tentative, final, and parcel maps, development plan permits, and variances) and ministerial permits (buildings and grading permits).

Implementation Measures

7-i. Conditionally approve all tentative subdivision maps and other preliminary development plans on verification of adequate water supply for the project. Such condition shall be satisfied by verification, based on substantial evidence in the record, that capacity within the system to serve the specific development project exists or comparable demonstration of adequate wastewater treatment capacity. Where no tentative map or preliminary plan is required prior to development, approve no map or development permit without this standard being satisfied.

7-t. Conditionally approve all tentative subdivision maps and other preliminary development plans on verification of adequate wastewater treatment capacity for the project. Such condition shall be satisfied by verification based upon substantial information in the record that capacity within the system to serve the specific development project exists or comparable demonstration of adequate wastewater treatment capacity. Where no tentative map or preliminary plan is required prior to development, approve no map or development permit without this standard being satisfied.

7-ah. Protect natural channels that are not to be maintained by government by requiring dedicated development rights; protect storm drainpipes by requiring drainage easements; and seek to secure open government-maintained facilities by fee title land rights.

7-as. In considering subdivision map approval, evaluate whether the project would violate the standards expressed in the Growth Management Element, in order to appropriately condition or deny such approval.

CONSERVATION ELEMENT

Policies

8-23. Runoff of pollutants and siltation into marsh and wetland areas from outfalls serving nearby urban development shall be discouraged. Where permitted, development plans shall be designed in such a manner that no such pollutants and siltation will significantly adversely affect the value or function of wetlands. In addition, berms, gutters, or other structures should be required at the outer boundary of the buffer zones to divert runoff to sewer systems for transport out of the area.

8-24. The County shall strive to identify and conserve remaining upland habitat areas which are adjacent to wetlands and are critical to the survival and nesting of wetland species.

8-27. Seasonal wetlands in grassland areas of the County shall be identified and protected.

Implementation Measures

8-e Prior to the approval of discretionary permits involving parcels within a significant ecological resource area as described in Implementation Measure 8-a, the County shall require a biotic resources evaluation based upon field reconnaissance performed at the appropriate time of year to determine the presence or absence of rare, threatened or endangered species of plants or animals. Such evaluation will consider the potential for significant impact on these resources, and measures proposed to mitigate such impacts, where feasible, or indicate why mitigation is not feasible.

8-g Require the environmental impact analysis of all significant grassland land sites proposed for development to include an early spring site reconnaissance to determine the presence of vernal pools and rare species associated with vernal pools, and document the use of any seasonal wetlands by water bird species. A general observation of such sites during the dry portion of the year shall be deemed insufficient for environmental review. Significant grasslands include generally parcels of more than 40 acres which are located in an area dominated by native or introduced grass species.

8-j A setback from the edge of any wetland area may be required for any new structure. The breadth of any such setback shall be determined by the County after environmental review examining (a) the size and habitat value of the potentially affected wetland, and (b) potential impacts on the wetland, and adjacent uplands, arising out of the development and operation of the new structure. Unless environmental review indicates that greater or lesser protection is necessary or adequate, setbacks generally will be between 50 and 100 feet in breadth. Expansions or other modifications of non-habitable agriculturally-related structures existing as of 1990 shall be exempt from this setback requirement. Parcels which would be rendered un-buildable by application of this standard shall also be exempt.

8-l The County shall require avoidance, minimization and/or compensatory mitigation techniques to be employed with respect to specific development projects having a potential to affect a wetland. In evaluating the level of compensation to be required with respect to any given project, (a) on-site mitigation shall be preferred to offsite and in-kind mitigation shall be preferred to out-of-kind, (b) functional replacement ratios may vary to the extent necessary to incorporate a margin of safety reflecting the expected degree of success associated with the mitigation plan, and (c) acreage replacement ratios may vary depending on the relative functions and values of those wetlands being lost and those being supplied.

To the extent permitted by law, the County may require 3:1 compensatory mitigation of any project affecting a "Significant Wetland".

SAFETY ELEMENT

Policies

10-33. The areas designated on Figure 10-8 shall be considered inappropriate for conventional urban development due to unmitigated flood hazards as defined by FEMA. Applications for development at urban or suburban densities in areas where there is a serious risk to life shall demonstrate appropriate solutions or be denied.

10-38. Flood-proofing of structures shall be required in any area subject to flooding; this shall occur both adjacent to watercourses as well as in the Delta or along the waterfront. Flood-proofing includes, but is not necessarily limited to: anchoring to prevent flotation, collapse, or lateral movement; using flood-resistant construction materials; employing construction methods and practices that minimize flood damage; elevating building pads above the base flood elevation plus required freeboard; elevating habitable building floors above the base flood elevation plus required freeboard; and providing adequate venting to allow for equalization of hydrostatic flood forces. Appropriate flood-proofing methods shall be determined by the Floodplain Administrator on a project-by-project basis.

10-49. Buildings in urban development near the shoreline and in flood-prone areas shall be protected from flood dangers, including consideration of rising sea levels caused by climate change.

10-44. Development shall be restricted in areas where flood-related hazards cannot be adequately addressed.

10-54. New development and substantial improvements or upgrades in the 100- and 500-year flood hazard zones shall be constructed in accordance with applicable County, State, and federal regulations including compliance with the minimum standards of FEMA's National Flood Insurance Program (NFIP) to avoid or minimize the risk of flood damage.

10-63. In order to protect lives and property, intensive urban and suburban development shall not be permitted in reclaimed areas unless flood protection in such areas is constructed, at a minimum, to the standards of the Flood Disaster Protection Act of 1973. Levees protecting these areas shall meet the standards of the U.S. Army Corps of Engineers.

10-69. Dam and levee failure, as well as potential inundation from tsunamis and seiche, shall be a significant consideration of the appropriateness of land use proposals.

Implementation Measures

10-y. Through the environmental review process, ensure that potential flooding impacts, due to new development, including on-site and downstream flood damage, subsidence, dam or levee failure, and potential inundation from tsunamis and seiche, are adequately assessed. Impose appropriate mitigation measures (e.g., flood-proofing, levee protection, Delta reclamations).



CONTRA COSTA COUNTY
DEPARTMENT OF CONSERVATION & DEVELOPMENT

30 Muir Road
Martinez, CA 94553

Telephone: (925) 655-2709 **Fax:** (925) 655-2750

TO: Jennifer Cruz, Project Planner

FROM: Robert Sarmiento, Transportation Planning Section

(RS)

DATE: October 12, 2023

SUBJECT: Coronado Estates (DP23-03040)

The Transportation Planning Section has reviewed the subject project, located between Sandmound Boulevard and Wells Boulevard near Bethel Island Road. Comments are below; in summary, the comments pertain to an evaluation of the project's "vehicle miles traveled" and transportation operations ("level of service") impacts, pedestrian facilities, bicycle parking, electric vehicle charging infrastructure, and transportation demand management. Please let me know if you have any questions.

Background

The project is subject to the following policies and plan:

Vehicle Miles Traveled (VMT): On June 23, 2020, in compliance with SB 743 (2013), the Board of Supervisors adopted Transportation Analysis Guidelines (TAG)¹, which defines the County's approach to analyzing VMT impacts from certain projects. As a result of SB 743, VMT is the metric used to define transportation impacts in a CEQA review.

Level of Service (LOS): The County and the Contra Costa Transportation Authority (CCTA) require an LOS analysis in order to comply with the Growth Management Program. CCTA maintains the Technical Procedures Manual², which defines the approach to analyzing LOS impacts from certain projects. While LOS is no longer considered an impact under CEQA, SB 743 does allow local jurisdictions to maintain LOS-based policies and standards.

Contra Costa Complete Streets Policy³: In July 2016, the County adopted the Complete Streets Policy, which ensures that the needs of travelers of all ages and abilities, in a wide variety of travel modes, are considered in all planning, programming, design, construction, operations, and maintenance activities.

¹ County Transportation Analysis Guidelines (TAG): [link](#)

² CCTA Technical Procedures:

https://ccta.net/wp-content/uploads/2018/12/Final_Technical_Procedures_Full_Jan2013-1.pdf

³ Complete Streets Policy:

2016: Complete Streets Resolution [link](#), CS Policy Final Draft [link](#)

East County Action Plan⁴: The East County Action Plan addresses key East County transportation issues. Among other things, it identifies Routes of Regional Significance, which includes Bethel Island Road. The Action Plan sets quantitative Regional Transportation Objectives (RTOs), with a target year for achieving those RTOs, and establishes a program of actions, measures, and projects for meeting the RTOs.

Comments

1. In accordance with SB 743 and the TAG, an evaluation of VMT impacts is required to be conducted for the project.
2. An LOS analysis to evaluate the project's impact on transportation operations is required to be conducted for the project, consistent with the TAG, East County Action Plan, and the CCTA Technical Procedures Manual. The LOS analysis should include an analysis of the project's impact on the operational performance of Bethel Island Road, a Route of Regional Significance with associated RTOs and actions in the East County Action Plan.
3. The proposed sidewalk on Sandmound Boulevard should be extended both west to the proposed roadway associated with the future commercial project/property and east to the project boundary and an existing sidewalk.
4. Please have the applicant confirm if sidewalks will be installed along the frontage of Wells Road, including its north-south segment.
5. Please have the applicant provide pedestrian facilities within the public parking lot and from the parking lot to both the sidewalk on Sandmound Boulevard and the project's internal roadways/trails and/or the proposed roadway connection to the future commercial project.
6. To encourage non-motorized travel to the open space public passive park, the project should install bicycle parking facilities in the public parking lot.
7. In accordance with the County's electric vehicle (EV) Ordinance, the project will be required to include EV charging infrastructure in each residential unit. According to Appendix A ("Electric Vehicle Charging Chart") in the TAG, "for each dwelling unit, a listed raceway to accommodate a dedicated 208/240-volt branch circuit" is required to be installed in each single-family residential unit. In addition, the public parking lot should include EV charging infrastructure.⁵
8. As a residential development that includes more than 13 units, the project is subject to the County's Transportation Demand Management (TDM) Ordinance⁶. Information on complying with the TDM Ordinance can be found in the residential project sections of the County TDM Ordinance Guide⁷.

⁴ 2023 Final Draft East County Action Plan: [link](#)

⁵ The number of required EV charging spaces for the public parking lot can be found in Table 5.106.5.3.1 within Section 74-4.006 - Amendments to CGBSC: [link](#)

⁶ County TDM Ordinance: [link](#)

⁷ County TDM Ordinance Guide: [link](#)

cc: John Cunningham, DCD
Maureen Toms, DCD
Raquel Caicedo, DCD
Jerry Fahy, PWD
Jeff Valeros, PWD
Monish Sen, PWD



**CONTRA COSTA COUNTY
DEPARTMENT OF CONSERVATION & DEVELOPMENT
30 Muir Road
Martinez, CA 94553
Telephone: (925) 674-7203 Fax: (925) 674-7250**

TO: Jennifer Cruz, Project Planner

FROM: Joanne Chiu, East Contra Costa County Habitat Conservancy

DATE: October 16, 2023

SUBJECT: County File #CDS23-09669/CDDP23-03040 and the ECCC HCP/NCCP

Applicability of the ECCC HCP/NCCP to County File #CDS23-09669/CDDP23-03040

The proposed project, County File #CDS23-09669/CDDP23-03040, a subdivision of a ~78.33-acre parcel (APN 032-112-007) into 271 residential lots, easements and dedications, and open space (the "Project" or "Bethel Estuary Estates"), is subject to Ordinance No. 2007-53, updated per Ordinance No. 2021-25 and Ordinance No. 2023-10. The Project will need to comply with the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan ("HCP/NCCP").

Background on the ECCC HCP/NCCP

The HCP/NCCP is intended to provide an effective framework to protect natural resources in eastern Contra Costa County, while improving and streamlining the environmental permitting process for impacts on endangered species. The Plan provides for comprehensive species, wetlands, and ecosystem conservation and contributes to the recovery of endangered species in northern California. The HCP/NCCP avoids project-by-project permitting that is generally costly and time consuming for applicants and often results in uncoordinated and biologically ineffective mitigation. Rather than individually surveying, negotiating, and securing mitigation, project proponents can receive their endangered species permit by paying a single fee and/or dedicating land, conducting limited species- and habitat-specific biological surveys and adhering to specified species avoidance and minimization measures.

Through the HCP/NCCP, the County has authorization from United States Fish and Wildlife Service ("USFWS") and the California Department of Fish and Wildlife ("CDFW") to cover activities and projects that may impact sensitive species under the County's regional endangered species permit. All development activities within the HCP/NCCP inventory area and the Urban Limit Line (ULL) are automatically subject to HCP/NCCP compliance and will receive authorization to impact or "take" endangered species when such take is incidental to an otherwise lawful activity (incidental take coverage). If the activity or project occurs outside the ULL, but within the HCP/NCCP inventory area, incidental take coverage can be voluntarily obtained through the HCP/NCCP.

Coverage under the HCP/NCCP include, but are not limited to the following:

- Fulfillment of ESA, CESA, NEPA, and CEQA requirements
- Streamlined species permitting process saving time and planning costs
- Consistent and predictable mitigation measures

ECCC HCP/NCCP Permitting

The Project applicant will need to complete and submit an application for take authorization under the HCP/NCCP to the Department of Conservation and Development simultaneously with the submittal of the request for approval of the Project.

The standard application, the HCP/NCCP Planning Survey Report (“PSR”), is located with the Department of Conservation and Development and at www.cocohcp.org/193/Project-Permitting. A complete PSR application package includes the following information:

- Project Details
 - Project Description
 - Project Vicinity Map
 - Project Site Plans
- Existing Conditions and Impacts
 - Field-Verified Land Cover Mapping
 - Descriptions of Land Cover Types
 - Photographs of the Project Site
 - Project Impacts
 - Methods and Results of Species Planning Surveys
 - Habitat Maps
 - Wetland Delineation (if applicable)
- Identification of applicable:
 - Species-Specific Avoidance and Minimization Measures
 - Pre-construction Surveys
 - Avoidance and Minimization Measures and Construction Monitoring
 - Other applicable HCP/NCCP Conservation Measures
- Mitigation Measures
 - HCP/NCCP mitigation fee calculation

A USFWS and CDFW-approved biologist(s) is required to complete the PSR and conduct the surveys required as part of the PSR; a current list of approved biologists can be found at www.cocohcp.org/270/Approved-Biologists.

The PSR can be submitted during, and as part of, the project’s CEQA review. The PSR must be deemed complete and final by the Department of Conservation and Development prior to granting take authorization to the Project. Conditions of approval for the Project require the project applicant to comply with all terms and conditions of the HCP/NCCP, including payment of the required HCP/NCCP mitigation fees and compliance with all relevant surveys, monitoring, avoidance, minimization and conservation measures of the HCP/NCCP.

If you have any questions or would like to speak with staff regarding the proposed project and HCP/NCCP applicability, please contact me at (925) 655-2906, or joanne.chiu@dcd.cccounty.us.

To: Jennifer Cruz, Principal Planner
From: Gabriel Lemus, Assistant Deputy Director
By: Susan Johnson, Planner & Melanie Erickson, Planner
Date: October 18, 2023
Subject: **Bethel Estuary Estates County Files #CDS23-09669 & #CDDP23-03040 – 0 Bethel Island Rd., Oakley**

Dear Jennifer,

The following is the Housing and Community Improvement Division's response to an Agency Comment Request to assist in your review of a Development Plan application #CDDP23-03040. The subject property (APN: 032-112-007) is located at 0 Bethel Island Road in the Oakley area of unincorporated Contra Costa County.

As indicated in the submitted Planning application, the applicant seeks Tentative Map and Final Development Plan approval to subdivide an approximately 78.33-acre parcel into 271 lots resulting in 165 market-rate single-family (2,200 – 3,000 SF) detached homes (the subdivision plans show 209 units) and 62 moderate-income (1,100 – 1,200 SF) duplex units (the subdivision drawings show 62 duplex units and not duplex lots). The application included the submittal of a SB 330 preliminary application form and Government Code Section 65589.5(d)(5) (Builder's Remedy) request. The unit count in the plans and application do not match and the applicant should make corrections accordingly. In addition, the elevations depict a "high-density single-family duplex". Please clarify with the applicant whether they are referring to townhomes or a duplex, as they are two very different housing types.

SB 330 / Builder's Remedy

It is our understanding that for a project to qualify for Builder's Remedy, it needs to meet one of the following criteria as outlined in Government Code Section 65589.5:

- Twenty percent of the total units sold or rented to lower-income households; or
- One hundred percent of the units sold or rented to moderate-income households; or
- The project must be an emergency shelter

Based on our review of the application submittal, the project does not qualify for Builder's Remedy because of the proposed mix of affordability in the total development project (only twenty-three percent of the units are proposed to be moderate-income units). Moderate income is defined as 120 percent of area median income (AMI). Lower income is defined as 80 percent of AMI. Please request that the applicant provide more information further explaining their SB 330 proposal and how it qualifies with the above criteria.

Housing Element Sites Inventory

The parcel is listed on the County's current HCD approved Housing Element Sites Inventory (Sites Inventory) (APN: 032-112-007) and is subject to compliance with the State's SB 166 No Net Loss Rule regarding Sites Inventory sites pursuant to Government Code 65863.

The Sites Inventory is a separate requirement, distinct from the Inclusionary Housing Ordinance. Parcels on the Sites Inventory are sites that have been evaluated and identified as suitable parcels for residential development to fulfill the County's share of regional housing needs as determined by the Association of Bay Area Government (ABAG). Government Code Section 65863 requires the County to ensure that its Sites Inventory can accommodate its share of the regional housing need throughout the planning period.

Assessor's Parcel Number (APN): 032-112-007 is listed in the current Housing Element Sites Inventory with a development potential of 185 moderate-income units. The application proposes to develop 62 moderate-income duplex units. As proposed, the project is only proposing 62 moderate income units, which is 123 moderate income units less than what was identified for the site in the Sites Inventory. As such, the project will need to make findings that explain whether there is remaining capacity in the remaining undeveloped Sites Inventory sites to comply with the No Net Loss rule.

The State's Government Code mandates SB166 findings for all discretionary projects where a housing development does not propose the maximum density on the property or does not propose the number of units at the affordability levels indicated in the Sites Inventory list. If the development of the number of units in a project is less than the density listed in the Sites Inventory, then a developer may be required to assist staff in identifying an alternative site or rezoning another site to make up the deficiency of units at the affordability levels identified in the Sites Inventory.

Inclusionary Housing

Pursuant to County Code Section 822-4.402(d), in a residential development of one hundred twenty-six or more for-sale units, at least fifteen percent of the for-sale units shall be developed and sold as inclusionary units under the terms and conditions of County Code Section 822-4.410(b). At least twenty percent of the inclusionary units shall be sold at an affordable sales price to lower income households, and the remaining inclusionary units shall be sold at an affordable sales price to moderate income households.

If the calculation of the required number of inclusionary units results in a fraction of a whole number, a partial in-lieu fee shall be paid in accordance with County Code Section 822-4.404 for the fraction of the unit. The amount of the partial in-lieu fee shall be a percentage of the in-lieu fee for a single unit, with the percentage equal to the fraction of the whole number.

As proposed, the development does not comply with the County's Inclusionary Housing Ordinance, which, as mentioned above, requires at least twenty percent of the inclusionary units to be sold at an affordable sales price to lower income households. In addition, inclusionary units must be dispersed throughout the residential development and have access to all on-site amenities that are available to market rate units. The proposed duplexes are concentrated in one corner of the development and are not comparable in size to the proposed market rate units. Please refer to County Code Section 822-4.412 for additional requirements.

271 units x 15% = 40.65 Inclusionary Units required
40.65 units x 20% = 8.13 Lower-Income Units required

Comments

- The applicant should ensure the project description is consistent with the submitted plans and clarify if all the units proposed are for-sale or a combination of for-sale and rental. The duplexes are being viewed as for-sale owner-occupied units. For example, the assumption is that each unit in the duplex will be owned and occupied by a separate household. Please confirm that both of the units in the proposed duplexes are intended to be for-sale owner-occupied units or if one or both of the duplex units are intended for rent.
- The project as proposed does not appear to qualify as an eligible SB 330/Builder's Remedy project. Please have the applicant provide more information regarding how they are proposing an eligible housing project under the referenced law.

- Provide a completed Inclusionary Housing Plan. **The application shall be deemed incomplete pursuant to Section 822-4.414 until a housing plan has been submitted, reviewed, and preliminarily approved.** A copy of the Inclusionary Housing Plan Checklist is attached for your reference and use. Failure to submit a housing plan may result in delays in the processing of the application.
- As proposed, the project does not comply with County Code Section 822-4.402(d) and Section 822-4.412. A copy of the Inclusionary Housing Ordinance is attached for your reference.
- Staff will need to make findings regarding the State's No Net Loss regulations under Government Code Section 65863 relating to the remaining capacity and density in the Housing Element Sites Inventory for low-income units. The findings will need to include the quantification of the remaining unmet need for the jurisdiction's share of the regional housing need at the designated income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level.
- Pursuant to Government Code 65863(e), if the applicant's initial application would result in the remaining sites in the housing element to not be adequate to accommodate the County's share of the regional housing need, then the County may require the project applicant to comply with state law. The County may request the applicant to assist in researching the undeveloped sites listed in the Sites Inventory to quantify and demonstrate that the County still has sufficient capacity by density and affordability to meet the County's remaining share of the regional housing needs. Alternatively, the County may require the applicant to assist in providing potential undeveloped or underdeveloped sites that are not listed in the Sites Inventory that may be rezoned to accommodate the potential deficiency in density and affordability of units in the County as a result of this project.
- Please address non-compliance with the Housing Element Sites Inventory and the applicant's proposal to comply.
- We reserve the ability to make further comments if the project scope/project plans are revised, and based on the Inclusionary Housing Plan when it is submitted.
- We are available to meet with you and the developer to discuss this letter if requested.

Sincerely,

Susan Johnson, Planner
 Contra Costa County
 Department of Conservation & Development
 Housing & Community Improvement Division

Melanie Erickson, Planner
 Contra Costa County
 Department of Conservation & Development
 Housing & Community Improvement Division

Applicant _____
Subdivision Name _____
Subdivision # _____
County File # _____

Property Owner _____
Site Address _____
APN(s) _____
Date Submitted _____

Contra Costa County Department of Conservation and Development Inclusionary Housing Plan

There are five different ways of complying with the Inclusionary Ordinance: on-site, off-site, land conveyance, in lieu fees, and other. The Inclusionary Housing Plan is required to identify which option the applicant is proposing to fulfill the inclusionary housing requirement. Complete the checklist and attach a narrative for the proposed option.

For more information on the Inclusionary Housing Ordinance (including links to the ordinance and the in-lieu fee calculator), please go to the County Ordinances for Affordable Housing webpage found here: <https://www.contracosta.ca.gov/8544/County-Ordinances-for-Affordable-Housing>

Section A – On-Site

The inclusionary housing plan must include the following:

- A project description including the number of market-rate units, the number of inclusionary units proposed, and the basis of the calculation;
- A site plan indicating the location of the inclusionary units in relationship to the market rate units. (Drawings to show a minimum of unit mix, location, size, and number of bedrooms);
- The targeted income levels;
- A phasing plan, if needed, indicating the timely development of the inclusionary units as the residential development is constructed and occupied.

*Attach a narrative of the proposed compliance option.

Section B - Off-Site

The inclusionary housing plan must include the following:

- A project description including the number of on-site market-rate units and off-site inclusionary units proposed and the basis of the calculation;
- The targeted income levels;
- A vicinity map indicating where the proposed off-site development is in relationship to the proposed on-site development;
- Parcel numbers, acreage, zoning, general plan designation, phase one environmental report for the proposed off-site development;
- A phasing plan, if needed, indicating the timely development of the inclusionary units as the residential development is completed;
- Indicate whether the off-site development is new construction or acquisition/rehabilitation.

*Attach a narrative of the proposed compliance option.

Section C - Land Conveyance

Applicant _____
Subdivision Name _____
Subdivision # _____
County File # _____

Property Owner _____
Site Address _____
APN(s) _____
Date Submitted _____

The inclusionary housing plan must include the following:

- A project description including the number of on-site market-rate units and off-site inclusionary units proposed and the basis of the calculation;
- The targeted income levels;
- Parcel numbers, acreage, zoning, general plan designation, phase one environmental report for the proposed off-site development.
- Proposed recipient of land conveyance.
- A vicinity map indicating where the proposed off-site development is in relationship to the proposed on-site development.

*Attach a narrative of the proposed compliance option.

Section D – In-Lieu Fee

- Payment of an in-lieu fee is proposed to satisfy this requirement. The fees shall be pursuant to the fee schedule adopted by the Board of Supervisors.

Note: Only applicable for projects with 5 to 125 units of rental or for-sale housing.

*Attach a narrative of the proposed compliance option.

Section E - Other

- If an alternative compliance method is proposed, information sufficient to allow the County to determine that the alternative would provide equivalent or greater benefit than would result from providing those inclusionary units on site.

*Attach a narrative of the proposed compliance option.

Applicant _____
Subdivision Name _____
Subdivision # _____
County File # _____

Property Owner _____
Site Address _____
APN(s) _____
Date Submitted _____

Inclusionary Housing Agreement Requirements

An inclusionary housing agreement (IHA) is required for all proposals with an on-site, off-site, land conveyance, or other compliance proposal. Prior to the issuance of a demolition permit, grading permit, building permit, or recordation of a subdivision map for the development, whichever occurs first, the applicant/owner must execute an IHA, and it shall be recorded. The preparation and approval of an IHA will be a minimum three-month process or may be longer due to the complexities of the project and scheduling before the Board of Supervisors for approval of the IHA prior to the Department of Conservation and Development's (DCD) signature on behalf of the County and subsequent recordation. The IHA is not considered to be executed until all parties have signed and the document is recorded.

To initiate the preparation of an IHA on the normal timeline, the applicant must file a COA Compliance Review Application after the final entitlement approval (discuss earlier options with Housing staff early in the process), accompanied by the following information:

- Preliminary Title Report
- Written Narrative to include:
 - List all owners of the property.
 - If the owners are entities, please provide the names and titles of the two managers of the LLC who have the authority to sign the agreement on behalf of the entity. If the owner is an LLC or multiple LLCs that were not consistent with owners listed on the entitlement application, proof of ownership and a copy of the Articles of Incorporation for each entity are required.
 - Developer's mailing address. This must be a local contact and address for notices required by the IHA.
 - Identify the lender who has been or will provide financing for the development and the recorded deed of trust that has been recorded, including the referenced document number of the recorded deed of trust.
- Exhibit A Legal Description.
- Inclusionary Housing Plan Maps that are legible, in black and white, and scaled to 8 ½" x 11" sheets that comply with document recording requirements.
- Detailed timeline for the project including constructing the units, including phasing of the development, marketing the units, reviewing applications for qualified households, and sale of inclusionary for-sale units or occupancy of inclusionary rental units.
- Any other information that may be required for staff to prepare the IHA.

Applicant _____
Subdivision Name _____
Subdivision # _____
County File # _____

Property Owner _____
Site Address _____
APN(s) _____
Date Submitted _____

Inclusionary Housing Construction and Occupancy

For all projects where inclusionary housing will be built for sale or rental, the applicant must submit documentation and other information to DCD for review and approval along with the filing of a condition of approval compliance review application and fees at least 90 days prior to construction completion and the request for a final building inspection and occupancy of the building. The following documents and information required for review and approval include, but are not limited to the following:

- Marketing Plan
- Marketing Materials, including translated Marketing Materials
- Proof of Publication of the advertising of the Inclusionary Units to all publications listed in the Marketing Plan
- Certification Statement listing all organizations and groups that were distributed marketing materials for the inclusionary units
- Tenant Selection Plan or Homeowner Selection Plan, whichever is applicable to the project
- Tenant Rent Roll (pre-certified households for DCD review)

The expectation is for the developer to market the units in the project prior to construction completion, select qualified tenants or qualified homeowners for inclusionary units prior to construction completion, and submit a list of the qualified households to DCD for review prior to final inspection/final occupancy.

A copy of the prequalified households for for-sale units will be submitted to DCD for review and approval and the file record. The prequalification approval by DCD will include the applicant's submittal of income documentation and income certification forms for review. The prequalification approval will be valid for six months. The income must be recertified by DCD at least 30 days prior to sale.

For inclusionary rental units, a copy of the tenant rent roll must be submitted for review and approval by DCD and kept in the file record. The tenant rent roll should include information including, but not limited to, the tenant's name, income, unit number, unit affordability level, household size, tenant rents, utility costs, and gross rents. The owner/property manager may be instructed to upload this information to a secure database as indicated by DCD for review and approval.

Annual monitoring reports will be required from the property manager and a sample of the inclusionary units will be selected by DCD for periodic review of tenant income documentation, certification, and unit occupancy qualification. The annual monitoring reports must be submitted with a condition of approval compliance review application and fees.

Applicant _____
Subdivision Name _____
Subdivision # _____
County File # _____

Property Owner _____
Site Address _____
APN(s) _____
Date Submitted _____

Housing Element Sites Inventory Findings

The Housing Element Sites Inventory’s no net loss rule is a separate requirement of the State of California and is distinct from the County’s Inclusionary Housing Ordinance Requirements. Government Code Section 65863 requires the county to ensure that its housing element sites inventory can accommodate its share of the regional housing need throughout the planning period. The law prohibits the county from reducing, requiring, or permitting the reduction of the residential density to a lower residential density on sites listed in the inventory. It also prohibits the county from permitting or causing the inventory of sites identified in the housing element to be insufficient to meet its remaining unmet share of the regional housing need for lower and moderate-income households.

Housing developments that are located on a parcel(s) identified in the County’s Housing Element sites inventory will require written findings for the proposal if the housing development includes fewer units by income category or fewer units by density from that which is identified in the sites inventory. Compliance with the no net loss rule is required prior to a recommendation for approval or entitlement decision. Compliance with the law may include the requirement for the applicant/developer to assist in identifying an alternative site to be rezoned and/or added to the sites inventory to account for any net loss in the County’s share of the regional housing needs due to the proposed housing development.

To determine if your parcel(s) is listed in the County’s Housing Element sites inventory, please contact the DCD Application and Permits Center staff and they can verify whether the property is listed in the County’s Housing Element sites inventory.

*To assist the project planner in preparing the required findings for a parcel or parcels identified in the housing element sites inventory, you may attach a narrative and explanation of the project’s compliance with the no net loss requirement. (optional)

Applicant & Property Owner Verification:

I/We acknowledge that I/we have completely read this form and understand all the information stated herein. I/We verify that all the information stated and submitted is complete and accurate to the best of my/our knowledge, and should it be found that any of the information is incorrect, incomplete, or inconsistent with the requirements of the ordinance that it may result in increased processing time and/or costs.

Applicant Signature: _____ Name: _____ Date: _____

Owner Signature: _____ Name: _____ Date: _____

Chapter 822-4 INCLUSIONARY HOUSING

Article 822-4.2. General

822-4.202 Title.

This chapter is known and may be cited as the Contra Costa County inclusionary housing ordinance.
(Ord. 2006-43 § 2).

822-4.204 Purpose and intent.

The purpose of this chapter is to facilitate the development and availability of housing affordable to a broad range of households with varying income levels within the county. It is intended in part to implement state policy declaring that local governments have a responsibility to exercise their powers to facilitate the development of housing necessary to adequately provide for the housing needs of all economic segments of the community. The goal of this chapter is to ensure that affordable housing units are added to the county's housing stock in proportion to the increase in new housing units in the county, in accordance with Goal 3 of the housing element of the county general plan.

(Ord. 2006-43 § 2).

822-4.206 Definitions.

For purposes of this chapter, the following terms have the following meanings:

- (a) "Affordable rent" means a rent, including a reasonable utility allowance as determined by the conservation and development director or designee, for a rental inclusionary unit that does not exceed the following calculations pursuant to Health and Safety Code Section 50053:
 - (1) For extremely low income households, the product of thirty percent times thirty percent of the area median income adjusted for family size appropriate for the unit.
 - (2) For very low income households, the product of thirty percent times fifty percent of the area median income adjusted for family size appropriate for the unit.
 - (3) For lower income households with gross incomes that exceed the maximum income for very low income households, the product of thirty percent times sixty percent of the area median income adjusted for family size appropriate for the unit.
 - (4) For moderate income households, the product of thirty percent times one hundred ten percent of the area median income adjusted for family size appropriate for the unit.
- (b) "Affordable sales price" means a sales price at which very low, lower, or moderate income households can afford to purchase an inclusionary unit. An affordable sales price is determined using the housing affordability calculator published annually by the state department of housing and community development. An affordable sales price includes a reasonable down payment and results in an affordable housing cost, as described in California Code of Regulations, Title 25, Section 6920, that does not exceed the following calculations pursuant to Health and Safety Code Section 50052.5:

-
- (1) For extremely low income households, the product of thirty percent times thirty percent of the area median income adjusted for family size appropriate for the unit.
 - (2) For very low income households, the product of thirty percent times fifty percent of the area median income adjusted for family size appropriate for the unit.
 - (3) For lower income households with gross incomes that exceed the maximum income for very low income households, the product of thirty percent times seventy percent of the area median income adjusted for family size appropriate for the unit.
 - (4) For moderate income households, the product of thirty-five percent times one hundred ten percent of the area median income adjusted for family size appropriate for the unit.
- (c) "Area median income" means the median gross yearly income, adjusted for household size, for households in Contra Costa County as published and periodically updated by the state department of housing and community development pursuant to Health and Safety Code Section 50093(c).
 - (d) "Assumed household size" means a household of one person in a studio apartment, two persons in a one bedroom unit, three persons in a two bedroom unit, and one additional person for each additional bedroom thereafter.
 - (e) "Developer" means any person or combination of persons that seeks county approvals for all or part of a residential development.
 - (f) " Dwelling unit" means a building of portion thereof that is designed, intended, or used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. For purposes of this chapter, "dwelling unit" does not include an accessory dwelling unit.
 - (g) "Extremely low income household" means a household whose income does not exceed the extremely low income limits applicable to Contra Costa County, adjusted for household size, as published and periodically updated by the state department of housing and community development pursuant to Health and Safety Code Section 50106.
 - (h) "For-sale unit" means a single-family detached dwelling unit or a dwelling unit in a multifamily residential development that will be offered for sale, not for rent.
 - (i) "Inclusionary housing agreement" means a legally binding agreement between a developer and the county setting forth the provisions necessary to ensure that the requirements of this chapter are satisfied.
 - (j) "Inclusionary unit" means a rental unit that is required to be rented at an affordable rent or a for-sale unit that is required to be sold at an affordable sales price to the households specified in Section 822-4.402.
 - (k) "Lower income household" means a household whose income does not exceed the lower income limits applicable to Contra Costa County, adjusted for household size, as published and periodically updated by the state department of housing and community development pursuant to Health and Safety Code Section 50079.5.
 - (l) "Market rate unit" means a dwelling unit whose sales price or rent is not restricted under this chapter.
 - (m) "Moderate income household" means a household whose income does not exceed the moderate income limits applicable to Contra Costa County, adjusted for household size, as published and periodically updated by the state department of housing and community development pursuant to Health and Safety Code Section 50093.

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- (n) "Rental unit" means a single-family detached dwelling unit or a dwelling unit in a multifamily residential development that will be offered for rent, not for sale.
 - (o) "Residential development" means any development project that includes the construction of one or more dwelling units, including, but not limited to, exclusively residential projects and mixed-use projects. "Residential development" also includes any condominium conversion pursuant to Division 926 of this code.
 - (p) "Very low income household" means a household whose income does not exceed the very low income limits applicable to Contra Costa County adjusted for household size, as published and periodically updated by the state department of housing and community development pursuant to Health and Safety Code Section 50105.

(Ord. No. 2022-07 § II, 2-1-22; Ord. 2006-43 § 2).

822-4.208 Applicability.

This chapter applies to all residential developments in the unincorporated area of the county, except those that are exempt under Section 822-4.408.

(Ord. 2006-43 § 2).

Article 822-4.4. Requirements

822-4.402 Inclusionary unit requirement.

- (a) In a residential development of five through one hundred twenty-five rental units, at least fifteen percent of the rental units shall be developed and rented as inclusionary units under the terms and conditions of Section 822-4.410(a). At least twenty percent of the inclusionary units shall be rented at an affordable rent to very low income households, and the remaining inclusionary units shall be rented at an affordable rent to lower income households. As an alternative to providing some or all of the inclusionary units required by this subsection, an in-lieu fee may be paid pursuant to Section 822-4.404.
- (b) In a residential development of five through one hundred twenty-five for-sale units, at least fifteen percent of the for-sale units shall be developed and sold as inclusionary units under the terms and conditions of Section 822-4.410(b). At least twenty percent of the inclusionary units shall be sold at an affordable sales price to lower income households, and the remaining inclusionary units shall be sold at an affordable sales price to moderate income households. As an alternative to providing some or all of the inclusionary units required by this subsection, an in-lieu fee may be paid pursuant to Section 822-4.404.
- (c) In a residential development of one hundred twenty-six or more rental units, at least fifteen percent of the rental units shall be developed and rented as inclusionary units under the terms and conditions of Section 822-4.410(a). At least twenty percent of the inclusionary units shall be rented at an affordable rent to very low income households, and the remaining inclusionary units shall be rented at an affordable rent to lower income households.
- (d) In a residential development of one hundred twenty-six or more for-sale units, at least fifteen percent of the for-sale units shall be developed and sold as inclusionary units under the terms and conditions of Section 822-4.410(b). At least twenty percent of the inclusionary units shall be sold at an affordable sales price to lower income households, and the remaining inclusionary units shall be sold at an affordable sales price to moderate income households.

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- (e) Affordable rents will be determined annually by the county. Affordable sales prices will be estimated annually by the county. The county will provide a developer with the exact affordable sales price at least ninety days before the developer markets the unit.
 - (f) If the calculation of the required number of inclusionary units results in a fraction of a whole number, a partial in-lieu fee shall be paid in accordance with Section 822-4.404 for the fraction of the unit. The amount of the partial in-lieu fee shall be a percentage of the in-lieu fee for a single unit, with the percentage equal to the fraction of the whole number.
 - (g) The calculation of the number of inclusionary units required by this chapter shall be made without including as part of the calculation any housing units authorized by a density bonus granted pursuant to this chapter or Chapter 822-2.

(Ord. 2006-43 § 2).

822-4.404 In-lieu fee.

- (a) The amount of a fee that is paid in lieu of some or all inclusionary units will be established by the board of supervisors in the department of conservation and development's fee schedule.
- (b) Fee amounts in the fee schedule for for-sale units will be calculated as the difference between the affordable sales price for a targeted household and the median price, as determined by the county, of all single-family home sales in the county within the previous twelve months.
- (c) Fee amounts in the fee schedule for rental units will be calculated as the difference over a fifty-five-year period between the average annual rent, as determined by the county, of a two-bedroom, one-and-a-half-bathroom apartment in the county and the annual affordable rent for a targeted household.
- (d) Fee amounts in the fee schedule will be calculated annually.
- (e) All fee revenues will be deposited in a restricted fund earmarked to provide housing opportunities for extremely low, very low, lower, and moderate income households.
- (f) Funds will be appropriated for expenditures authorized by law that make housing units affordable to extremely low, very low, lower, and moderate income households and for costs associated with administering the restricted fund.
- (g) In-lieu fees are non-refundable and shall be paid before the first building permit is issued for any portion of the residential development.

(Ord. No. 2022-07 § III, 2-1-22; Ord. 2006-43 § 2).

822-4.406 Alternative methods of compliance.

A developer may submit a proposal for complying with this chapter by proposing one or more of the following compliance alternatives:

- (a) **Off-Site Development.** Some or all of the required inclusionary units may be constructed off-site, or an existing off-site development may be acquired and rehabilitated to provide some or all of the required inclusionary units, if the county determines that the combination of location, unit size, unit type, pricing, and timing of availability of the proposed off-site inclusionary units would provide equivalent or greater benefit than would result from providing those inclusionary units on-site, or if the county determines that on-site construction of those inclusionary units would be infeasible. Any off-site inclusionary units must be constructed or rehabilitated prior to or concurrently with construction of the on-site residential development. The off-site development location must be appropriately zoned

and all required entitlements issued for the off-site development alternative before building permits are issued for the on-site residential development. The off-site development location should be within a reasonable geographic distance of the on-site residential development, such as within the same school district or identified community, unless otherwise directed by the board of supervisors.

- (b) Land Conveyance. The developer may convey title to land in fee simple absolute to an affordable housing developer if all of the following requirements have been met:
 - (1) The affordable housing developer has been approved by the county.
 - (2) The land is at a location in the county where the county permits residential use at a density that will result in the same or greater number of inclusionary units than would be produced by providing the units on-site.
 - (3) The land is suitable for construction of inclusionary units in a manner that complies with this chapter. The land must be suitable from the perspective of size, configuration, physical characteristics, physical and environmental constraints, access, location, adjacent use, and other relevant planning criteria.
 - (4) The land is served with the infrastructure necessary for residential development at that location, including sewer, utilities, water, streets and sidewalks.
 - (5) The developer must submit a Phase I environmental report before the land can be considered for conveyance.
- (c) The county may accept any combination of on-site construction, off-site construction, in-lieu fees and land conveyance, or any other feasible alternative, that in the county's determination would provide equivalent or greater benefit than that which would result from providing on-site inclusionary units.
- (d) Two or more developers of separate residential developments required to comply with this chapter may propose to meet their combined then-existing obligations under this chapter by doing any of the following:
 - (1) Providing the total number of inclusionary units required of all developers at one residential development;
 - (2) Crediting inclusionary units in excess of the number required at one residential development toward the number of inclusionary units required at another residential development;
 - (3) Jointly providing a combination of feasible alternatives consistent with subsection (c) of this section.

Two or more developers may proceed under this subsection only if the county determines the proposal would result in equivalent or greater benefit than the benefit resulting from providing on-site inclusionary units at separate residential developments. When two or more developers propose to proceed under this subsection, each developer must submit an inclusionary housing plan pursuant to Section 822-4.414 and enter into or amend an inclusionary housing agreement pursuant to Section 822-4.416.

(Ord. 2006-43 § 2).

822-4.408 Exemptions.

- (a) The following residential developments are exempt from the requirements of this chapter:
 - (1) Residential developments of one through four dwelling units.

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- (2) The reconstruction of any dwelling units that were destroyed by fire, flood, earthquake, or other act of nature, provided the square footage, number of units, and use of the units remain the same and the use is resumed within six months of the interruption.
 - (3) Residential developments that obtain one of the following before November 23, 2006:
 - (A) A discretionary approval.
 - (B) A building permit.
 - (4) A community care facility as defined in Health and Safety Code Section 1502.
 - (5) Residential developments that are exempt from the requirements of this chapter pursuant to State law, including, but not limited to, the following:
 - (A) Residential developments that obtain a vesting tentative map before the effective date of the ordinance codified in this chapter, provided the vesting tentative map has not expired.
 - (B) Residential developments where the application for a tentative map has been deemed complete by the county before the effective date of the ordinance codified in this chapter.
- (b) A residential development that is located in or proposed for a former county redevelopment area is exempt from the provisions of this chapter, if the development is subject to a successor agency disposition and development agreement, owner participation agreement, acquisition agreement or other written agreement that requires affordable housing to be produced in the development, or if the development is subject to a condition of approval requiring affordable housing to be provided in the former county redevelopment area.
- (Ord. No. 2022-07 § IV, 2-1-22; Ord. 2006-43 § 2).

822-4.410 Restrictions.

- (a) Rental Inclusionary Unit Restriction. The monthly rent for a rental inclusionary unit shall remain reserved for the targeted households at the applicable affordable rent for a period of fifty-five years.
- (b) For-Sale Inclusionary Unit Restrictions.
 - (1) The initial sale of a for-sale inclusionary unit shall occur only to a household that meets all of the following:
 - (A) The household's annual income does not exceed the maximum income limits applicable to the targeted household for the inclusionary unit.
 - (B) The household has not owned a residence within the previous three years.
 - (C) The household has no more than two hundred fifty thousand dollars in assets. This amount excludes assets reserved for a down payment and closing costs, assets in retirement savings accounts, and assets in medical savings accounts.
 - (2) The initial purchaser of a for-sale inclusionary unit must agree to occupy the dwelling unit as the principal residence for at least three years, unless an emergency requires the earlier sale of the unit.
 - (3) A for-sale inclusionary unit may be sold after the initial sale to an above-moderate income purchaser and at a market price, provided that the sale results in a recapture by the county of a financial interest in the unit equal to the sum of:
 - (A) The difference between the initial affordable sales price and the appraised market value of the unit at the time of the initial sale; and

(B) The county's proportionate share of any appreciation since the time of the initial sale. Appreciation is the difference between the resale price to the above-moderate income purchaser and the appraised market value at the time of the initial sale. The county's proportionate share of appreciation is equal to the percentage by which the initial affordable sales price was less than the appraised market value at the time of the initial sale.

(4) All recaptured amounts under subsection (3) will be deposited in a restricted fund established pursuant to Section 822-4.404.

(Ord. No. 2022-07 § V, 2-1-22; Ord. 2006-43 § 2).

822-4.412 Standards.

- (a) Inclusionary units must be dispersed throughout the residential development and have access to all on-site amenities that are available to market rate units.
- (b) The construction quality and exterior design of inclusionary units must be comparable to the market rate units. However, an inclusionary unit may:
 - (1) Be smaller in size by up to ten percent when compared to the average size of market rate units in the development that have the same number of bedrooms as the inclusionary unit.
 - (2) Be developed on smaller lots of up to ten percent when compared to the average lot size of market rate units in the development that have the same number of bedrooms as the inclusionary unit.
 - (3) Have alternative interior finishes that reduce interior construction costs by up to five percent when compared to the average interior construction cost of market rate units in the development that have the same number of bedrooms as the inclusionary unit.
- (c) The average number of bedrooms for all inclusionary units must be equivalent to the average number of bedrooms for market rate units within the same residential development.
- (d) All inclusionary units must be constructed and occupied prior to or concurrently with the market rate units within the same residential development. For phased residential developments, the inclusionary units may be constructed and occupied in proportion to the number of dwelling units in each phase of the project.

(Ord. No. 2022-07 , § VI, 2-1-22; Ord. 2006-43 § 2).

822-4.414 Review.

- (a) Concurrently with a developer's first application for a discretionary approval for a residential development, the developer shall submit to the Department of Conservation and Development an inclusionary housing plan for review.
- (b) An inclusionary housing plan must include all of the following information:
 - (1) A brief description of the residential development, including the number of market rate units and inclusionary units proposed, and the basis for the calculation of the number of units.
 - (2) The unit mix, location, structure type, and size (including number of bedrooms) of the market rate and inclusionary units. A site plan depicting the location of the inclusionary units must be provided.
 - (3) The targeted household income levels of the inclusionary units.
 - (4) For a phased project, a phasing plan that provides for the timely development of the inclusionary units as the residential development is built out.

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- (5) Any proposed density bonus and a description of any incentives requested of the county.
 - (6) If the developer intends to satisfy the inclusionary unit requirement by payment of an in-lieu fee, a statement to that effect, and a calculation of the total in-lieu fee payment required.
 - (7) If an alternative compliance method is proposed, information sufficient to allow the county to determine either that on-site construction of inclusionary units is infeasible or that an alternative method of compliance could provide equivalent or greater benefit than would result from providing those inclusionary units on-site.
- (c) The department of conservation and development will accept as complete or reject as incomplete the inclusionary housing plan within thirty days of receiving the proposed inclusionary housing plan.
 - (d) An application for a discretionary approval of the residential development will not be deemed complete for processing until after the inclusionary housing plan has been accepted as complete. Preliminary approval of the inclusionary housing plan is required prior to any discretionary approval of the residential development.
 - (e) The conservation and development director will approve the inclusionary housing plan if the plan complies with the requirements of this chapter. If the director denies the inclusionary housing plan, the director will notify the developer in writing of the reasons for denial. Approval of the inclusionary housing plan is required prior to any discretionary approval of the residential development.

(Ord. No. 2022-07 § VII, 2-1-22; Ord. 2006-43 § 2).

822-4.416 Inclusionary housing agreements.

- (a) All developers whose projects are not exempt under Section 822-4.408 shall enter into an inclusionary housing agreement with the county, except where the requirements of this chapter are satisfied by payment of an in-lieu fee. The agreement must be in a form provided by the department of conservation and development.
- (b) All inclusionary housing agreements will include, at a minimum, the following information:
 - (1) The number of for-sale units and rental units.
 - (2) The number, size, location, and square footage of inclusionary units.
 - (3) Provisions for determining the market value and sales price or rental price of the inclusionary units.
 - (4) Incentives, if any.
 - (5) Provisions and documents for enforcing the restrictions established by Section 822-4.410, including deed restrictions in a form acceptable to the county.
 - (6) Provisions for determining income eligibility and monitoring the ongoing affordability of inclusionary units.
 - (7) Provisions for enforcing the construction and occupancy standards specified in Section 822-4.412(d). These provisions may include withholding approval of permits for any structure or property located within the residential development.
 - (8) If an alternative compliance method has been proposed, provisions for implementation and enforcement of that method, consistent with Section 822-4.406.
 - (9) Provisions requiring annual compliance reporting to the department of conservation and development during the term of the inclusionary housing agreement.
- (c) The inclusionary housing agreement must be executed before the approval of the final map or the issuance of the first building permit for any portion of the residential development, whichever occurs first. Following

execution, the agreement will be recorded as a covenant running with the land against the real property of the residential development.

(Ord. No. 2022-07 § VIII, 2-1-22; Ord. 2006-43 § 2).

822-4.418 Incentives.

- (a) For any project where inclusionary units are required by this chapter, a developer may request a density bonus for providing the required inclusionary units. The developer may request a density bonus in an amount equal to or less than fifteen percent of the total units in the development, including the inclusionary units provided in the development. A developer who requests a density bonus for providing inclusionary units is entitled to a density bonus in the requested amount, up to the maximum fifteen percent. A developer is not entitled to any incentives or concessions under Chapter 822-2, except for incentives that may otherwise be granted pursuant to subsection (c) of this section.
- (b) If a project includes moderate income, lower income, very low income, or senior housing units at levels beyond those required by this chapter, a developer may request a density bonus under Section 822-2.404 and may request incentives or concessions under Section 822-2.408. If requested under this subsection, the density bonus to which a developer is entitled will be calculated in accordance with subsection (d) of Section 822-2.404.
- (c) The county may grant one or more of the following affordable housing development incentives in order to mitigate the financial impact of this chapter's requirements on a particular residential development:
 - (1) Fee deferrals or waivers.
 - (2) Provision of housing set-aside funds, tax exempt financing, or other financial assistance.
 - (3) Modification of zoning or development standards.

(Ords. 2007-28 § 12, 2006-43 § 2).

822-4.420 Compliance monitoring fee.

- (a) The county may establish a compliance monitoring fee to recover the county's reasonable costs incurred for ongoing implementation of this chapter. The fee will be an amount established by the board of supervisors in the community development department's fee schedule.
- (b) For for-sale inclusionary units, the fee shall be payable by the developer at the time of the first sale. For rental inclusionary units, the property owner shall pay an annual fee each year during the term of the applicable inclusionary housing agreement.

(Ord. 2006-43 § 2).

822-4.422 Taking determination.

The county may adjust or waive the requirements of this chapter if the applicant for approval of a residential development demonstrates the absence of any reasonable relationship or nexus between the impact of the development and either the amount of the fee charged or the inclusionary requirement, thereby effecting a taking of private property without just compensation or otherwise constituting a violation of the United States Constitution, California Constitution, or other applicable federal or state laws. Any person requesting a waiver or adjustment must submit a written request not later than fifteen days before the first public hearing on any discretionary approval for the residential development, accompanied by economic information and other evidence

necessary for the county to make a determination regarding the request. If no discretionary approval is required or the action complained of occurs after the first public hearing on such approval, then the request shall be filed within ten days after the challenged action. Authority to act on a request for a waiver or adjustment rests with the board of supervisors.

(Ord. 2006-43 § 2).



Contra Costa County
**Public Works
Department**

Brian M. Balbas, Director
Deputy Directors
Stephen Kowalewski, Chief
Allison Knapp
Warren Lai
Carrie Ricci
Joe Yee

Memo

October 24, 2023

TO: Jennifer Cruz, Principal Planner, Department of Conservation and Development
FROM: Larry Gossett, Senior Civil Engineer, Engineering Services Division
SUBJECT: **SUBDIVISION SD23-9669**
30-DAY COMMENTS – INCOMPLETE
(Duong Estuary Cove LLC/Sandmound Blvd./Oakley/APN 032-112-007)
FILE: **SD23-9669**

We have reviewed the application for **subdivision SD23-9669** received by your office on **October 2, 2023**, and submit the following comments:

Background

The applicant requests approval of a Tentative Map and Development Plan to subdivide approximately a 78.33-acre parcel into 271 residential lots (38.20 acres), 2.97 acres of easements and dedications, and 37.16 acres of open space. 165 Lots will be low-density detached (2,200-3,000 SF), 62 lots will be below market rate duplexes (1,100-1,200 SF). This application was submitted pursuant to SB 330.

The currently vacant property is bounded by Sandmound Boulevard on the south, Wells Road on the north, a vacant commercial property to the west, and townhomes to the east. Dutch Slough is nearby to the east, and Bethel Island Road to the west. Most of the Sandmound Boulevard frontage abuts the City of Oakley.

Most of the site is at or below "sea level". Reclamation District #799 (Rec 799) maintains the levees protecting the site and the collection and discharge of storm waters accumulating behind the levees.

Any exceptions to County Ordinance Code requirements must be applied for in advance and will be considered as noted in Chapter 92-6 of said Code.

Traffic and Circulation

Our Transportation Engineering Division provided the following comments relative to the Site Plan submitted:

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255 Glacier Drive Martinez, CA 94553-4825
TEL: (925) 313-2000 • FAX: (925) 313-2333
www.cccpublicworks.org

1. The developer must prepare a transportation impact analysis for the County's review given the size of the development. The study must be consistent with Contra Costa County's "Transportation Analysis Guidelines."
2. The proposed roads serving the single-family duplexes are 22 feet wide and do not appear to have adequate turnaround areas. According to Section 96-12.406 of Contra Costa County's Title 9, "a paved turnaround area shall be provided at the end of any private road serving more than two lots. The radius for the edge of the pavement shall be thirty-five feet."
3. Wells Rd. and Sandmound Blvd. should be improved to current county standards, and the developer should provide additional details and cross-sections for these proposed improvements. Improvements within Contra Costa County's right-of-way must include sidewalks at minimum, and the developer should be required to install sidewalks along Wells Rd. and Sandmound Blvd. west of the development to Bethel Island Rd.
4. The Bethel Island Area of Benefit (AOB) identifies bicycle and pedestrian improvements plus road widening along Sandmound Blvd. (Project #2.1). The developer should construct Project #2.1 with the development.
5. To accommodate the construction of the improvements to Project #2.1, additional right-of-way along Sandmound Blvd. within Contra Costa County's jurisdiction would be required. The preliminary plan stated that 21 feet would be dedicated by others only where adjacent to onsite improvements, which is limited to the portion of Sandmound Blvd. in the City of Oakley. The dedication should include the entire length of Sandmound Blvd. along the development's parcels, including the future commercial site, so that the ultimate road width is 76 feet.
6. Frontage improvements located within the City of Oakley on Sandmound Blvd. should be coordinated with the City of Oakley.
7. A segment of the trail and a trail connection are shown in the road right-of-way along the southeastern corner of the development. The segment of the trail within the road right-of-way should be replaced with sidewalks and the trail connection should be relocated further east.
8. The proposed subdivision road intersecting Wells Rd. at the northwestern corner of the development should be perpendicular (90 degrees) to Wells Rd.
9. The developer should specify whether the interior roads are proposed to be public or private facilities.
10. The developer should identify traffic-calming measures such as raised crosswalks, speed humps, and stop control features for all roads serving the proposed development. For example, Transportation Engineering would prefer a raised crosswalk at the trail crossing in the northern cluster of single-family detached housing.
11. The access point of the proposed "public parking lot" is too close to the intersection of Sandmound Blvd. and the future subdivision road. In addition, the developer should identify a maintenance entity responsible for maintaining the "public parking lot."

Drainage

Division 914 of the County Ordinance Code requires that all storm water entering and/or originating on this property to be collected and conveyed, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having a definable bed and banks or to an existing adequate public storm drainage system which conveys the storm water to an adequate natural watercourse.

No site grading or drainage infrastructure has been shown on the submitted Site Plan. The project will be required to construct on site drainage infrastructure to convey runoff to a facility maintained by Rec 799. Rec 799 may require infrastructure improvements to their facilities to accommodate the runoff from a project of this magnitude.

Stormwater Management and Discharge Control

A Stormwater Control Plan (SWCP) is required for applications that will create and/or redevelop impervious surface area exceeding 5,000 square feet in compliance with the County's Stormwater Management and Discharge Control Ordinance (§1014) and the County's Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit. The proposed project will exceed the threshold of 5,000 square feet of impervious area, triggering the requirement for a SWCP.

The SWCP shall be prepared using the latest edition of the Stormwater C.3 Guidebook and template (available at www.ccleanwater.org) and meet the requirements of the Regional Water Quality Control Board. The design, location, and installation of the clean water facilities cannot be deferred to a later date linked to the acquisition of building permits for each lot proposed with this subdivision request.

This application cannot be deemed complete without submittal of an adequate SWCP that includes a bound report and attached stormwater exhibit depicting separate drainage areas and the facilities designated to treat each drainage area.

Floodplain Management

The property lies within the Special Flood hazard Area (100-year flood boundary) Zone AE as designated on the Federal Emergency Management Agency Flood Insurance Rate Map. To meet FEMA and County Floodplain Ordinance requirements, the lowest habitable space and all equipment servicing it must be elevated at least 2 feet above the 9.0-foot Base Flood Elevation.

It appears the applicant intends to construct all habitable areas above the garage area, which is allowed. However, these spaces still require adequate flood venting to minimize hydrostatic pressure from collapsing structures. It would also preclude emergency access for the residents and require them to shelter in place during a flood event. Deed restrictions against converting these lower garage/storage areas into habitable restrictions will also be required.

Note that a significant portion of the site, as much as 6 feet below sea level, may require considerable imported soil to accommodate the house design and flood protection requirements. No grading plan was provided to quantify the amount of fill required or its impact on nearby wetland areas or construction-related impacts such as hauling routes, noise, and dust, etc.

Lighting District Annexation

The subject property is not annexed into the lighting district. The property owner will be required, as a condition of approval, to annex into the Community Facilities District (CFD) 2010-1 formed for the Countywide Street Light Financing.

Area of Benefit Fee

The applicant will need to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the East Contra Costa Regional Fee and Financing Authority/Regional Transportation Development Impact Mitigation (ECCRFFA/RTDIM) area and Bethel Island Area of Benefit as adopted by the Board of Supervisors. These fees shall be paid prior to issuance of building permits.

Drainage Area Fee and Creek Mitigation

The property is located within unformed Drainage Area 45. There is currently no fee ordinance adopted by the Board of Supervisors for this area.

The submitted application should be considered incomplete. Before accepting the application as complete, the following concerns should be addressed:

- Provide response to Traffic and Circulation comments, and the requested Transportation Impact Analysis described above.
- Provide a preliminary Grading and Drainage Plan to show how the project intends to comply with the drainage requirements of the County Ordinance Code, as well as estimated the quantity of fill material necessary to develop the site and potential impacts to wetlands.
- Provide a preliminary Stormwater Control Plan using the latest edition of the Stormwater C.3 Guidebook and template (available at www.cccleanwater.org) and meet the requirements of the Regional Water Quality Control Board.
- Any exceptions requested from County Ordinance Code Standards must be requested in writing by the applicant in conjunction with the tentative map submittal in accordance with Chapter 92-6 of the County Ordinance Code.

Should you have any questions, please contact me at (925) 313-2278 or larry.gossett@pw.cccounty.us.

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