



STAFF REPORT

Date: Tuesday, June 10, 2014

To: Bryan H. Montgomery, City Manager

From: Joshua McMurray, Senior Planner

Subject: **Neroly Child Care Center - Tentative Parcel Map (TPM 03-13), Conditional Use Permit (CUP 04-13) and Design Review (DR 11-13)**

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Summary

The applicant is requesting approval of a Tentative Parcel Map, Conditional Use Permit and Design Review for the construction of an approximately 10,000 square foot child care center with a 14,480 square foot outdoor fenced play area. The building will feature approximately eight classrooms, a food preparation area, and an administrative office. The applicant is also proposing to split the approximately 2.36-acre parcel (Parcel 3 of the Neroly Commercial Center) into two parcels (Parcel A would be approximately 48,000 square feet and Parcel B would be approximately 55,060 square feet). The project site is designated in the General Plan as Commercial and is Zoned Planned Development (P-1) which allows for commercial uses.

Staff recommends the City Council adopt the Resolution approving Tentative Parcel Map (TPM 03-13) to subdivide the 2.36-acre site into two parcels, Conditional Use Permit (CUP 04-13) to operate and Design Review (DR 11-13) for the construction of a new 10,000 square foot child care center for a project located at the south east corner of Empire Avenue and Neroly Road (Portion of APN: 034-040-017), as conditioned.

Background

On February 14, 2005 the City Council certified the Environmental Impact (SCH #2004062119) for the Magnolia Park subdivision. The EIR analyzed the Magnolia Park project area, encompassing 194.5 acres, a total of 549 single-family dwelling units and a 20-acre commercial site. The Pulte Group built out the residential portion of the project area, and the commercial site was reduced to approximately 17-acres. The Diamond Hills Sports Club and Spa (PLN-2007-0276) was approved by the Planning Commission in June of 2007 under Resolution No. 13-07. In August of 2007, the Planning Commission adopted Resolution No. 14-07 approving a Minor Subdivision (MS 07-976) to subdivide the 17-acre parcel into three parcels of approximately 10, 4.6 and 2.4 acres. The site was developed with the Diamond Hills Sports Club and Spa and a majority of the parking area on the 10 acre parcel, and a future Phase II on the 4.6 and 2.4 acre parcels along the Neroly Road and Empire Avenue frontages of the site. The approval for the future Phase II expired in 2010 and the City purchased the two remaining parcels in 2011 to help further facilitate the development of the site and the economic development goals for the City.

Subject: Neroly Child Care Center

Date: June 10, 2014

Page 2

The City Council declared the project site as surplus property and initiated a Request for Proposal process in April 2013. The applicant submitted the only bid to develop a portion of the property with the proposed project as outlined in this report. The City and the applicant entered into a Childcare Grant Agreement and Real Property Purchase Agreement in July 22, 2013. The Childcare Grant Agreement outlines the terms for the disbursement of \$925,000 for the construction of a new childcare facility. The Real Property Purchase Agreement outlines the sale of the land from the City to the applicant and indicates conditions such as the timing for project construction. As stated in the agreement and further conditioned in the attached resolution, the applicant will need to start construction for the project, assuming that all project approvals and permits are in place, no later than one year after the agreement was entered into.

General Plan/Zoning Compliance

The project site is part of the Magnolia Park development, which includes approved areas for residential, recreational, school, and commercial related land uses. In March of 2005, the City Council adopted Ordinance No. 07-05 rezoning the Magnolia Park project area from the County A-2 (General Agriculture) District to P-1 (Planned Development) District. City Council Resolution No. 26-05, approved in conjunction with the Magnolia Park Subdivision, conditioned the commercial portion of the site to comply with the standards in the RB (Retail Business) District. The RB District was used in analyzing the existing Diamond Hills Sports Club and Spa.

Project Description

The property is approximately 2.36-acres in size. The site is currently a graded pad, part of the larger Neroly Commercial Center site. The center is developed with the Diamond Hills Sports Club and Spa, parking areas, landscaping, and frontage improvements. The project site is an "L" shaped parcel fronting on Neroly Road. The frontage improvements consisting of curb, gutter and sidewalk have already been constructed along the project frontage as part of the Diamond Hills project.

The project consists of three different components as follows:

Tentative Parcel Map

The project proposal includes a Tentative Parcel Map to split the approximately 2.36-acre parcel (Parcel 3 of the Neroly Commercial Center) into two parcels (Parcel A would be approximately 48,000 square feet and Parcel B would be approximately 55,060 square feet). The proposed child care center would occupy Parcel A and Parcel B would remain vacant and ready for development. At that time, a new project would need to be submitted for review and approval by the City Council.

Conditional Use Permit

The proposed use is defined as a "Child Care Center", which is allowed in the RB (Retail Business) District with the approval of a Conditional Use Permit. The purpose of a Conditional Use Permit is to allow for uses that are not allowed by right, and to ensure, through conditions, that the proposed land use is compatible with the surrounding land uses in the neighborhood.

Subject: Neroly Child Care Center

Date: June 10, 2014

Page 3

Design Review

The Design Review Ordinance has different levels of Design Review procedures for review and approval of a Design Review Permit. Oakley Municipal Code section 9.1.1604(c)(2)(i) requires that any new commercial structure be heard and approved by the Planning Commission¹. The proposed new child care center building and site development fit the criteria above and require a Design Review approval.

Analysis

Land Use Compatibility

Surrounding uses include the Diamond Hills Sports Club and Spa on the same site, to the south with residential further to the south, east and partially to the north. North of the site, near the main intersection are commercially designated properties with approvals for the La Grande Wedding and Event Center and the Celebration Christian Preschool. West of the site, across Empire Avenue, is the approved Empire Station project. Further to the northwest beyond a vacant parcel is the Randall-Bold Water Treatment Plant operated by Contra Costa Water District.

The proposed project site is in a small commercial core located along Neroly Road, east of Empire Avenue. This area of the City is beginning to see signs of development with the construction of the Diamond Hills Sports Club and Spa, the approval for the La Grande Wedding and Event Center, and the recent approval for the Celebration Christian Preschool project. The project would also bring an added benefit and amenity to the City of Oakley by means of new jobs and property tax as well as for the residents of Oakley and its surrounding areas who are looking for additional child care options.

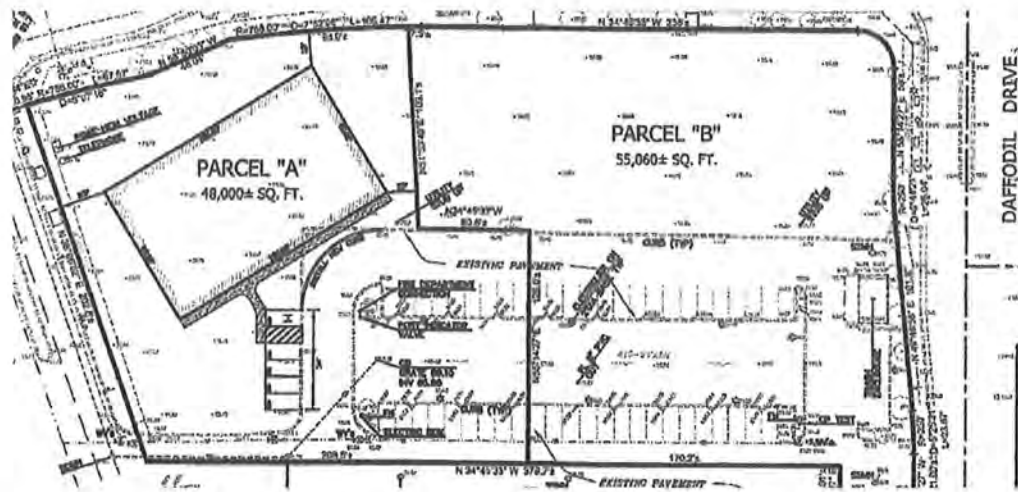
Circulation/Parking

The proposed project will be accessed off Neroly Road, using an existing driveway location for the center. The project is proposing to add a total of 5 additional parking spaces. The sale of the land includes 18 parking spaces and with the addition of 5 new spaces that brings the site total to 23 parking spaces. The existing center has over 400 existing parking spaces, with the Diamond Hills Sports Club and Spa requiring a little less than 300 total spaces. With the reciprocal parking agreement in place for the center already, the project meets the requirement of 26 parking spaces which breaks down as follows:

- 10,000 square feet of building @ 1 parking space per 7 students totals 26 parking spaces (approximately 182 students)

The propose project meets all of the code requirements in terms of parking and circulation. A condition has been added to the resolution requiring the proposed sidewalk be extended along all 5 of the proposed parking spaces and ultimately connect to the existing sidewalk at the driveway. The image below shows the proposed layout of the project site.

¹ City Council acts as the Planning Commission per Ordinance No. 06-09



Building/Site Design

The building has been designed to look like a higher end office building rather than a one-off child care center. It should be noted that the design of the building has gone through several iterations through the Design Review process. Staff has attached the three earlier renditions of the building to show how the proposed architecture has improved in both design and materials used. The building features a primarily stucco exterior using four paint colors, a standing metal seam roof over the entry projection, metal canopy's, and a detailed parapet for the flat portions of the building roof. The proposed architecture is compatible and will blend with the Diamond Hills Sports Club and Spa. The design lends itself well to the child care center use but should that use not be there one day, the building would also fit the look of an office or small medical building. A rendering of north elevation (view from parking lot) for the project is provided below.



It should be noted that the applicant has not made a decision on the method of construction for the building at this time. Meaning whether the building will be "stick-built" or of modular construction. Staff has indicated to the applicant that the City would prefer a "stick-built" structure, although with either construction method, the building will still need to adhere to the Design Review approval as well as comply with all of the conditions of approval contained within the attached resolution.

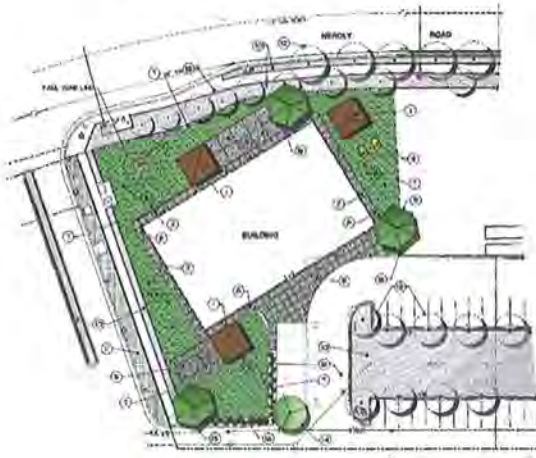
The project includes a new fence that is to be constructed along the west, north and east property lines of the childcare facility site. The attached resolution contains a condition that requires the applicant to submit a detailed plan of the wall to the Planning Department prior to construction to ensure the wall meets the intent of the Commercial

Subject: Neroly Child Care Center

Date: June 10, 2014

Page 5

Design Guidelines. The applicant has indicated they would prefer to use a tan colored vinyl fence. Staff analyzed that request and is not comfortable allowing that style and type of fence along the property lines. A condition has been included that requires the fence plan to utilize rod iron and stone/rock veneer pilasters in addition to the vinyl fencing to break up the fence look and provide higher quality materials used in other portions of the Magnolia Park subdivision.



Other site improvements consist of landscaping, shade structures in the play areas, and a half basketball court. There are several conditions placed within the resolution that require further information to be submitted like detailed landscape plans, and information about the shade structures prior to them being constructed.

Environmental Review

The project applicant had Fehr and Peers (traffic consultants) analyze the potential traffic impacts both on and offsite that could result as a result of the proposed project. The traffic analysis was reviewed and approved by the Public Works and Engineering Department. The traffic analysis concluded that there would be no significant transportation impacts according to established standards and no off-site traffic or transportation mitigations would be required as a result of the project. Since there is no new mitigation required for this project, the project has been deemed to be within the scope of the previously Certified Magnolia Park Environmental Impact Report (SCH #2004062119). No additional environmental review is necessary.

Findings

Draft findings are included in the attached resolution.

Recommendation

Staff recommends the City Council adopt the Resolution approving Tentative Parcel Map (TPM 03-13) to subdivide the 2.36-acre site into two parcels, Conditional Use Permit (CUP 04-13) to operate and Design Review (DR 11-13) for the construction of a new 10,000 square foot child care center located at the south east corner of Empire Avenue and Neroly Road (Portion of APN: 034-040-017), as conditioned.

Attachments

1. Vicinity Map
2. Project Plan Set

Subject: Neroly Child Care Center

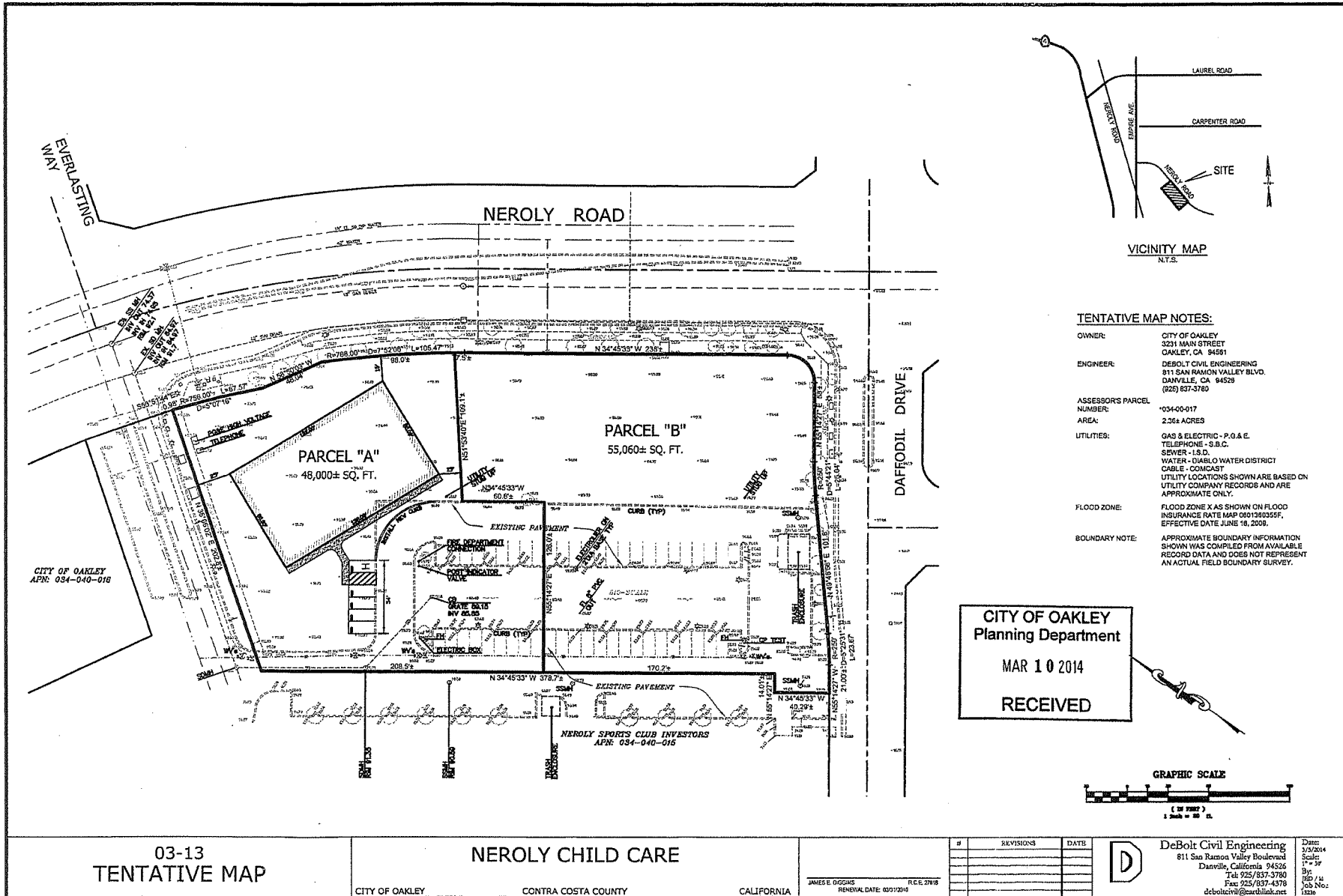
Date: June 10, 2014

Page 6

3. Previous building elevations dated Nov. 26, 2013, Jan 27, 2014 and Feb. 11, 2014
4. Proposed City Council Resolution

Neroly Child Care
Tentative Parcel Map (TPM 03-13), Conditional Use Permit (CUP 04-13) and Design Review (DR 11-13)
Vicinity Map
APN: 034-040-017





03-13
TENTATIVE MAP

CITY OF OAKLEY

CONTRA COSTA COUNTY

CALIFORNIA

JAMES E. OGGINS R.C.E. 27818
RENEWAL DATE: 03/27/2016

#	REVISIONS	DATE



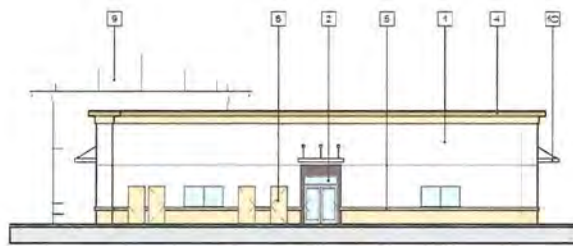
DeBolt Civil Engineering
811 San Ramon Valley Boulevard
Danville, California 94526
Tel: 925/837-3780
Fax: 925/837-4378
deboltcivil@earthlink.net

Date: 3/5/2014
Scale: 1" = 30'
By: JED / JLD
Job No: 1212

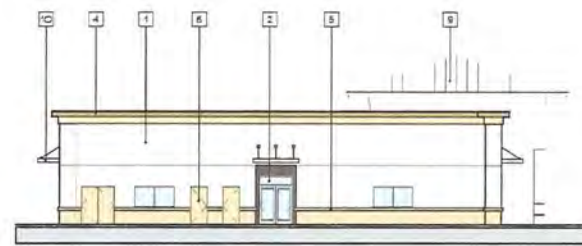


- TYPICAL KEY NOTES**
- 1 PAINTED TEXTURE CEMENT PLASTER FINISH - LIGHT SAND TEXTURE
 - 2 CLEAR ANODIZED ALUMINUM - BLUE-GREEN GLASS
 - 3 STANDING SEAM METAL ROOF BERGHOE - ZINC GRAY
 - 4 CORNICE ELEMENT
 - 5 INTERMEDIATE CORNICE ELEMENT
 - 6 METAL HAN-DOOR
 - 7 DECORATIVE LIGHT FIXTURE
 - 8 SIGNAGE LOCATION
 - 9 ROOF BEYOND
 - 10 METAL CANOPY

North Elevation



West Elevation



East Elevation



South Elevation

Child Care Center
 Neroly Road & Empire Ave.
 Oakley, California

PERKINS, WILLIAMS & COTTERILL
A·R·C·H·I·T·E·C·T·S
 10440 WHITE ROCK RD., SUITE 300 RAYCRO CORONA, CA 92671
 951-851-1100 FAX: 951-851-1488
 www.perkinswilliams.com

Elevations
 Child Care Center

Project: SEEKER DEVELOPMENT
 Job No. 14352 Date: 4-14-2014
 Scale: AS NOTED

CITY OF OAKLEY
 Planning Department
 APR 30 2014
 RECEIVED

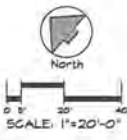
A1.0



- ### CONCEPT LEGEND
- ① SHADE STRUCTURE.
 - ② CONCRETE WALK.
 - ③ CONCRETE PATIO.
 - ④ RAISED PLANTER.
 - ⑤ HALF COURT BASKETBALL.
 - ⑥ PROPOSED LAWN.
 - ⑦ PROPOSED FENCE.
 - ⑧ PROPOSED GATE.
 - ⑨ PLAY STRUCTURE.
 - ⑩ EXISTING PLANTING TO REMAIN. PROTECT IN PLACE.
 - ⑪ EXISTING LAWN TO REMAIN. PROTECT IN PLACE.
 - ⑫ EXISTING STREET TREE TO REMAIN. PROTECT IN PLACE.
 - ⑬ EXISTING PARKING LOT TREE TO REMAIN. PROTECT IN PLACE.
 - ⑭ PROPOSED PARKING LOT TREE. SEE NOTE BELOW.
 - ⑮ PROPOSED ON-SITE TREE. SEE NOTE BELOW.
 - ⑯ PROPOSED LOW SHRUBS AND GRASSES PLANTING. SEE NOTE BELOW.

NOTE:
ALL NEW PLANTING SHALL BE SELECTED FROM THE PLANT PALETTE OF THE SPARE TIME SPORTS CLUB AND RETAIL CENTER.

TOTAL PLAY AREA IS 14,840 SQ. FT.



PRELIMINARY LANDSCAPE PLAN
NOTE: THIS PLAN IS CONCEPTUAL ONLY. IT IS INTENDED TO PORTRAY SCHEMATIC RELATIONSHIPS ONLY. IT IS NOT INTENDED AS A DETAILED PLAN OF SOLUTIONS TO ALL LANDSCAPE PROBLEMS. THE OWNER ASSUMES FULL RESPONSIBILITY FOR ANY WORK PERFORMED FROM THIS PLAN.

TESHIMA DESIGN GROUP 1000 UNIVERSITY AVENUE SUITE 100 • SAN DIEGO, CALIFORNIA 92108 TEL: 619.444.1111 FAX: 619.444.1112 WWW.TESHIMAD.COM	DATE: 11-30-13 TDD JOB NO. D-25
PRELIMINARY LANDSCAPE PLAN	
CHILD CARE CENTER NEROLY ROAD OAKLEY, CALIFORNIA	
Date: 11-20-13 Scale: AS SHOWN Drawn: MS Job: 13-25 Sheet:	

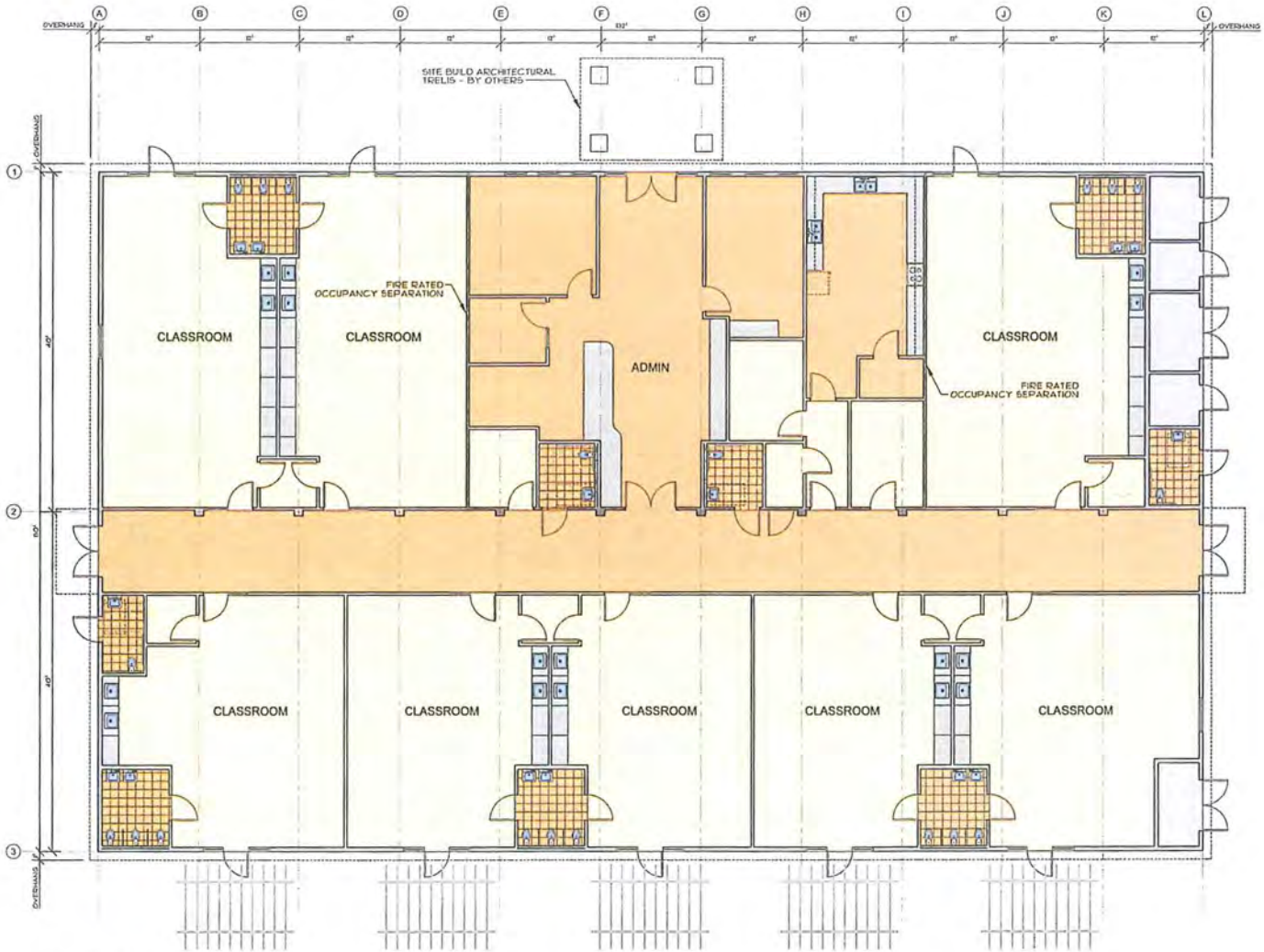
Neroly Commercial Center

Neroly Road & Empire Avenue

Oakley, California



Paint	P-1 ICI - A1815 "Piedmont"	P-2 ICI - A1811 "Sisal"	P-3 ICI - A1819 "Beacon Hill"	Roofing	G-1 1" Insulated Blue-Green Tint
	P-4 ICI - 515 "American Eagle"	P-5 ICI - 1238 "Blue Forest"	P-6 ICI - 90 "Blackberry Frost"	Berndt "Zinc Grey"	Clear Aluminum Storefront Mullion



FLOOR PLAN



FRONT ELEVATION



REAR ELEVATION

80' x 132' MODULAR BUILDING
 for
 CHILD CARE CENTER

SCALE: 3/16" = 1'-0"

CITY OF OAKLEY
 Planning Department
 NOV 26 2013
 10560 SQ.FT.
 RECEIVED



FRONT ELEVATION

CONCEPT ONLY - Exact colors and finishes may vary from building pictured.



REAR ELEVATION

80' x 132'

10560 SQ.FT.

CITY OF OAKLEY
Planning Department

CHILD CARE CENTER

JAN 27 2014

SCALE: 3/16" = 1'-0"

CONCEPT ONLY

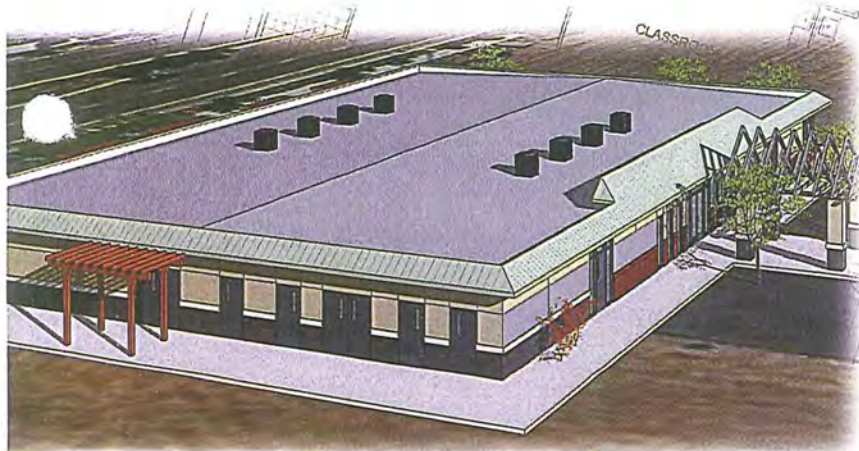
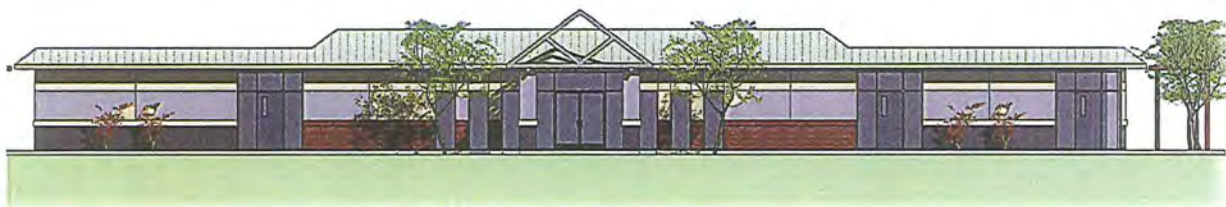
RECEIVED

EROLY CENTER

CITY OF OAKLEY
Planning Department

FEB 11 2014

RECEIVED



enviroplex

OAKLEY CHILD CARE CENTER
OAKLEY, CALIF
Contact Craig Davidson

RESOLUTION NO. XX-14**A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS AND APPROVING TENTATIVE PARCEL MAP (TPM 03-13) FOR THE SUBDIVISION OF A 2.36-ACRE PARCEL INTO TWO PARCELS, CONDITIONAL USE PERMIT (CUP 04-13) FOR THE ESTABLISHMENT OF A NEW CHILD CARE CENTER AND DESIGN REVIEW (DR 11-13) FOR THE CONSTRUCTION OF A NEW 10,000 SQUARE FOOT BUILDING AND ASSOCIATED SITE IMPROVMENTS LOCATED AT THE SOUTHEAST CORNER OF EMPIRE AVENUE AND NEROLY ROAD ON A PORTION OF APN 034-040-017****FINDINGS**

WHEREAS, on November 26, 2013, Craig Davidson with Seeker Development ("Applicant"), submitted an application for a Tentative Parcel Map (TPM 03-13) to subdivide the 2.36-acre site into two parcels, Conditional Use Permit (CUP 04-13) to operate and Design Review (DR 11-13) for the construction of a new 10,000 square foot child care center for a project located at the south east corner of Empire Avenue and Neroly Road (Portion of APN: 034-040-017) ("Project"); and

WHEREAS, on May 26, 2014, the project application was deemed complete per Government Code section 65920 et. seq; and

WHEREAS, on January of 2005, the Oakley City Council certified the Magnolia Park Environmental Impact Report (EIR) (SCH# 2004062119), which identified and mitigated environmental impacts that were expected to occur as a result of development of the Magnolia Park Planned Unit District. The commercial site this project is proposed to be developed on was included in the analysis of the EIR at a higher intensity (i.e. square footage of floor area, lot coverage, etc) than what is currently being proposed. The proposed project does not create any new, significant impacts from those analyzed in the Magnolia Park EIR; and

WHEREAS, the project site was part of the larger Magnolia Park Project area (Subdivision 8737). The commercial site in which the project is specifically located is designated for is designated for commercial uses, and zoned P-1 (Planned Development); and

WHEREAS, on May 30, the Notice of Public Hearing for the project was posted at the project site, Oakley City Hall, Freedom High School, and at 204 2nd Street (City Annex). The notice was also mailed out to all owners of property within a 300-foot radius of the subject property's boundaries, and to parties requesting such notice, and published in the East County Times newspaper; and

WHEREAS, on June 10, 2014, the City Council opened the public hearing at which it received a report from City Staff, oral and written testimony from the public and

applicant, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the project, as conditioned, and

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

WHEREAS, these Findings are based upon the City's General Plan, the City's Zoning Ordinance, the City's Commercial and Industrial Design Guidelines, and the information submitted to the City Council at its June 10, 2014 meeting, both written and oral, including oral information provided by the applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the project (hereinafter the "Record"); and

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

- A. Regarding the application requesting approval of a Tentative Parcel Map to subdivide the 2.36-acre site into two parcels totaling 48,000 square feet (Parcel A) and 55,060 square feet (Parcel B), the City Council finds that:
1. The proposed Tentative Parcel Map, together with the provisions of its design and improvements, is consistent with the Zoning Ordinance, and applicable portions of the Magnolia Park P-1 (Planned Unit District) which uses the R-B (Retail Business) Zoning District guidelines, in that it allows for orderly commercial development in a commercial area that meets the General Plan in terms of the uses allowed and complies with the minimum lot size, lot width, and lot depth and all other applicable regulations set forth in the project's R-B (Retail Business) Zoning District;
 2. The site is physically suitable for the type of development in that the proposed Tentative Parcel Map meets all of the applicable development standards in the Project's R-B (Retail Business) Zoning District and is compatible with surrounding commercial and agricultural uses;
 3. The site is physically suitable for the proposed project in terms of the proposed lot sizes and the proposed development and use;
 4. The Project has been deemed to be within the scope of the previously Certified Magnolia Park Environmental Impact Report (SCH #2004062119). No additional environmental review is necessary;

5. The design of the subdivision and type of improvements are not likely to cause serious public health problems in that the proposed subdivision consists of two (2) commercial lots. Construction and grading of the project are subject to building or grading permits, and violations of any such permits are subject to appropriate enforcement;
 6. The design of the subdivision includes the constructed improvements within public right-of-way Along the Neroly Road frontage; and
 7. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision. The Tentative Parcel Map does not conflict with easements acquired by the public for access and utilities.
- B. In regards to the application requesting approval of a Conditional Use Permit (CUP 04-13) to operate and Design Review (DR116-13) for the construction of a new 10,000 square foot child care center and associated site development located on a 2.36-acre site located at the southeast corner of Empire Avenue and Neroly Road on a portion of APN 034-040-017:
1. The site for the proposed use is adequate in size and shape to accommodate the use in a manner complementary with the land and uses in the area in that the site is approximately 2.36-acres and the R-B (Retail Business) Zoning District allows for the proposed development with the approval of a Conditional Use Permit and Design Review. The new building and site improvements will provide a significant aesthetic upgrade to the property, and help facilitate the economic development activities of the City;
 2. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use in that the site is accessible by public rights-of-way such as Neroly Road, which is designed to handle project generated traffic;
 3. The proposed use will be arranged, designed, constructed, operated, and maintained so as to be compatible with the intended character of the area

and will not change the essential character of the area that is intended by the General Plan and the applicable zoning ordinances in that the proposed use is permitted in the R-B (Retail Business) Zoning District with the approval of a Conditional Use Permit. The use will comply with the noise standards set forth in the Oakley Municipal Code, will provide all parking on-site, and will bring a new business into the City;

4. The proposed use provides for continued growth and orderly development of the community and is consistent with the various elements and objectives of the General Plan in that it provides a new business which will bring jobs to the City. The use and site are a result of Oakley's zoning that allows for commercial lots that can accommodate this type of use; and
5. The proposed design and materials of the building and site improvements are compatible with the surrounding area.

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

BE IT FURTHER RESOLVED THAT, on the basis of the above Findings and the Record, the City Council approves of the Applicant's request for a Conditional Use Permit, subject to the following Conditions of Approval:

Conditions of Approval

Applicant shall comply with the requirements of the Oakley Municipal Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the application received by the Community Development Department on **March 10, 2014 (Tentative Parcel Map) and April 30, 2014 (Building Elevations and Landscape Plan)**, as well as additional information acquired since that time and made part of the project file.

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE CONSTRUCTION OF THE BUILDING UNLESS OTHERWISE NOTED:

Planning Division Conditions

General:

1. This **Tentative Parcel Map (TPM 03-13), Conditional Use Permit (CUP 04-13), and Design Review (DR 11-13)** is approved, as shown on the revised plans, date stamped by the Community Development Department on **March 10, 2014 (Tentative Parcel Map) and April 30, 2014 (Building Elevations and Landscape Plan)**, and as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.

2. This approval for **Tentative Parcel Map (TPM 03-13)**, **Conditional Use Permit (CUP 04-13)**, and **Design Review (DR 11-13)** shall be effectuated within a period of one (1) years from the effective date of this resolution by pulling a building permit and if not effectuated shall expire on **June 10, 2015**. Prior to said expiration date, the applicant may apply for an extension of time pursuant to the provisions of the Zoning Code.
3. Notwithstanding any conditions within this resolution, the applicant shall begin construction of the childcare facility, assuming receipt of all necessary permits and approvals, within one year of executing the land purchase agreement with the City (July 22, 2013).
4. All construction drawings submitted for plan check shall be in substantial compliance with the plans presented to and approved by the City Council on **March 10, 2014 (Tentative Parcel Map)** and **April 30, 2014 (Building Elevations and Landscape Plan)**.
5. All conditions of approval shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense.
6. Noise generating construction activities, including such things as power generators, shall be limited to the hours of 7:30 a.m. to 5:30 p.m. Monday through Friday, and shall be prohibited on City, State and Federal Holidays. The restrictions on allowed working days and times may be modified on prior written approval by the Community Development Director.
7. Should archaeological materials be uncovered during grading, trenching or other on- site excavation(s), earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), if deemed necessary.
8. The applicant shall defend, indemnify, and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project. The city shall promptly notify the applicant of any such claim, action or proceeding. The city shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the city from participating in a defense of any claim, action, or proceeding if the city bears its own attorney's fees and costs, and the city defends the action in good faith.
9. The development of Parcel B is not approved with this application and shall require a separate application at the time of development.

10. The project shall be subject to implementation of all applicable mitigation measures, as determined by the Community Development Director, attached hereto as Exhibit "A". The project shall not be subject to implementation of mitigation measures specifically directed towards to the residential development of Magnolia Park. All mitigation measures from the Magnolia Park 8731 EIR (SCH# 2004062119) are located at City Hall for reference.

Site Plan:

11. All parking stall striping shall be double striped. Parking stalls shall be 9 feet wide by 19 feet deep and all drive aisles shall be a minimum 24 feet in width as reviewed and approved by the Community Development Director.
12. A lighting and photometric plan shall be submitted prior to the issuance of building permits. The minimum requirement shall be one foot of candle light within public parking areas and pedestrian pathways.
13. Any new light poles shall match the final approved poles for the existing center and provide glare shields where adjacent to existing residences per the review and approval of the Community Development Director.
14. A trash enclosure shall match Oakley Disposal and City standards and shall provide adequate space to accommodate both trash and recycling. Also, trash enclosures shall be constructed with a roof to match the building design and materials, have metal gates, and when appropriate be surrounded by landscaping with climbing vines on three sides per the review and approval of the Community Development Director.
15. Storage shall be contained inside the building. Storage containers are not allowed and pallets, boxes, cardboard etc. shall not be stored outside.
16. The applicant shall submit a fence plan to show the final design of the proposed fencing around the building. The fence shall be a combination of vinyl and rod iron, and have rock or stone veneer pilasters consistent with the materials used on the concrete block walls within the Magnolia Park subdivision. Vines and/or trees shall be placed strategically in front of the walls to minimize the visual impact.
17. The concrete walkway in front of the building shall extend in front of the five proposed parking spaces and connect to the sidewalk at the driveway entrance of Neroly Road.
18. The basketball court hoop shall be relocated in such a manner to avoid balls going over the fence into the driveway, street, or parking areas.
19. The final site plan shall show a bike rack consistent with the bike racks used within the center subject to final approval by the Community Development Director.

Architecture:

20. Additional building articulation shall be provided on the North and West elevations. Final design shall be approved by the Community Development Director.
21. Roof-mounted equipment shall be architecturally screened from view.
22. The light fixtures on the commercial building shall be decorative fixtures per the review and approval of the Community Development Director.
23. The proposed building, shade structures, and fencing plan shall be similar to that shown on the approved plans date stamped April 30, 2014. Prior to the issuance of a building permit, elevations and architectural design of the building and building roofing material shall be submitted for final review and approval by the Community Development Director.
24. The applicant shall receive Final approval from the Neroly Commercial Center Architectural Review Committee.

Landscaping Requirements:

25. A landscaping and irrigation plan for all areas shown on the site plan shall be submitted for review and approval of the Community Development Director prior to the issuance of building permits. The landscaping plan shall include the project's frontage and side yards. Landscaping shall conform to the Oakley Water Efficient Landscape Ordinance and the Guidelines for Implementation of the City of Oakley Water Efficient Landscape Ordinance and shall be installed prior to final occupancy. The plan shall be prepared by a licensed landscape architect and shall be certified to be in compliance with the City's Water Conservation Ordinance.
26. All proposed landscaping shall be consistent with the approved landscaping within the center.
27. California native drought tolerant plant or shall be used as much as possible. All trees shall be a mix of fifteen-gallon, 24-inch box and 36-inch box, all shrubs shall be a minimum five-gallon size, except as otherwise noted.
28. Parking lot trees shall provide 50 percent shading of the parking areas at tree maturity.
29. Prior to occupancy, an on-site inspection shall be made of privately owned lands by a licensed landscape architect to determine compliance with the approved landscape plan. A signed certification of completion shall be submitted to the Community Development Director for review and approval.

30. If occupancy is requested prior to the installation of the landscape and irrigation improvements, then either a cash deposit or a letter of credit shall be delivered to the City for 125 percent of the estimated cost of the uncompleted portion of the landscape and irrigation improvements. If compliance is not achieved after six months of occupancy as determined by the Community Development Director, the City shall contract for the completion of the landscaping and irrigation improvements to be paid for by the held sum. The City shall return the unused portion within one year of receipt or at the completion of all work.

31. Landscaping shall be maintained as shown on the landscape plan in perpetuity.

Signage:

32. The proposed signage shall meet the requirements of the City's Zoning Ordinance. All proposed signage shall be reviewed by the Planning and Building Divisions.

33. All signs shall be on permanent structure and of design and material to compliment the proposed commercial building. No signs on the premises shall be animated, rotating or flashing. No flags, pennants, banners, pinwheels or similar items shall be permitted on the premises, with the exception of a United States flag and California state flag.

34. Temporary signage for such things as special events and grand openings shall require a Temporary Use Permit per the review and approval of the Community Development Director.

Waste Management Plan:

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

Building Division Conditions

36. Plans shall meet the currently adopted Uniform Codes as well as the newest T-24 Energy Requirements per the State of California Energy Commission. To confirm the most recent adopted codes please contact the Building Division at (925) 625 – 7005.

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

Public Works and Engineering Conditions

General:

38. Submit landscaping plans for any modification of publicly maintained landscaping, including planting and irrigation details, as prepared by a licensed landscape architect to the City Engineer for review and pay appropriate processing costs in accordance with the Code and these conditions of approval.
39. Execute any agreements required by the Stormwater Control Plan which pertain to the transfer of ownership and/or long term maintenance of stormwater treatment mechanisms required by the plan prior to the final inspection of the first house within the subdivision.

Access to Adjoining Property:

40. Develop a private joint access agreement or revise an existing access agreement for the City's review and approval and execute the agreement that allows the adjacent parcels within the project to utilize common drive aisles.

On-Site Improvements:

41. Develop a private maintenance agreement or revise an existing maintenance agreement for the City's review and approval and execute the agreement that ensures that joint use drive aisles, parking areas, and common landscaping will be maintained to a standard agreed upon by the City and that each separate parcel shall share in the funding of the maintenance.

Landscaping in the Public Right of Way:

42. Enter into an agreement with the City that requires the right of way landscaping adjacent to the site to be maintained as part of the on-site landscaping at the property owner's expense to a standard acceptable and agreed upon by the City.

Grading:

43. Prior to commencement of any site work that will result in a land disturbance of one acre or more, the applicant shall provide evidence to the City Engineer that the requirements for obtaining a State General Construction Permit have been met. Such evidence may be a copy of the Notice of Intent letter sent by the State Water Resources Control Board. The WDID Number shall be shown on the grading plan prior to approval by the City Engineer.
44. Submit an updated erosion control plan reflecting current site conditions to the City Engineer for review and approval no later than September 1st of every year while the Notice of Intent is active.
45. The burying of any construction debris is prohibited on construction sites.

Fees/Assessments:

46. Comply with the requirements of the development impact fees listed below, in addition to those noticed by the City Council in Resolution 00-85 and 08-03. The applicant shall pay the fees in the amounts in effect at the time each building permit is issued.
 - A. Traffic Impact Fee (authorized by Ordinance No. 14-00, adopted by Resolution 49-03);
 - B. Regional Transportation Development Impact Mitigation Fee or any future alternative regional fee adopted by the City (authorized by Ordinance No. 14-00, adopted by Resolution No. 73-05);
 - C. Park Land Dedication In-Lieu Fee (adopted by Ordinance No. 03-03);
 - D. Park Impact Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 19-03);
 - E. Public Facilities Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 18-03);
 - F. Fire Facilities Impact Fee, collected by the City (adopted by Ordinance No. 09-01);
 - G. South Oakley Infrastructure Master Plan Fee (adopted by Resolution No. 52-03);
 - H. General Plan Fee (adopted by Resolution No. 53-03): and
 - I. East Contra Costa County Habitat Conservation Plan Fee (adopted by Resolution No. ____)
47. The applicant shall be responsible for paying the County Recorder's fee for the Notice of Determination as well as the State Department of Fish and Game's filing fee.
48. Participate in the formation of a mechanism to fund the operation and maintenance of the storm drain system, including storm water quality monitoring and reporting. The appropriate funding mechanism shall be determined by the City and may include, but not be limited to, an assessment district, community services district, or community facilities district. The funding mechanism shall be formed prior to issuance of a certificate of occupancy, and the project proponent shall fund all costs of the formation.

49. Participate in the City's South Oakley Infrastructure Master Plan both by cooperating with the City's consultant team in the design and implementation of specific infrastructure projects and by providing this project's fair share contribution to the costs of preparing the study. The fair share contribution shall be paid in accordance with Resolution 52-03.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

- A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.
- B. Comply with the requirements of the Ironhouse Sanitary District.
- C. Comply with the requirements of the East Contra Costa Fire Protection District.
- D. Comply with the requirements of the Diablo Water District.
- E. Comply with the requirements of the Building Inspection Department. Building permits are required prior to the construction of most structures.
- F. This project may be subject to the requirements of the Department of Fish and Game. It is the applicant's responsibility to notify the Department of Fish and Game, PO Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
- G. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 10th of June, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Randy Pope, Mayor Date

ATTEST:

Libby Vreonis, City Clerk Date