

**Department of  
Conservation and  
Development**

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County**



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September 20, 2024

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

**RE: Second Notice of Incomplete Subdivision and Development Plan Applications**  
**Site Address: 0 Bethel Island Road, Oakley**  
**APN: 032-112-007**  
**County Files: #CDS23-09669 and CDDP23-03040**

Dear Mr. Weiss:

The Contra Costa County Department of Conservation and Development ("DCD") received, via email on August 22, 2024, your resubmittal of a formal project application for a subdivision and development plan to develop an approximately 78-acre parcel into 271 residential units. Your resubmittal was submitted in response to DCD's Notice of Incomplete Application, dated May 17, 2024, which provided DCD's determination that your original formal project application, submitted April 19, 2024, was incomplete. DCD also received, via email on August 28, 2024, a letter from Bryan Wenter of the law firm Miller Starr Regalia ("Wenter Letter") which asserts that the project application is deemed complete, and that the project is deemed consistent with the County's land use regulations. However, as detailed below, DCD has determined that the project application is still incomplete, as well as inconsistent with, not in compliance with, and/or not in conformity with several County land use regulations. The project thus cannot be deemed consistent with the County's land use regulations. The matters specified in this letter will need to be addressed in the processing of your proposed project.

Project Application is Incomplete

The resubmittal and the Wenter Letter assert that the proposed project application is deemed complete pursuant to the Permit Streamlining Act. Specifically, the Wenter Letter asserts that DCD's May 17, 2024 Notice of Incomplete Application did not list any items from the County's application checklist that had not already been provided, and thus DCD's Notice did not comply with Section 65943 of the Government Code. DCD disagrees with this conclusion.

First, the application checklist referenced and attached to the Wenter Letter is not the exclusive or comprehensive checklist of required application materials. The referenced checklist is DCD's General Planning Application Checklist. DCD informs the public of additional application requirements, depending on the application type, on its website<sup>1</sup> and through the County's ePermit Center. The Permit Streamlining Act provides that a public agency may specify the required application information in more than one list. See Government Code, section 65940.

Second, DCD's May 17, 2024 Notice of Incomplete Application identified several items from the County's General Planning Application Checklist for which the original project application had provided incomplete or conflicting information, or that the application had omitted completely. For example, the Notice identified: that the application's plan set omitted required traffic circulation elements, parking spaces, and parking space dimensions (items 6 and 7); that the application's tree information was incomplete and conflicting (item 3); that the application's plan set provided incomplete and conflicting setback (item 5) and easement (item 8) information; and that the application's sign plan was incomplete (item 10). The Notice also explained that the project as proposed is not consistent with the County's General Plan and that the project would require a General Plan amendment application to be processed. Your resubmittal addressed several, but not all, of the items identified in DCD's May 17, 2024 Notice of Incomplete Application. Accordingly, DCD has determined that the submittal is still incomplete and that additional information is required before the application can be deemed complete.

#### Project Is Inconsistent With County Land Use Regulations

The Wenter Letter also asserts that the proposed project is deemed consistent with the County's land use regulations pursuant to the Housing Accountability Act because notice of inconsistency was not provided by July 19, 2024. DCD disagrees with this conclusion in the Wenter Letter.

Section 65589.5(j)(2)(A)(ii) of the Government Code provides that if a local agency considers a proposed housing development project (containing more than 150 housing units) to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision, the local agency must provide written documentation of the inconsistency, noncompliance, or nonconformity "within 60 days of the date that the application ... is determined to be complete." As detailed above, the project application is incomplete. Accordingly, the period during which the County may provide a timely notice of inconsistency has not expired, and the project is not deemed consistent under the Housing Accountability Act.

Moreover, DCD's May 17, 2024 Notice of Incomplete Application provided a written notice of inconsistency in accordance with the Housing Accountability Act's requirements. The Notice clearly identifies the proposed project's inconsistency, noncompliance, and/or nonconformance with several County land use regulations, and the reasons therefor, including:

1. The proposed project is located within a dual Agricultural Lands (AL) and Off-Island Bonus Area (OIBA) General Plan Land Use Designation. The Notice identifies that neither the project's proposed use nor proposed density comply with the General Plan,

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<sup>1</sup> See <https://www.contracosta.ca.gov/4782/Submitting-a-Planning-Application>.

and that either the project must be revised or a separate General Plan amendment application must be submitted.

2. The proposed project is required to comply with the County's planned unit district (P-1) design objectives, including the applicable height standard. The Notice identifies that the project proposes single-family residences of a height that is inconsistent with the P-1 design objectives.

3. Agency comment letters, referenced in and attached to the Notice, from the Public Works Department and DCD's Housing and Community Improvement Division also identified requirements with which the project must comply.

In accordance with the Housing Accountability Act, DCD reserves the opportunity to provide, within 60 days after the application is ultimately determined to be complete, notice of the project's inconsistency with other County land use regulations. For now, DCD's May 17, 2024 Notice of Incomplete Application contained sufficient detail to enable you to identify the ways and reasons that the proposed project is inconsistent, noncompliant, or nonconforming with several County land use regulations under the Housing Accountability Act. Nothing more is required. These matters of inconsistency, noncompliance, and nonconformity, and any others timely noticed by the County, will need to be addressed in the processing of your proposed project.

Finally, the resubmittal and the Wenter Letter assert that the Housing Accountability Act's "builder's remedy" provision applies to the project and precludes the County from applying any planning or zoning standards that would deny the project or render it infeasible. Specifically, the Wenter Letter asserts that because the County did not have a substantially compliant 6th Regional Housing Needs Assessment Cycle Housing Element at the time the project's preliminary application was filed, the project application is vested under the County's non-compliant Housing Element status and the "builder's remedy" provision applies to the project throughout the duration of the entitlement process, DCD also disagrees with this conclusion.

As detailed in DCD's November 17, 2023 letter to Mr. Wenter, nothing in the Housing Accountability Act or the specific language of the "builder's remedy" provision limits a local agency's authority to disapprove or condition a project based on inconsistency with the local agency's zoning ordinance or general plan after the agency has adopted a compliant housing element. Because the County has adopted a substantially compliant housing element, the County is not subject to the "builder's remedy" limitations and may disapprove or condition the proposed project based on an inconsistency with the County's General Plan.

In any event, the question of whether the "builder's remedy" applies to the proposed project is moot as the project's preliminary application has expired. Section 65941.1(d) of the Government Code provides that within 180 days after submitting a complete preliminary application, the development proponent must submit a formal application that includes all of the information required to process the development application. If the public agency determines that the formal application is incomplete, the development proponent must submit the specific information needed to complete the application within 90 days. If the development proponent does not submit the required information within the 90-day period, then the preliminary application expires and has no further force or effect.

DCD deemed the project's preliminary application complete on November 2, 2023. A formal project application was timely submitted on April 19, 2024. DCD's May 17, 2024 Notice of Incomplete Application found the formal project application incomplete and identified specific information needed to complete the application. Your resubmittal of the formal project application, which did not include all of the required information, was submitted on August 22, 2024, more than 90 days after DCD's May 17, 2024 Notice. Accordingly, the project's preliminary application has expired, and the project will be subject to the ordinances, policies, and standards in effect when the project application is ultimately determined to be complete.

### Remaining Incomplete Items

DCD staff is continuing to process your application in accordance with applicable State laws and local land use ordinances and regulations. You must address the following items below and in the attachments from other agencies that have commented on the application.

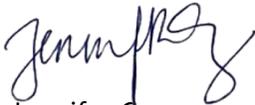
1. The proposed project must comply with the County's adopted General Plan. The project site has a dual General Plan land use designation of Agricultural Lands (AL) and Off-Island Bonus Area (OIBA). The AL designation allows for a density of one dwelling unit per 5 acres. However, OIBA allows a density of 1.0-2.9 units per net acre if substantial recreation facilities are included in the proposed project. The proposed project does not comply with either density range. An email from our Advance Planning staff dated October 23, 2023, which was provided to you indicates that the project is inconsistent with the AL/OIBA land use designation in terms of use and density (attached). Please revise the project to comply with the current AL/OIBA designation or apply for a General Plan amendment (GPA) feasibility study. The feasibility study involves a preliminary review by the Board of Supervisors to consider whether a GPA for the proposed project should be processed. If the Board is unwilling to consider a GPA, then the project cannot move forward. If the Board is willing to consider a GPA, then a full GPA application will be required. Your submittal will remain incomplete until this is resolved.
2. Sheet C1.0 states the rear yard setback for single-family detached is 10 feet. However, Sheet C3.0 – setback detail indicates a 15-foot rear yard. Please clarify and make necessary changes on the respective sheet as to which is the correct proposed rear yard setback.
3. Initially the parks identified on the plans were public parks. However, the resubmittals state the parks will be private. Parking will still be required for the private park. At a minimum, please provide parking space dimensions, driveway aisle width, access width, and number of spaces that complies with the Off-Street Parking Ordinance standards (attached). Please note that the Off-Street Parking Ordinance requires one space per every two hundred square feet of outdoor recreation area (swimming pools, ball fields, courts, etc.) for a recreational facility.
4. Please note that on several sheets of the resubmittal, the parks are still identified as public, and the trail is still identified as a public trail. These sheets should be updated to reflect the parks and trail as private.

5. The width between parking spaces on Street F was provided on Sheet C4.4 and not Sheet C3.4 as previously noted and as indicated in the response letter by Kevin Weiss. Additionally, the typical duplex easements and setback diagram was initially included on Sheet C3.4. However, on Sheet C4.4, this information has been omitted. Has this information been relocated on another sheet? If it was inadvertently omitted, please include this diagram on Sheet C3.4.
6. Elevation C of the single-family residence plans appears to be the tallest at approximately 43' 8". It appears that this may be due to a vent area on top. survey of the immediate surrounding area does not include residential buildings of this height. Contra Costa County Code Section 84-66.1402 (attached) identifies design objectives for development on parcels within the Planned Unit (P-1) District that require design compatibility with the surrounding area. The project should be redesigned with a lower height consistent with the development in the area.
7. 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.

Please provide electronically all revisions, additional information addressing the comments above and the attached agency comments in one submittal to my attention.

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](mailto:Jennifer.Cruz@dcd.cccounty.us).

Sincerely yours,



Jennifer Cruz  
Principal Planner

Attachments: Chapter 82-16 Off-Street Parking Ordinance  
Chapter 84-66 P-1 Planned Unit District Ordinance  
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

## ***Chapter 82-16 OFF-STREET PARKING<sup>1</sup>***

### **Article 82-16.2. General**

### **Article 82-16.4. Requirements**

#### **82-16.202 Purpose.**

The purpose of this chapter is to provide a unified set of standards for off-street vehicle and bicycle parking to meet the needs of persons employed at, or making use of, each land use during peak hours of parking needs. This chapter is intended to encourage the use of features, design strategies, materials, products, and best construction practices that preserve natural resources, conserve water and energy, and maximize energy efficiency in the design of parking facilities. This chapter also is intended to balance the needs of pedestrians, vehicles, bicycles, and public transportation.

(Ord. No. 2012-12, § II, 10-16-12)

#### **82-16.204 Definitions.**

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

- (a) "Angle of parking" refers to the angle of the parking space in relation to the curb fronting the parking space. A parking space with an angle of parking of zero degrees is parallel to the curb, and a parking space with an angle of parking of ninety degrees is perpendicular to the curb.
- (b) "Driveway aisle" means the paved area within an off-street parking area that is used by vehicles to circulate within the parking area and access parking spaces.
- (c) "Electric vehicle" or "EV" means a vehicle that is powered entirely or partially by electricity stored in batteries that must be recharged.
- (d) "EV charging equipment" means permanently placed equipment and other components designed specifically to charge batteries of electric vehicles.
- (e) "EV charging space" means a parking space that is located adjacent to EV charging equipment that can be used to charge an electric vehicle parking within that space.
- (f) "Exclusive parking facility" means an off-street parking area that is restricted to use by specific persons during limited hours, or under limited circumstances. An exclusive parking facility includes: a parking area restricted for use by only patrons, visitors, and employees of a building or facility; and a parking area restricted for use by users and employees of a public transit service. An exclusive parking facility may be, but is not required to be, access-controlled, or available upon payment of a fee.

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<sup>1</sup>Editor's note(s)—Ord. No. 2012-12, § II, adopted Oct. 16, 2012, amended Chapter 82-16 in its entirety to read as herein set out. Former Chapter 82-16, §§ 82-16.002—82-16.024, pertained to similar subject matter and derived from Ord. 2031 § 1(part), 1966, prior code § 8119(part), Ord. 1027, and Ord. 82-3, § 1.

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- (g) "Long-term bicycle parking" means a covered, access-controlled enclosure or access-controlled room that includes permanently-anchored bicycle racks, or lockable individual bicycle lockers, and that securely encloses one standard adult size 18-to-21-speed bicycle per locker.
  - (h) "Off-street parking area" or "parking area" means a paved area, other than a public street or public right-of-way that is permanently reserved for the parking of motor vehicles and, where provided, motorcycles and electric vehicles. It includes parking lots and parking structures, unless otherwise specified in this chapter, and excludes off-street loading spaces.
  - (i) "Short-term bicycle parking" means permanently-anchored bicycle racks (covered or uncovered), lockable bicycle rooms with permanently-anchored bicycle racks, or permanently-anchored bicycle lockers, that are accessible and usable by visitors, guests, and business patrons of the building or facility that it serves.
  - (j) "Solar energy system" means a photovoltaic solar collector, or other photovoltaic solar energy device, that has a primary purpose of providing for the collection and distribution of solar energy for the generation of electricity.
  - (k) "Tandem parking" means an area for two parked vehicles, where one vehicle is parked in-line directly behind the other vehicle and both vehicles are parked facing the same direction.

(Ord. No. 2012-12, § II, 10-16-12)

### **82-16.206 General.**

- (a) Changes in Land Use. If a land use is proposed to be enlarged, or a proposed change in land use will require more off-street parking to be provided under this chapter, additional off-street parking spaces must be provided to meet the off-street parking requirements of this chapter that apply to the land use, as enlarged or changed. If a proposed change in any land use requires fewer parking spaces to be provided under this chapter than was required for the prior land use, then no change in the amount of off-street parking is required.
- (b) Compliance as a Condition of Approval. No application for a building permit for the erection of a new structure, or for the enlargement of an existing structure, and no application for the development of a land use, will be approved unless the application demonstrates compliance with this chapter. If off-street parking or bicycle parking, or both, is required by this chapter, an application for a building permit or land use permit must include a parking area plan that identifies the parking area, the parking spaces and their dimensions, landscaping, lighting, and other features required by this chapter. The application must include a landscaping plan that identifies each plant type that will be used to meet the landscaping requirements of this chapter.
- (c) Conflicts. If any requirement of this chapter conflicts with any off-street parking requirement specified elsewhere in Division 84, the requirement specified elsewhere in Division 84 governs.
- (d) Requirements are Cumulative. The requirements of this chapter are in addition to all requirements of state law that apply to vehicles and parking, including those specified in the vehicle code.

(Ord. No. 2012-12, § II, 10-16-12)

### **82-16.208 Computation.**

- (a) If the computation of required off-street parking spaces or bicycle parking spaces results in a fractional number, the fraction of one-half or more is counted as one, and a fraction of less than one-half is not counted.

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- (b) When an off-street parking requirement or bicycle parking requirement is based on the number of spaces per employee, the required number of parking spaces is calculated based on the greatest number of employees that will be on the premises at one time.
  - (c) When a parking requirement is based on the number of seats, and the seating provided is bench or pew seating, each twenty-four inches of bench or pew seating is considered one seat.

(Ord. No. 2012-12, § II, 10-16-12)

#### **Article 82-16.4. Requirements**

##### **82-16.402 Location.**

- (a) Except as specified in subsection (b) of this section, off-street parking required by this chapter must be provided on the same lot as the land use that it serves, or, for shared parking, on the same lot as at least one of the land uses that it serves.
- (b) Off-street parking may be allowed on a lot separate from the lot where the land use to be served by that parking is located if the zoning administrator finds both of the following:
  - (1) The lot on which the off-street parking will be located is owned or leased by the applicant; and
  - (2) The lot on which the off-street parking will be located is within two hundred feet of the lot where the land use to be served by that parking is located.

(Ord. No. 2012-12, § II, 10-16-12)

##### **82-16.404 Design and layout.**

- (a) Parking Area Design Requirements. Each parking area must meet the following parking area design requirements:
  - (1) General Requirements. Each off-street parking area must be designed with appropriate maneuvering areas and means of vehicular access to a street adjacent to or abutting the parking area. Each parking area must be designed to allow circulation of vehicles from one driveway aisle to another driveway aisle, or must provide, at the end of the driveway aisle, a turn-around area that is marked to prohibit parking and has a minimum area equivalent to one standard parking space.
  - (2) Access Requirements. If an off-street parking area does not abut a street, an access drive between the street and the parking area must be provided. The access drive must measure at least twelve feet wide if it will be used for one-way traffic, and at least twenty feet wide if it will be used for two-way traffic. Each entrance to and exit from an off-street parking area must be located and designed to provide efficient and safe traffic flow between the parking area and the street. If a driveway aisle intersects directly with the adjacent or abutting street, that intersection must be at least eighteen feet away from the parking space nearest to it. Each off-street parking area within a residential zoning district (R-, D-1, M-), commercial zoning district (O-1, A-O, C-B, N-B, R-B, C-, C-M), industrial zoning district (L-I, W-3, H-I), or planned unit zoning district (P-1), must be designed so that vehicles are not required to back out of the parking area onto an abutting or adjacent street. If a pedestrian sidewalk is adjacent to a parking space, at least five feet of width of the sidewalk must be unobstructed by any bumper overhang.
  - (3) Driveway Aisles. Each parking space in a parking area must be accessed by a driveway aisle. If parking spaces with different angles of parking are accessed by the driveway aisle, the required driveway aisle width is the largest driveway aisle width that would be required for any of those parking spaces.

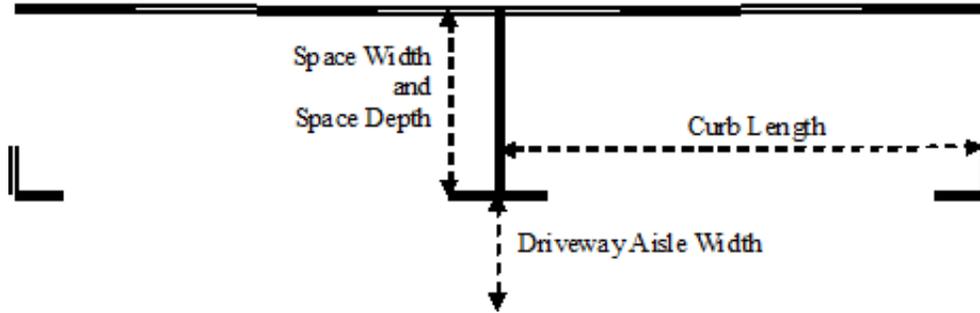
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Driveway aisle width is measured between the closest points of two parking spaces, or two curbs, or a parking space and a curb, that are directly opposite on each side of the driveway aisle.

- (4) Changes in Grade. When there is a change in grade between a parking area and an abutting or adjacent street, the gradient of each access point or access driveway may be up to a five percent gradient with no transitions. For a gradient greater than five percent, a twenty-foot long transition with a gradient of no more than five percent must be provided before or after the change in grade. For a gradient greater than fourteen percent, up to the maximum permitted gradient of twenty percent, a transition of one half of the gradient must be provided for a minimum of eight feet before, and a minimum of eight feet after, the change in grade.
  - (5) Surfacing. Except as specified in this subsection (a)(5), each required off-street parking area must be surfaced with a continuous asphalt or Portland cement binder pavement, or similar paving material, with a weight rating necessary to accommodate emergency vehicles, as deemed necessary by the zoning administrator in consultation with the fire district or department having jurisdiction over the parking area. At least ten percent of the total paved area of a parking area must be paved with porous asphalt, pervious concrete, permeable pavers, or unit pavers that the zoning administrator, in consultation with the fire district or department having jurisdiction over the parking area, determines has a weight rating necessary to accommodate emergency vehicles. The parking area surface must be graded and drained to prevent the pooling of water.
  - (6) Prohibitions. No off-street parking area may be used for automobile sales, storage, repair work, dismantling, or servicing of any kind.
  - (7) Striping, Markings, and Signage. Each parking space must be marked with striping and must open directly on a driveway aisle meeting the width requirements set forth in this section. Each parking area must include signage and directional markings deemed necessary by the zoning administrator to ensure sufficient traffic circulation and safety.
  - (8) Lighting. For safety and security, each parking area in a non-residential zoning district (any zoning district other than a R-, D-1 or M- district) must include lighting that adequately illuminates the parking area. Lighting must be directed downward and away from adjacent areas and public streets and rights-of-way, to prevent glare (overwhelming direct light creating a potential hazard), or excessive light spill-over (unreasonable amounts of light extending beyond the intended area or property line), as seen from those areas, streets, or rights-of-way. To provide for the general safety of adjacent vehicular traffic and the privacy and well being of residential areas, the lighting intensity may not be greater than reasonably required to safely and securely illuminate the parking area. Each lighting fixture must be consistently maintained to ensure broken or burnt-out bulbs are replaced, fixtures remain clean and graffiti and rust free, and painted fixtures do not chip or peel. Whenever possible, lighting fixtures must be equipped with energy efficient bulbs.
  - (9) Screening and Buffers. If a parking area is adjacent to property within a residential zoning district (R-, D-1, or M-) or a parcel used for residential uses within a planned unit district (P-1), the parking area must include one of the following between the parking area and that zoning district:
    - (A) A six-foot high solid fence or masonry wall (block, brick, or natural or concrete stone) and vegetation that, when mature, will cover a portion of the fence or wall; or
    - (B) Landscape screening of at least six feet in height. Up to three feet, or half of the total height, whichever is less, may consist of planter boxes, raised beds, or similar improvements, and the remaining amount of screening must be shrubbery or other plants that, when planted, will provide a complete screen.
- (b) Parking Space Design and Layout. Each parking space within a parking area must meet all of the following requirements:

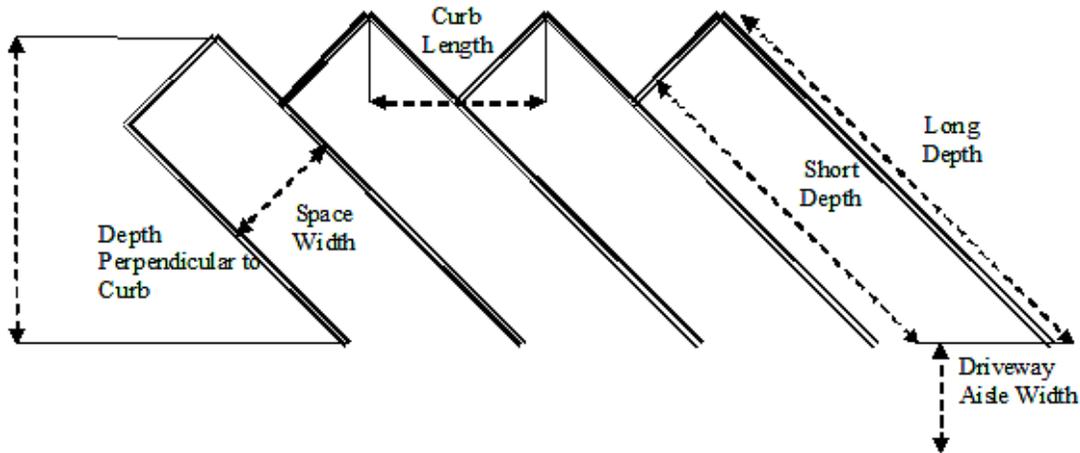
- (1) Parking Space Sizes. Except as provided in this subsection, each parking space in a parking area must be a standard size parking space. If twelve or more parking spaces are required by this chapter, a maximum of twenty-five percent of the total required parking spaces may be designated for compact vehicles. Each compact-vehicle parking space must provide pavement markings or signage identifying it for use by compact vehicles. Each standard size parking space, each compact-vehicle off-street parking space, and each driveway aisle must have the following minimum dimensions:

- (A) For each space with an angle of parking of zero degrees:



0°	Dimension	Standard Spaces	Compact Spaces
	Space Width	8'6"	7'6"
	Curb Length	21'6"	19'
	Space Depth	8'6"	7'6"
	Driveway Aisle Width	One-way travel: 12' Two-way travel: 20'	One-way travel: 12' Two-way travel: 20'

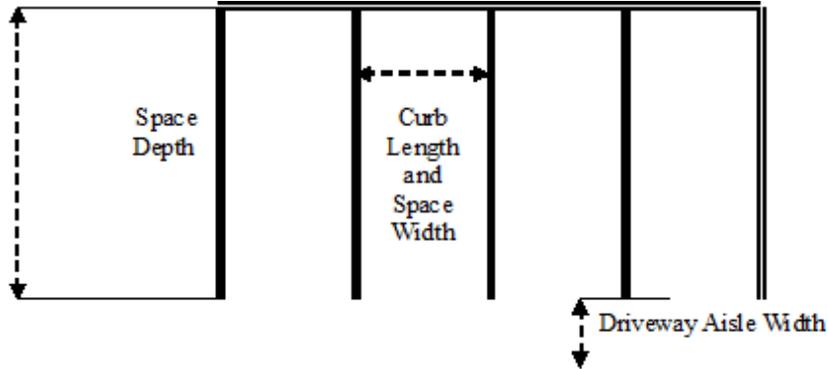
- (B) For each space with an angle of parking of forty-five degrees:



45°	Dimension	Standard Spaces	Compact Spaces
	Space Width	8'6"	7'6"
	Curb Length	12'	10'6"
	Depth Perpendicular to Curb	18'6"	16'6"
	Short Depth	13'6"	12'
Long Depth	22'	19'6"	

	Driveway Aisle Width	One-way travel: 13' Two-way travel: 20'	One-way travel: 13' Two-way travel: 20'
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(C) For each space with an angle of parking of ninety degrees:



0°	Dimension	Standard Spaces	Compact Spaces
	Space Width	8'6"	7'6"
	Curb Length	8'6"	7'6"
	Space Depth	18'	16'
	Driveway Aisle Width	One-way travel: 25' Two-way travel: 25'	One-way travel: 25' Two-way travel: 25'

- (2) Non-Standard Angles of Parking. If a parking space in any parking area will have an angle of parking other than zero degrees, forty-five degrees, or ninety degrees, the zoning administrator will calculate the parking space dimensions to provide approximately the same amount of space that is required for a parking space with a zero-degree angle of parking. For calculations for a parking space with an angle of parking that is greater than zero degrees and less than forty-five degrees, the required driveway aisle width is thirteen feet for one-way travel, and twenty feet for two-way travel. For calculations for a parking space with an angle of parking that is greater than forty-five degrees, the required driveway aisle width is twenty-five feet for one-way and two-way travel.
  - (3) Motorcycle Parking. Any off-street parking area with twenty or more standard size parking spaces may include up to six designated motorcycle parking spaces. Each designated motorcycle parking space must have a length of at least eight and one-half feet, and a width of at least three feet. Motorcycle parking spaces may not be counted towards the minimum number of parking spaces required by this chapter.
- (c) Landscaping Design and Layout. Landscaped areas must be provided within any off-street parking area other than an enclosed parking structure, and must meet the following design and layout requirements:
- (1) Each landscaped area within or adjacent to a parking area must be bordered by a curb that is at least six inches high and at least six inches wide. Each curb must be constructed of the same material that is used to pave the parking area, or another paving material that is authorized under this chapter and as approved by the zoning administrator.
  - (2) Each landscaped area must be designed so that pedestrians are not required to cross the landscaped area in order to access the parking area.
  - (3) A planter or landscaped area at least four feet wide (inside dimension) must be provided between a parking area and a public street or private drive, other than an access drive, that is adjacent to a

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- parking area. Each parking area with more than five parking spaces must include landscaped areas that are equal in area to at least five percent of the area occupied by the paved parking area.
- (4) To provide visual and physical breaks and reduce traffic hazards to pedestrians, landscaped areas must be located between the parking area and each sidewalk adjacent to the parking area, except for any point at which a sidewalk intersects with the parking area.
  - (5) For any parking space with an angle of parking of forty-five degrees or greater, in lieu of paving, a maximum of two feet of a standard parking space's depth, or one and one-half feet of a compact parking space's depth, may be planted with low-lying groundcover or landscaping to allow for up to a two-foot bumper overhang. A barrier curb or wheel stop measuring no more than five inches high, at least six inches wide, and thirty-six inches long must be provided in the parking space if the parking space is in front of a building, facility, or structure.
  - (6) The following requirements apply to each parking area that includes more than seventy parking spaces:
    - (A) Trees must be provided at a rate of at least one tree per twenty linear feet of landscaping. Each tree must measure at least five feet in height above-ground at the time that it is planted.
    - (B) Planter islands must be provided at the ratio of at least one island for each ten parking spaces. Each planter island must be at least five feet wide and at least as long as the depth perpendicular to curb for the longest parking space adjacent to it.
    - (C) Trees, or clusters of trees, must be evenly distributed throughout the parking area by locating trees along the perimeter of the parking area and within planter islands.
  - (7) Each landscaped area must be continuously maintained to ensure it remains free of debris, litter, and weeds, and that landscaping remains healthy. To encourage water conservation, each parking area that includes landscaping must also include an automatic irrigation system that meets the requirements of this code pertaining to landscape irrigation and water conservation.
- (d) Tandem Parking. Two-car tandem parking spaces are permitted as specified in this section. Each tandem parking space must have a space width measuring at least eight feet and six inches, and a space depth perpendicular to curb measuring at least thirty-six feet. Vehicles using a tandem parking space must not block, or be allowed to overhang into, walkways or other pedestrian access areas, or any street or other public right-of-way. Each tandem parking space will be counted as two standard parking spaces toward the total amount of off-street parking spaces that must be provided under this chapter.
- (1) Single-family Residential. For any residential use located in a single-family residential (R-) zoning district, a tandem parking space is allowed, as long as the minimum setback requirements applicable to that zoning district are met.
  - (2) Multiple-Family Residential. For any residential use located in a two-family (D-1) or multiple family residential (M-) zoning district, no more than fifteen percent of the residential units may be provided tandem parking spaces. A tandem parking space to serve an individual residential unit is allowed if the following requirements are met:
    - (A) The tandem parking space is assigned to a single residential unit;
    - (B) The tandem parking space is enclosed within a garage that allows ingress to and egress from a shared private road or a public street without requiring a vehicle to back out onto the road or street;
    - (C) The multiple family residential use is located within the General Plan Transportation and Circulation Element Transit Corridor or Local Transit Service Area; and
    - (D) The tandem parking space does not interfere with, or obstruct the use of, any other unit's assigned parking.

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- (3) Commercial/Retail/Business. For any commercial, retail, or business use located in an O-1, A-O, C-B, N-B, R-B, C-, or P-1 zoning district, no more than twenty-five percent of the amount of off-street parking spaces required to be provided under this chapter may be tandem parking spaces. Tandem parking spaces are allowed if they are used in conjunction with a valet service that serves the land use during all hours of operation. No tandem parking space may be designated for self-parking, unless it is restricted for employee use.
  - (e) Electric Vehicle Charging Spaces. Each EV charging space provided in a parking area counts as one space toward the minimum number of parking spaces required by this chapter. The following requirements apply to each EV charging space:
    - (1) Each EV charging space must be accessible to persons with disabilities.
    - (2) Each EV charging space must include a posted sign and painted curb, or ground markings, indicating that the space is exclusively for EV charging purposes.
    - (3) EV charging equipment must be located so that pedestrians are not required to cross between the EV charging space and the EV charging equipment. The EV charging equipment may not obstruct any Americans with Disabilities Act-compliant sidewalk, entrance, curb-cut, or ramp, while in use or otherwise.
    - (4) EV charging equipment must be illuminated by lighting to enable the equipment to be used at night.
    - (5) Concrete-filled steel bollards or other similar barriers must be installed between EV charging equipment and an EV charging space if either of the following applies:
      - (A) The EV charging equipment is located less than twenty-four inches away from the EV charging space that it serves; or
      - (B) The EV charging equipment is located twenty-four inches or more away from the EV charging space that it serves and does not include, between the space and the equipment, a curb measuring at least six inches high.
    - (6) An electric vehicle may occupy an EV charging space only while charging is in progress. Parking in an EV charging space when charging is not in progress is prohibited.
    - (7) EV charging equipment must be maintained in working order at all times. The name and telephone number of the party responsible for maintaining and repairing the equipment must be posted on the equipment and updated as necessary.
  - (f) Solar Energy Systems. Nothing in this chapter prohibits the installation of a solar energy system on or above a parking area, provided that the system otherwise meets the requirements of this code, and is located, installed, operated, and maintained in a manner that complies with all applicable federal, state, and county requirements.

(Ord. No. 2012-12, § II, 10-16-12)

### **82-16.406 Required number of parking spaces.**

- (a) The following number of off-street parking spaces must be provided for the following land uses:
  - (1) Assembly halls without fixed seats: One space per every fifty square feet of gross floor area.
  - (2) Auditoriums: One space per every four seats.
  - (3) Banks, business and professional offices, other than medical and dental offices: One space per every two hundred fifty square feet of gross floor area.

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- (4) Bowling alleys: Four spaces per every individual alley, plus one space per two employees.
  - (5) Child care facility: For facilities that are licensed to serve fifteen or more children, one space per every two hundred fifty square feet of gross floor area.
  - (6) Churches/religious institutions: One space per every four seats in the sanctuary/worship space only. If the church/religious institution is used for purposes that are ancillary to worship and administration, the zoning administrator may increase the required number of parking spaces to meet the parking requirements for the ancillary use or uses, or for the use or uses most similar to that ancillary use, specified in this section.
  - (7) Commercial service, repair shops and wholesale establishments: One space per every eight hundred square feet of gross floor area.
  - (8) Gas station (including vehicle service/repair): 0.9 spaces per every fueling position if the station includes a convenience market, or 0.5 spaces per every fueling position if the station does not include a convenience market.
  - (9) Grocery store: One space per every two hundred square feet of gross floor area.
  - (10) Golf courses and driving ranges: Four spaces per every hole. If the golf course or driving range facilities are also used for purposes that are ancillary to golf and golf instruction, such as banquets, the zoning administrator may increase the required number of parking spaces to meet the parking requirements for the ancillary use or uses, or for the use or uses most similar to that ancillary use, specified in this section.
  - (11) Hospital: One space per every two patient beds. If the hospital includes ancillary services or facilities, such as a pharmacy or medical offices, the zoning administrator may increase the required number of parking spaces to meet the parking requirements for the ancillary use or uses, or for the use or uses most similar to that ancillary use, specified in this section.
  - (12) Hotels and motels: One space per every lodging room. If the hotel or motel is used for purposes that are ancillary to lodging and overnight guest services, the zoning administrator may increase the required number of parking spaces to meet the parking requirements for the ancillary use or uses, or for the use or uses most similar to that ancillary use, specified in this section.
  - (13) Marina: 0.4 spaces per every berth.
  - (14) Medical and dental offices: One space per every two hundred fifty square feet of gross floor area, plus one space per doctor/dentist.
  - (15) Mini (self) storage: One space per every three hundred fifty square feet of gross floor area of the office at the facility. A minimum of three spaces must be provided.
  - (16) Mortuaries: One space per every fifty square feet of gross floor area in chapel areas.
  - (17) Night clubs, cocktail lounges, and restaurants: One space per every three seats, or one space per every one hundred square feet of gross floor area, whichever is greater.
  - (18) Nursery (plants): Two spaces per every one thousand square feet of gross floor area and outdoor display area.
  - (19) Recreational facility: One space per every two hundred square feet of outdoor recreation area (swimming pools, ball fields, courts, etc.).
  - (20) Retail stores and shops, except as otherwise specified herein: One space per every three hundred square feet of gross floor area.

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- (21) Retail stores that handle only bulky merchandise, such as furniture, household appliances, and motor vehicles: One space per every five hundred square feet of gross floor area.
  - (22) Retail and wholesale establishments where sales are conducted primarily outside of buildings: One space per every two thousand square feet of outdoor display area.
  - (23) Rooming and lodging houses: One space per every bedroom.
  - (24) Sanitariums, convalescent homes, rest homes, nursing homes: One space per every three beds.
  - (25) Sports arenas: One space per every five seats, or one space per every two hundred square feet of gross floor area, whichever is greater.
  - (26) Theaters: One space per every five seats.
  - (27) Winery: For wineries that include agricultural production, one space per every two hundred fifty square feet of gross floor area. For tasting rooms where no agricultural production or cultivation occurs, one space per three seats, or one space per every one hundred square feet of gross floor area, whichever is greater.
  - (28) Warehouses and other storage buildings: One space per every one thousand square feet of gross floor area.
- (b) For any use not specified in this section, the number of parking spaces that must be provided is the number of spaces required to be provided for the most similar land use specified in this section, as determined by the zoning administrator.
  - (c) If a final transportation demand management program (TDM) is approved for any project or development pursuant to Chapter 82-32, the number of parking spaces required by that TDM for that project or development supersedes the number of parking spaces that would otherwise be required by this section.

(Ord. No. 2012-12, § II, 10-16-12)

### **82-16.408 Exclusive parking facilities.**

An exclusive parking facility may be established if it meets all of the following requirements:

- (a) The facility must be located on a lot that is either:
  - (1) Adjacent to an established or planned future stop of a public transit service route; or
  - (2) Within an O-1, A-O, C-B, N-B, R-B, C-, or P-1 zoning district and the land use that it serves is a business use, commercial use, or office use.
- (b) The facility must be restricted for use by the riders and employees of a public transit service, or the employees, visitors, or business patrons of the land use served by the facility.
- (c) The facility must be located within one thousand feet of the planned or established public transit service stop, or the property line of the lot where the land use to be served by the facility is located.
- (d) The facility only will be used for vehicle and bicycle parking.
- (e) No commercial repair work or sales of any kind will occur within the facility.
- (f) No signs will be located within the facility, except signs required by this chapter to guide traffic or mark parking spaces, signs that identify the persons that may utilize the facility, and signs that are otherwise required by law to be posted.
- (g) The facility must meet the requirements of this chapter that apply to off-street parking areas generally.

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- (h) An exclusive parking facility plan must be submitted with the application for a land use permit. The plan must depict and delineate the requirements of this section. The exclusive parking facility may, but is not required to, provide a parking attendant to control entry to, and exit from, the facility. If a parking attendant will be provided, the application must show the location of the parking attendant's shelter, and must describe the hours when an attendant will be present. The application also must describe land use served by the facility.

(Ord. No. 2012-12, § II, 10-16-12)

### **82-16.410 Loading spaces.**

- (a) In any zoning district, each building or facility with a gross floor area of ten thousand or more square feet that is used for manufacturing, storage, warehousing, displaying of goods, retail sales, wholesale sales, hotel, hospital, mortuary, laundry, dry cleaning, or other land use that requires the receipt or distribution by vehicles of materials and merchandise, must include off-street loading space on the same lot as that building or facility. The required amount of off-street loading space is based on the size of the building or facility that it serves, calculated as follows:
  - (1) Ten thousand to twenty thousand square feet of gross floor area, one space.
  - (2) Twenty thousand one to thirty thousand square feet of gross floor area, two spaces.
  - (3) Thirty thousand one to forty-five thousand square feet of gross floor area, three spaces.
  - (4) Forty-five thousand one to seventy-five thousand square feet of gross floor area, four spaces.
  - (5) Over seventy-five thousand square feet of gross floor area, one additional space for each additional seventy-five thousand square feet of gross floor area, or portion thereof.
- (b) Each off-street loading space must meet the following requirements:
  - (1) Each loading space must be located so that:
    - (A) It is accessible from a public street; and
    - (B) Any vehicle that regularly uses it does not encroach within any sidewalk or street right-of-way, or within any required front yard or side yard of the building or facility that it serves.
  - (2) Each loading space must have a minimum unobstructed width of ten feet, a minimum unobstructed length of thirty-five feet, and a minimum unobstructed clearance height of fifteen feet for the entire length and width of the loading space.
  - (3) Each loading space required by this section must be permanently maintained during the existence of the building or facility that it serves, and must be used only for loading and unloading purposes. No part of a required loading space may be encroached upon by buildings or temporary structures, or used for storage or any other activity not related to loading or unloading.

(Ord. No. 2012-12, § II, 10-16-12)

### **82-16.412 Bicycle parking.**

- (a) To meet the bikeway goals of the Transportation and Circulation Element of the County General Plan, long-term and short-term bicycle parking must be provided to serve each land use, as specified in this section.
- (b) Long-term and short-term bicycle parking must meet the following location requirements:

- (1) The bicycle parking must be located near every terminus of dedicated bicycle trails or routes, or at locations that are accessible by bicycles.
  - (2) If no bicycle trails or routes terminate on the lot to be served by the bicycle parking, the parking must be located as close as possible to main entrances and exits of buildings, structures, or facilities without obstructing any door, entry way, path, or sidewalk.
  - (3) The bicycle parking must be located in an area that is visible from vehicle parking or circulation areas, or pedestrian circulation areas.
  - (4) The bicycle parking location must be identified with guide signs or wayfinding signs that meet the requirements of sign type "3" in sign series "D4" of the then current Manual of Uniform Traffic Control Devices.
  - (5) Long-term bicycle parking must be accessible and usable by tenants, employees, or other occupants of the building or facility that it serves.
- (c) The following amounts of long-term and short-term bicycle parking must be provided for the following land uses:

Residential		
Housing Type	Long-Term	Short-Term
Single-family Dwelling	No spaces required.	No spaces required.
Multiple-Family Dwelling (including two-family residential) with private garage	No spaces required.	Spaces for five percent of the number of bedrooms, or two spaces, whichever is greater.
Multiple-Family Dwelling (including two-family residential) without private garage	Spaces for 15 percent of the number of bedrooms, or two spaces, whichever is greater.	Spaces for five percent of the number of bedrooms, or two spaces, whichever is greater.

Cultural/Education		
Use Type	Long-Term	Short-Term
Assembly (church, theaters, sports arenas, assembly halls)	One space for each 20 employees, or two spaces, whichever is greater.	Spaces for two percent of maximum planned capacity.
Parochial	Spaces equal to one percent of planned student capacity, or two spaces, whichever is greater.	Spaces equal to two percent of planned student capacity, or two spaces, whichever is greater.
Parochial and Private Nursery Schools, Kindergartens, and Elementary Schools (grades 1-3)	Spaces equal to one percent of planned student capacity, or two spaces, whichever is greater.	Spaces equal to two percent of planned student capacity, or two spaces, whichever is greater.
Parochial and Private Elementary (grades 4-6), Junior High and High Schools	Spaces equal to one percent of planned student capacity, or two spaces, whichever is greater.	Spaces equal to two percent of planned student capacity, or two spaces, whichever is greater.
Private Colleges and Universities	Spaces equal to one percent of planned capacity.	Spaces equal to two percent of planned capacity.

Commercial		
Use Type	Long-Term	Short-Term

Restaurants (including fast-food/take-out)	One space for each 10 employees, or two spaces, whichever is greater.	One space for each 2,000 square feet of floor area, or two spaces, whichever is greater.
Retail/Commercial	One space for each 10 employees, or two spaces, whichever is greater.	One space for each 5,000 square feet of floor area, or two spaces, whichever is greater.
Office	One space for each 10,000 square feet of floor area, or two spaces, whichever is greater.	One space for each 20,000 square feet of floor area, or two spaces, whichever is greater.
Health Care/Hospitals	One space for each 20 employees, or one space for each 70,000 square feet of floor area, or two spaces, whichever is greater.	One space for each 20,000 square feet of floor area, or two spaces, whichever is greater.

Industrial/Manufacturing		
Use Type	Long-Term	Short-Term
Manufacturing and Production	One space for each 15,000 square feet of floor area, or two spaces, whichever is greater.	One space for each 20,000 square feet of floor area, or two spaces, whichever is greater.

(Ord. No. 2012-12, § II, 10-16-12)

**82-16.414 Shared parking.**

- (a) The requirements of this chapter may be met through the use of shared parking spaces if the zoning administrator finds all of the following:
  - (1) The number of off-street parking spaces to be shared by two or more land uses must be provided in an amount to satisfy the greatest number of off-street parking spaces required by this chapter for any of the land uses, when calculated individually. The number of off-street parking spaces to be shared by two or more land uses may not exceed the sum of the parking space requirements that otherwise would apply to the land uses under this chapter, when added together.
  - (2) Each land use served by the shared parking spaces will utilize the spaces at different times.
  - (3) The shared off-street parking spaces are not otherwise required to satisfy the parking requirements for some other use at times when they will be required to serve any of the shared land uses.
- (b) If an application for shared parking is approved by the zoning administrator, the applicant shall record in the office of the county recorder a deed restriction against the property or properties to be served by the shared parking. The deed restriction must specify the land uses served by the shared parking, and must designate and restrict the parking area to serve those land uses.
- (c) Any deed restriction recorded pursuant to this section may be amended or released only after obtaining the approval of the zoning administrator.
  - (1) The zoning administrator will approve the release of the deed restriction if either of the following is satisfied:
    - (A) Other off-street parking that meets the requirements of this chapter will be provided to serve one or more of the land uses served by the shared parking; or

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- (B) One or more of the land uses served by the shared parking has changed, or will change, and off-street parking is no longer, or will no longer be, required under this chapter.
  - (2) The zoning administrator will approve an amendment to a deed restriction to require a different amount of shared parking if there is a corresponding change in one or more of the land uses served by the shared parking to require more, or allow for less, shared parking under this chapter.
  - (d) The parking area must include a sign or signs specifying the land uses served by the shared parking.
- (Ord. No. 2012-12, § II, 10-16-12)

### **82-16.416 Variances.**

A variance from any of the requirements of this chapter may be obtained pursuant to Article 26-2.20 of this code.

(Ord. No. 2012-12, § II, 10-16-12)

## ***Chapter 84-66 P-1 PLANNED UNIT DISTRICT***

### ***Article 84-66.2. General***

#### **84-66.202 P-1 planned unit district.**

All land within a P-1 planned unit district may be used as allowed and regulated in this chapter.

(Ord. 79-74: § 84-66.002: prior code § 8166: Ord. 1743).

#### **84-66.204 Intent and purpose.**

A large-scale integrated development or a general plan special area of concern provides an opportunity for, and requires cohesive design when flexible regulations are applied; whereas the application of conventional regulation, designed primarily for individual lot development, to a large-scale development or special area may create a monotonous and inappropriate neighborhood. The planned unit district is intended to allow diversification in the relationship of various uses, buildings, structures, lot sizes and open space while insuring substantial compliance with the general plan and the intent of the county code in requiring adequate standards necessary to satisfy the requirements of the public health, safety and general welfare. These standards shall be observed without unduly inhibiting the advantages of large-scale site or special area planning.

(Ord. 79-4: § 84-66.004: prior code § 8166(a): Ord. 1743).

### ***Article 84-66.4. Uses***

#### **84-66.402 Uses.**

The following uses are allowed in the P-1 planned unit district:

- (a) Any land uses permitted by an approved final development plan that are in harmony with each other, serve to fulfill the function of the planned unit development, and are consistent with the general plan.
- (b) A detached single-family dwelling on each legally established lot and the accessory structures and uses normally auxiliary to it.
- (c) Single room occupancy facilities that meet the requirements of Chapter 82-48.
- (d) In a P-1 district for which residential uses are approved, the following uses are allowed:
  - (1) Accessory dwelling units complying with the provisions of Chapter 82-24.
  - (2) Supportive housing, operated by a person with all required state and local agency approvals and licenses, where not more than six persons reside.
  - (3) Transitional housing, operated by a person with all required state and local agency approvals and licenses, where not more than six persons reside.
- (e) Commercial cannabis activities that meet the requirements of Chapter 88-28.

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(Ord. No. 2018-18, § 5, 6-26-18; Ord. No. 2017-14, § XIII, 9-19-17; Ords. 87-67 § 6, 79-74: § 84-66.006: prior code § 8166(j): Ord. 1743).

(Ord. No. 2014-11, § VIII, 11-4-14)

#### **84-66.404 Restriction.**

No person shall grade or clear land, erect, move, or alter any building or structure on any land, after the effective date of its rezoning to a P-1 district, except when in compliance with an approved final development plan and/or this chapter.

(Ords. 79-74, 76-26 § 2, 76-25 § 2: § 84-66.010: prior code § 8166(c): Ord. 1743).

#### **84-66.406 Interim exceptions.**

If any land has been zoned P-1 district but no preliminary development plan approved thereon, the following may be approved:

- (1) Single-family Dwelling. Where it is established to the satisfaction of the director of planning that a vacant parcel of land is a legal lot and the one detached single-family dwelling proposed to be located thereon is consistent with the general plan, the dwelling may be placed on the lot without being subject to the application submittal, development plan review and approval provisions of this chapter.
- (2) Nonconforming Use. Until a final development plan is approved, any nonconforming use lawfully existing at the time of the establishment of P-1 zoning on that property may be repaired, rebuilt, extended, or enlarged in accordance with Chapter 82-8.

(Ord. 79-74).

### ***Article 84-66.6. Site Minimums***

#### **84-66.602 Areas.**

The minimum areas for a P-1 district are:

- (1) Residential. Five acres for residential uses except that a mobile home subdivision shall have a minimum of ten acres;
- (2) Nonresidential. Ten acres for nonresidential uses;
- (3) Mixed. Fifteen acres for mixed residential and nonresidential uses; and
- (4) Office. No minimum for office uses which do not require heavy vehicular delivery or have easy automobile site access including some ancillary retail, service and residential uses when consistent with the general plan.

(Ords. 80-74 § 1, 79-74, 70-50: § 84-66.024: prior code § 8166(i): Ord. 1743).

### ***Article 84-66.8. Density***

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### **84-66.802 Residential.**

In computing the net development area to set residential densities, use the general plan as a guide and exclude areas set aside for churches, schools, streets, commercial use or other nonresidential use, but include areas set aside for common open space, outdoor recreation or parks.

(Ord. 79-74: § 84-66.026: prior code § 8166(k): Ord. 1743).

## ***Article 84-66.10. Rezoning***

### **84-66.1002 Procedure.**

After initiation by the planning agency or final application approval, an area may be zoned "P-1 planned unit district" in accordance with Title 7 of the California Government Code and this code, and the zoning map of the area shall then be identified with the map symbol "P-1".

(Ords. 79-74, 76-26 § 2: 76-25 § 2: prior code § 8166(c): Ord. 1743).

### **84-66.1004 Ordinance plan.**

If an application for P-1 zoning and a preliminary or final development plan is finally approved, the preliminary or final development plan and any conditions attached thereto, as approved or later amended, shall be filed with the planning department, and they are thereby incorporated into this Title 8 and become a part of the ordinance referred to in § 84-66.1002.

(Ords. 79-74, 76-26 § 2: 76-25 § 2: prior code § 8166(c): Ord. 1743).

### **84-66.1006 Rezoning and development plan application.**

Except as waived in writing by the planning director, the application for rezoning to P-1 district and concurrent approval of a preliminary development consists of five copies of each of the following:

- (1) A preliminary development plan, drawn to scale, indicating:
  - (A) Proposed use(s) of all land in the subject area,
  - (B) Existing natural land features, and topography of the subject area,
  - (C) Circulation plan for all vehicular and pedestrian ways,
  - (D) Metes and bounds of the subject property,
  - (E) Location and dimensions of all existing structures,
  - (F) Landscaping, parking areas, and typical proposed structures,
  - (G) Anticipated grading for the development;
- (2) A written legal description of the subject area;
- (3) A preliminary report on provision for storm drainage, sewage disposal and public utilities;
- (4) An economic feasibility report and analysis of all commercial and industrial uses, if any, proposed to be located within the development;

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- (5) A feasibility analysis of all public and semipublic recreational and educational areas and facilities proposed to be located within the development, stating anticipated financing, development and maintenance;
  - (6) A residential density analysis of the subject area, and the estimated population resulting therefrom;
  - (7) A statement of how the proposed development is consistent with, and will further the goals and objectives of the general plan including, but not limited to, its community facilities elements;
  - (8) A request for zoning change signed by the owner, and by the owner of any option to purchase the property or any portion thereof, if any;
  - (9) Schematic drawings indicating the architectural design of all nonresidential buildings and structures and all residential buildings having attached units. Residential buildings utilizing zero lot line, cluster or patio techniques, typical designs shall be submitted. Single-family detached units on difficult topography may require design and placement review when requested by the planning director;
  - (10) A statement of the stages of development proposed for the entire development, indicating the sequence of units and explaining why each unit standing by itself would constitute reasonable and orderly development in relation to the entire contemplated development where it is proposed to file final development plans by units for portions of the area to be covered by the preliminary development plan; and
  - (11) Any additional information as may be required by the planning commission or board of supervisors at the time of any public hearing.

(Ords. 85-56 § 7, 79-74, 76-25 § 1, 76-25 § 2: prior code § 8166(b): Ord. 1743).

## ***Article 84-66.12. Final Development Plan***

### **84-66.1202 Requirements.**

- (a) The final development plan drawn to scale, shall:
  - (1) Indicate the metes and bounds of the boundary of the subject property together with dimensions of lands to be divided;
  - (2) Indicate the location, grades, widths and types of improvements proposed for all streets, driveways, pedestrian ways and utilities;
  - (3) Indicate the location, height, number of stories, use and number of dwelling units for each proposed building or structure;
  - (4) Indicate the location and design of vehicle parking areas;
  - (5) Indicate the location and design of proposed landscaping, expert for proposed single-family residential development;
  - (6) Indicate the location and design of all storm drainage and sewage disposal facilities;
  - (7) Provide an engineer's statement of the proposed grading;
  - (8) Indicate the location and extent of all proposed land uses;
  - (9) Indicate the location of any residential dwellings proposed to be used as new sales models.
- (b) In addition, the final development plan shall be accompanied by:

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- (1) Elevations of all buildings and structures other than single-family residences;
  - (2) A statement indicating procedures and programming for the development and maintenance of public or semipublic areas, buildings and structures;
  - (3) A statement indicating the stages of development proposed for the entire development;
  - (4) A statement indicating if any new residential dwellings are proposed to be used as sales models and asking approval of that use;
  - (5) Any additional drawings or information as may be required by the planning commission at the time of any public hearing in the matter.

(Ords. 87-43 § 3, 79-74: § 84-66.102: prior code § 8166(d): Ord. 1743).

#### **84-66.1204 Approval procedure.**

- (a) The final development plan shall be submitted to the planning commission for approval, as with use permit applications, except it is the commission which hears and reviews it. The commission's decision may be appealed to the board of supervisors in accordance with Article 26-2.24, otherwise it becomes final.
- (b) A final development plan may be approved by the planning commission for a portion or unit of the approved preliminary development plan, in accordance with the sequence of units authorized by its conditions of approval, or upon a showing of both good cause and that the proposed portion or unit would, standing by itself, constitute reasonable and orderly development in relation to the entire development.

(Ords. 79-74, 76-26 § 3, 76-25 § 3: § 84-66.014: prior code § 8166(e): Ord. 1743).

#### **84-66.1206 Combined application and final plan.**

- (a) **Combination.** An applicant for rezoning to the P-1 district may submit simultaneously and in combination with the zoning application or thereafter but before the board's final zoning decision, an application for approval of a final development plan for the entire property. The application and proposed final development plan shall comply with the requirements of Sections 84-66.006 and 84-66.1202.
- (b) **Procedure.** Such a combined final development plan application shall be processed, noticed, and heard by the planning commission. The commission's decision shall be a recommendation to the board of supervisors which shall make the final decision on the final development plan along with the rezoning pursuant to Article 84-66.10.

(Ord. 79-74).

### **Article 84-66.14. Plan Objectives, Regulations and Evaluations**

#### **84-66.1402 Design objectives.**

To achieve design and aesthetic quality for large-scale integrated developments and/or general plan special areas of concern, the following design objectives shall be met:

- (1) Building bulk, height, land coverage, visual appearance from adjacent land, and design compatibility with existing adjoining development and land which will remain, shall be considered and controlled;
- (2) A development's design should successfully integrate individual buildings and building groups with the surrounding development, other physical features in the area, and existing development which will remain;

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- (3) The design of structures should provide for harmonious composition of mass, scale, color, and textures, with special emphasis on the transition from one building type to another, termination of groups of structures, relationships to streets, exploitation of views, and integration of spaces and building forms with the topography of the site and the urban or suburban character of the area.
  - (4) Provisions are to be made for an efficient, direct and convenient system of pedestrian circulation, together with landscaping and appropriate treatment of any public areas or lobbies.
  - (5) Off-street parking and loading areas should be integrated into the overall vehicular circulation system.

(Ord. 79-74).

#### **84-66.1404 Latitude of regulations.**

The planning commission may recommend and the board of supervisors may adopt as part of the preliminary development plan, and may require in the final development plan, standards, regulations, limitations and restrictions which are either more or less restrictive than those specified elsewhere in this ordinance code, and which are designed to protect and maintain property values and community amenities in the subject community, and which would foster and maintain the health, safety and general welfare of the community, including and relating to but not limited to the following:

- (1) Height limitations on buildings and structures;
- (2) Percent coverage of land by buildings and structures;
- (3) Parking ratios and areas expressed in relation to use of various portions of the property and/or building floor area;
- (4) The location, width and improvement of vehicular and pedestrian access to various portions of the property including portions within abutting streets;
- (5) Planting and maintenance of trees, shrubs, plants and lawns in accordance with a landscaping plan;
- (6) Construction of fences, walls and floodlighting of an approved design;
- (7) Limitations upon the size, design, number, lighting and location of signs and advertising structures;
- (8) Arrangement and spacing of buildings and structures to provide appropriate open spaces around same;
- (9) Location and size of off-street loading areas and docks;
- (10) Uses of buildings and structures by general classification, and by specific designation when there are unusual requirements for parking, or when use involves noise, dust, odor, fumes, smoke, vibration, glare or radiation incompatible with present or potential development of surrounding property;
- (11) Architectural design of buildings and structures;
- (12) Schedule of time for construction and establishment of the proposed buildings, structures, or land uses or any stage of development thereof;
- (13) Requiring of performance bonds to insure development as approved; and
- (14) Requiring that where any residential dwelling unit (one-family dwelling or duplex) or units are approved to be used as a sales model or models at least one such unit have a sprinkler system installed therein meeting the standard specified in Chapter 718-6.

(Ords. 87-43 § 4, 79-74: § 84-66.1404: prior code § 8166(f): Ord. 1743).

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## **84-66.1406 Evaluations.**

When approving and adopting the rezoning application, the preliminary development plan or the final development plan, the planning commission and/or board of supervisors as the case may be, shall be satisfied that:

- (1) The applicant intends to start construction within two and one-half years from effective date of zoning change and plan approval;
- (2) The proposed planned unit development is consistent with the county general plan;
- (3) In the case of residential development, it will constitute a residential environment of sustained desirability and stability, and will be in harmony with the character of the surrounding neighborhood and community;
- (4) In the case of the commercial development, it is needed at the proposed location to provide adequate commercial facilities of the type proposed, and that traffic congestion will not likely be created by the proposed center, or will be obviated by presently projected improvements and by demonstrable provisions in the plan for proper entrances and exits, and by internal provisions for traffic and parking, and that the development will be an attractive and efficient center which will fit harmoniously into and will have no adverse effects upon the adjacent or surrounding development;
- (5) In the case of proposed industrial development, it is fully in conformity with the applicable performance standards, and will constitute an efficient and well organized development, with adequate provisions for railroad and/or truck access service and necessary storage, and that such development will have no adverse effect upon adjacent or surrounding development; and
- (6) The development of a harmonious, integrated plan justifies exceptions from the normal application of this code.

(Ord. 79-74: § 84-66.020: prior code § 8166(g): Ord. 1743).

## **Article 84-66.16. Termination**

### **84-66.1602 Procedure.**

- (a) Reversion. P-1 district shall become null and void, and the land use district classification shall revert to the immediately preceding zoning, designation if either:
  - (1) Within eighteen months after the effective date of the establishment of the P-1 district and/or the approval of the preliminary development plan (whichever is sooner), a final development plan is not submitted to the planning commission, or
  - (2) Within twelve months after the planning commission's approval of the final development plan, the construction specified in the final development plan has not been commenced.
- (b) Time Limit Exception. The time limitation in subsection (a)( 1) of this section applies only to the first final development plan of a unit of a phased preliminary development plan; it does not apply after approval and implementation of such first final development plan.
- (c) Extensions. Upon showings of good cause, the board of supervisors may grant not more than five extensions of the time limitations set forth in subsection (a), each for no more than one year and all extensions totaling five years or less.

(Ords. 79-74, 76-26 § 4, 76-25 § 4: § 84-66.022: prior code § 8166(1): Ords. 71-17, 1743).

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**Article 84-66.18. Plan Changes**

**84-66.1802 Preliminary development plan.**

- (a) Changes. Changes, in the approved preliminary development plan and its conditions of approval, may be approved by the planning commission, as with land use permit applications except that it is the commission which hears and reviews them. The commission's decision may be appealed to the board of supervisors in accordance with Article 26-2.24, otherwise it becomes final.
- (b) Rezoning. When substantial changes in the preliminary development plan involve a reduction of or addition to its land area, then a rezoning application shall be submitted for consideration.

(Ord. 79-74, 76-26 § 2, 76-25 § 2: § 84-66.010: prior code § 8166(c): Ord. 1743).

**84-66.1804 Final development plan.**

- (a) Review, Hearing. The zoning administrator shall review approved final development plan applications for modification pursuant to and otherwise regulated by the land use permit provisions of Chapter 26-2, for which he may schedule a public hearing and shall do so if he determines that a substantial modification is being requested in an approved final development plan.
- (b) Findings. In approving the modification application, he shall find that it is consistent with the intent and purpose of the P-1 district and compatible with other uses in the vicinity, both inside and outside the district.
- (c) Conditions. The zoning administrator may impose reasonable conditions and limitations to carry out the purpose of the P-1 district when approving any modification.

(Ord. 79-74: § 84-66.016: prior code § 8166(1): Ord. 1743).

**Article 84-66.20. Variance Permits**

**84-66.2002 Granting.**

- (a) Procedure. Variance permits to modify the provisions contained in Article 84-66.6 may be granted in accordance with Chapters 26-2 and 82-6.
- (b) General Plan Consistency. Such variance permit shall not be granted by the planning agency hearing the matter unless it finds that the variance is consistent with the general plan.

(Ord. 79-74).

To: Jennifer Cruz, Principal Planner  
From: Gabriel Lemus, Assistant Deputy Director  
By: Melanie Erickson, Planner  
Date: September 16, 2024  
Subject: **Bethel Estuary Estates County File # CSDS23-09669, and CDDP23-03040 – 0 Bethel Island Rd., Oakley**

Dear Jennifer,

The following is the Housing and Community Improvement Division's response to revised Agency Comment Request dated August 8, 2024, for Development Plan application # CDGP24-00001, CDRZ24-03273, CSDS23-09669, and 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.

Staff's comments from our 2<sup>nd</sup> comment letter, dated May 14, 2024, have not been addressed. An Inclusionary Housing Plan and information required has not been submitted for staff's review. In your response letter you state all affordable units will be at the "lower-income" household AMI as defined under SB 330 Builders Remedy Criteria. SB 330 uses Section 50079.5 of the Health and Safety Code to define lower-income. Section 50079.5(a), defines "Lower income households" as such:

means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for lower income households for all geographic areas of the state at 80 percent of area median income, adjusted for family size and revised annually.

No changes to the number of units are proposed in the third submission; however, it is still unclear what the affordability of all proposed units shall be, as no Inclusionary Housing Plan has been submitted.

#### 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

### Housing Comments

- Provide a complete Inclusionary Housing Plan (IHP). **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.
  
- It appears that the developer is proposing an alternative method of compliance to the County's IHO. Due to the complexity of the proposal, the required IHP should include a clear narrative explaining how the project will meet the County's IHO requirements. This narrative should include, but is not limited to the following information, which has not been provided:
  - All of the information requested under Section 822-4.406 of the County Ordinance.
  - Confirmation of whether the inclusionary units will be for sale or for rent.
  - Affordability levels of the units as required by the IHO.
  - Schedule for construction and sale of the inclusionary units.
  
- Confirmation of the units that will be for-sale or rental will be required before entitlements or building permits are obtained. This is also needed for the Inclusionary Housing Agreement, restricting the affordability of the units for the affordability period as required by the County Ordinance and/or State Law., whichever is most restrictive.
  
- 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.
  
- The response received to our initial comments regarding the non-compliance with County Code Section 822-4.402(d) was a citation to County Code Section 822-4.406 (d): Dual Developers stating there will be one market rate and one affordable.

The applicant has not provided a detailed explanation of what they mean by dual developers, which is required. It should be noted that it appears the applicant is interpreting the referenced section as having two developments for the same development plan project. The development of market rate units and affordable units under the same entitlement applications are not considered separate residential developments with two or more developers. Section 822-4.406 (d) states, "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 in one of three ways."

Staff considers the project as one development as only one application has been submitted for the entitlements to build market rate and affordable units by the same developer. To be considered dual development two or more developers of separate residential developments that have separate IHO requirements would need to submit two separate entitlement applications for development. Two or more developers are required at this time. The application submitted only indicates one developer for this project.

- 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.



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**CONTRA COSTA COUNTY**  
**DEPARTMENT OF CONSERVATION & DEVELOPMENT**

30 Muir Road  
Martinez, CA 94553

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

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**TO:** Jennifer Cruz, Project Planner

**FROM:** Robert Sarmiento, Transportation Planning Section

(RS)

**DATE:** September 16, 2024

**SUBJECT: Bethel Estuary Estates (DP23-03040)**

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The Transportation Planning Section (TPS) has reviewed the traffic impact study, dated August 14, 2024, that was conducted by the transportation consultant TJKM for the subject project, located between Sandmound Boulevard and Wells Boulevard near Bethel Island Road. Comments are below; in summary, the comments pertain to the project description, level-of-service (LOS), vehicle miles traveled (VMT), and electric vehicle parking.

Please let me know if you have any questions and/or direct TJKM staff to contact me directly if necessary.

**Comments**

Traffic Impact Study (TIS), dated August 14, 2024

1. The latest site plans for the project proposes 22% of the residential units to be below-market rate. Please have TJKM confirm if the TIS accounts for this characteristic in its analyses.
2. According to the 2017 East County Action Plan<sup>1</sup>, the acceptable LOS for Routes of Regional Significance that will be impacted by the project is **LOS D**. Please have TJKM update the LOS standards for study intersections and the LOS analyses results in each scenario/condition and accordingly identify mitigation measures for intersections that exceed its updated LOS standard.
3. For **Table 3: Existing Transit Facilities**, please have TJKM include the weekend hours and headways for the BART Yellow Line.
4. Consistent with the County Transportation Analysis Guidelines<sup>2</sup> (TAG), the **Countywide** average home-based VMT per capita should be used to compare with the project average home-based VMT per capita.
5. Please have TJKM provide information on how the addition of the project decreases

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<sup>1</sup> <https://ccta.net/wp-content/uploads/2018/10/59cd5bc624446.pdf#page=33>

<sup>2</sup> <https://www.contracosta.ca.gov/DocumentCenter/View/70739/FINAL-CCC-Transportation-Analysis-Guidelines-v3-5-10-21#page=17>

residential VMT per capita, as stated on page 31 of the traffic impact study.

6. The following comments pertain to the proposed VMT mitigation measures:
  - a. **Price and manage parking** – Pricing parking will have limited impact on residents’ travel habits, as the project’s location and the lack of nearby active transportation infrastructure is not conducive to taking alternative modes of transportation, such as biking or walking. In addition, transit options in the project area are limited. Each residential unit has its own private garage, which cannot be priced out separately from the home. The availability of a private garage will contribute to increased driving by project residents.<sup>3</sup>
  - b. **Improve pedestrian network** – The project is not located near any existing trails. The project is not within walking distance of any major destinations.
  - c. **Implement traffic calming measures or bike facilities** – Similar to the previous comment, the project is not located within biking distance of any major destinations. The bicycle network near the project site is either nonexistent or severely limited, which is not conducive for project residents to travel by bicycle.
  - d. **Existing Transit Network Coverage** – The local transit agency, Tri Delta Transit, currently has no fixed-route service in the area. Its Tri MyRide on-demand microtransit service serves Bethel Island, but it isn’t known if the service will serve the project. The TIS’s proposal for increased Tri MyRide microtransit service or start of a new fixed-route bus service for the project is not an adequate VMT mitigation measure as any new or enhanced transit service to serve the project is speculative.
  - e. In subsequent TIS submittals, please have TJKM submit evidence that supports the percent VMT reduction for each proposed VMT mitigation measure.
7. The TIS should include an evaluation of the project’s cumulative VMT impacts, consistent with the County TAG<sup>4</sup>.
8. In the second paragraph in Section “4.5 Intersection Queuing Analysis,” please update the third sentence that currently ends with “...and is not considered an.”
9. The TIS should include a discussion of electric vehicle (EV) parking. Per the County ordinance, each dwelling unit with a private garage should install a listed raceway to accommodate a dedicated 208/240-volt branch circuit. The County ordinance does not include EV parking standards for guest parking. Transportation Planning staff recommends installing EV charging infrastructure for ten (10) percent of the total guest parking spaces.

#### Applicant Responses to TPS Comment Letter, submitted on October 12, 2023

10. TPS staff recommends that the applicant include the segment of Wells Road north of the 90-degree bend to the property line when installing a sidewalk along the frontage of Wells Road.

cc: John Cunningham, DCD  
Maureen Toms, DCD  
Raquel De La Torre, DCD

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<sup>3</sup> Literature regarding parking ([link](#), [link](#), [link](#)) indicate that increasing parking supply leads to more car trips.

<sup>4</sup> <https://www.contracosta.ca.gov/DocumentCenter/View/70739/FINAL-CCC-Transportation-Analysis-Guidelines-v3-5-10-21#page=16>

Jerry Fahy, PWD  
Jeff Valeros, PWD  
Joe Smithonic, PWD  
Monish Sen, PWD



Contra Costa County  
Public Works  
Department

Warren Lai, Director  
Deputy Directors  
Stephen Kowalewski, Chief  
Allison Knapp  
Sarah Price  
Carrie Ricci  
Joe Yee

## Memo

September 16, 2024

**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**  
(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 **August 22, 2024**, and submit the following comments:

This is the third submittal of the tentative map and supporting documents. It is our understanding the project will still be subject to environmental review and possible mitigation measures that may impact the final configuration of the project.

We are satisfied that sufficient materials have been provided to move the project forward. Our department will withhold further comments or recommendations subject to the completion of the initial study and environmental review. This does not infer that we are fully satisfied that all the issues raised in prior correspondence have been fully satisfied, but that they can be addressed in the project's conditions of approval to be resolved during the preparation of construction drawings.

Also note that the County Ordinance Code and project conditions of approval take precedence over the tentative map. For example, just because a street grade or roadway width shown on the tentative map does not meet Code requirements, the conditional approval of the map does not grant the exception from said Code. Any exceptions 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.

LG:bg  
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C: A. Knapp, Deputy Director  
J. LaRocque, Engineering Services  
K. O'Connor, Engineering Services  
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