

OAKLEY



CALIFORNIA

STAFF REPORT

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Date: June 13, 2017
To: Bryan H. Montgomery, City Manager
From: Kenneth W. Strelo, Senior Planner
SUBJECT: Duarte Ranch 9027 Tentative Map Extension (TME 04-17) – Request for a one year extension to the expiration of Tentative Map 9027, located at the southeast corner of Laurel Road and Rose Avenue.

Summary

This is a public hearing on a request by Richard Sestero of Albert D. Seeno Construction Co. ("Applicant") for approval of a Tentative Map Extension. The applicant is requesting to extend the approval of Tentative Map 9027 (known as "Duarte Ranch Subdivision") for a period of one (1) additional year to allow time to record a final map on the second phase of the subdivision. The first phase (Unit 1) is currently under construction. The approved Tentative Map consists of approximately 29 acres subdivided into 116 detached single family residential lots with a 2.1 acre neighborhood park. The project is located on the southeast corner of Laurel Road and Rose Avenue and zoned P-1 (Planned Unit Development) District. APNs 034-260-024, 034-260-025, and 034-260-026.

Staff recommends the City Council adopt the resolution approving Duarte Ranch 9027 Tentative Map Extension (TME 04-17), extending the Tentative Map approval for an additional one year, as conditioned.

Background and Project Description

General Plan and Zoning

- The General Plan Land Use Designation for the project site is *Single Family Residential, High Density* ("SH") as depicted in the [Oakley 2020 General Plan Figure 2-2 \(Land Use Diagram\)](#).
- The site is zoned P-1 (Planned Unit Development) District.

Previous Entitlements and Subdivision Extensions

The Duarte Ranch Subdivision 9027 Tentative Map was originally approved by the Oakley City Council on May 8, 2006 through adoption of Resolution 76-06. Approval of the rezone to P-1 District was on May 22, 2006 through adoption of Ordinance 08-06. Originally, the

Tentative Map was conditioned to expire three (3) years after the approval (or May 8, 2009). However, through multiple state-wide automatic map extensions¹, the Tentative Map expiration date was pushed out for an additional seven (7) years, or to May 8, 2016.

After the original applicant, Heartwood Communities Inc., broke ties with the project, the non-inhabited and larger portion of the project was purchased by Discovery Builders (a sister company of Seeno Homes and Albert D. Seeno Construction Co.) in 2007. In 2015, the applicant approached the City with interest to proceed with development on Duarte Ranch, and with a request to modify specific conditions of approval in order to make the project more feasible. On November 10, 2015, the City Council adopted Resolution 131-15, which deleted conditions of approval 55 and 56, and modified conditions of approval 41, 42, 46, 58, 59 from the original Resolution 76-06. In summary, the deleted conditions would have required the developer to acquire, dedicate and improve private property across the streets from the project's west and north property lines; a practice not common with City of Oakley tentative maps. The modified conditions clarified language related to stormwater treatment, street light construction, and right of way dedication.

On April 12, 2016, the City Council adopted Resolution No. 43-16, which extended the Tentative Map approval for one (1) additional year to May 8, 2017. Since that time, the developer has started construction on the first phase of development. The current request for one additional year would extend that approval out to May 8, 2018 to allow adequate time to prepare and record a final map or final maps for the additional phase or phases of development. The developer anticipates the portion of the original tentative map under their ownership would only require two phases.

Environmental Review

It can be seen with certainty that the request for an extension to the Tentative Map will not result in any new physical impacts to the project, and therefore not result in any new significant environmental impacts. The project falls within the scope of the original California Environmental Quality Act ("CEQA") analysis and no further environmental analysis is required.

Analysis

The Subdivision Map Act (Government Code 66452.6 (e)) allows the governing body with authority to approve a tentative map to extend that approval for a period not to exceed six (6) additional years from the original expiration date. That original expiration date would include any automatic extensions, such as those mentioned above, and the extension does not have to occur in one approval. In other words, the City Council may grant multiple approvals on the same map, so long as requests for extensions are submitted prior to expiration of the map, pursuant to the Subdivision Map Act. If this extension were approved for one additional year, under current legislation, four years of discretionary extensions would remain.

¹ SB 1185 (2008) – 12 months, AB 333 (2009) – 24 months, AB 208 (2011) – 24 months, and AB 116 (2013) – 24 months.

Staff is recommending approval of the one (1) year extension in order to allow the developer adequate time to continue future development of phase 2. An extension is required because the project does not qualify for any automatic extensions associated with recordation of the phase 1 final map. If an extension were to not be granted, the Tentative Map would retroactively expire on May 8, 2017, and any future phases of the project could not be developed without re-entitling the Tentative Map, which would be costly and time consuming. The developer would also lose all vested rights associated with the originally approved Tentative Map.

Conditions of Approval

Pursuant to the Subdivision Map Act, the City Council may approve or conditionally approve extensions to a tentative map. The proposed resolution includes references to conditions of approval in Resolution 76-06 (original TM approval), Resolution 131-15 (modified conditions from 76-06, and Resolution 43-16 (extended the original Tentative Map), as applicable. There are no other substantive conditions of approval proposed with this extension other than the modification to the expiration date.

Findings

Complete draft findings are included in the attached resolution.

Recommendation

Staff recommends the City Council adopt the resolution approving Duarte Ranch 9027 Tentative Map Extension (TME 04-17), extending the Tentative Map approval for an additional one year, as conditioned.

Attachments

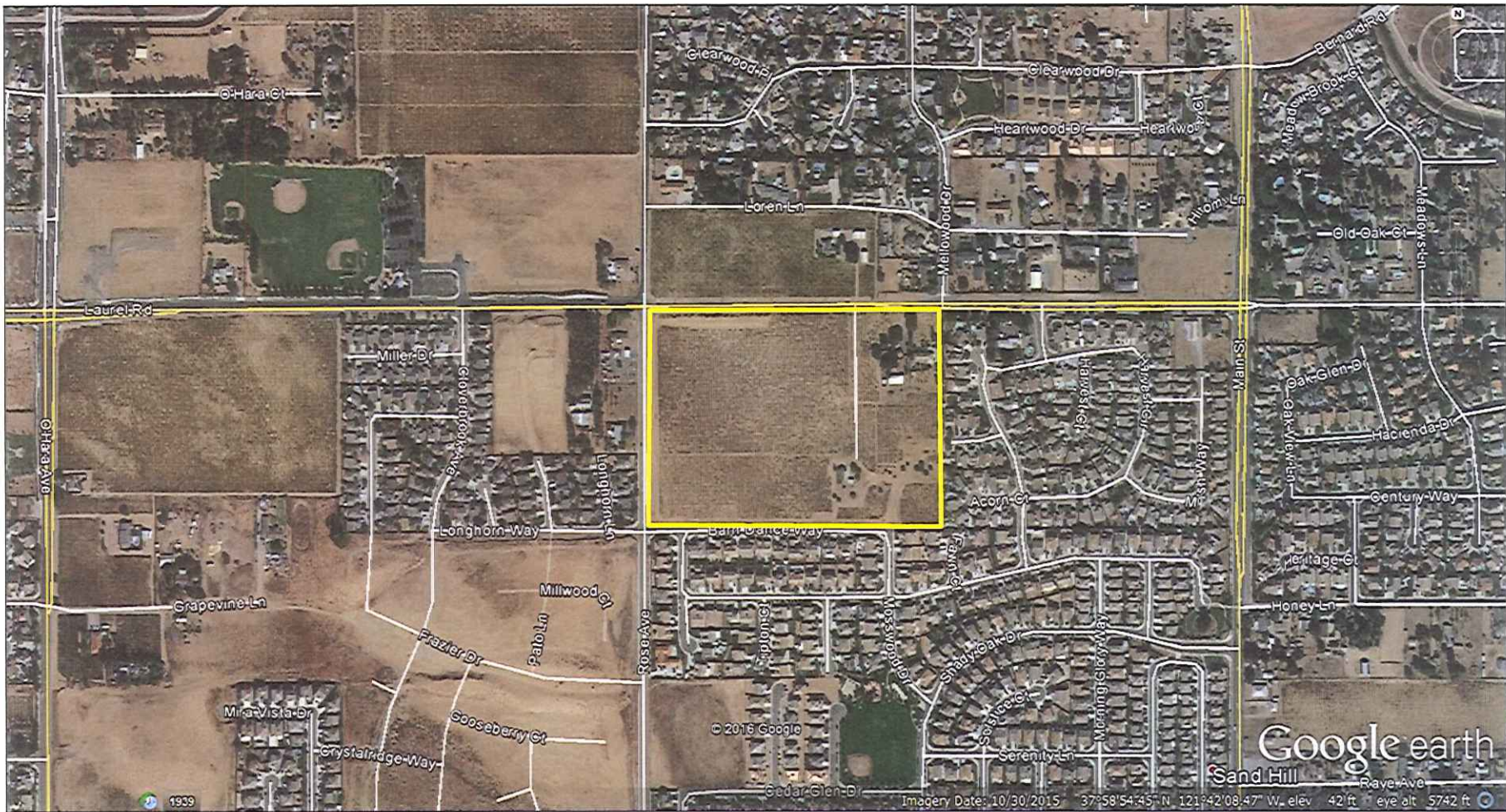
1. Vicinity Map
2. Public Hearing Notice
3. Draft Resolution

City Clerk's Reading File

1. City Council Ordinance No. 08-06
2. City Council Resolution No. 76-06
3. City Council Resolution No. 131-15
4. City Council Resolution No. 43-16

Vicinity Map

Duarte Ranch 9027 Tentative Map Extension (TME 04-17)





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

NOTICE OF PUBLIC HEARING

Notice is hereby given that on **June 13, 2017** at 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council of the City of Oakley will hold a Public Hearing at the Council Chambers located at 3231 Main Street, Oakley, CA 94561 for the purposes of considering an application for a **Tentative Map Extension**.

Project Name: Duarte Ranch 9027 Tentative Map Extension (TME 04-17).

Project Location: Southeast corner of Laurel Road and Rose Avenue.

Applicant: Richard Sestero of Albert D. Seeno Construction Co., 4021 Port Chicago Highway, Concord, CA 94520. dsestero@seenohomes.com.

Request: This is a public hearing on a request for approval of a Tentative Map Extension. The applicant is requesting to extend the approval of Tentative Map 9027 (known as "Duarte Ranch Subdivision") for a period of one (1) additional year to allow time to record a final map on the second phase of the subdivision. The first phase (Unit 1) is currently under construction. The approved Tentative Map consists of approximately 29 acres subdivided into 116 detached single family residential lots with a 2.1 acre neighborhood park. The project is zoned P-1 (Planned Unit Development) District.

The Staff Report and its attachments will be available for public review, on or after June 9, 2017 at City Hall, 3231 Main Street, Oakley, CA 94561 or on the City's website www.oakleyinfo.com. Please note that City Hall is closed on the 1st and 3rd Fridays of every month.

Interested persons are invited to submit written comments prior to and may testify at the public hearing. **Written comments may be submitted to Kenneth W. Strelo, Senior Planner at the City of Oakley, 3231 Main Street, Oakley, CA 94561 or by email to strelo@ci.oakley.ca.us.**

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

RESOLUTION NO. XX-17**A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS AND APPROVING A TENTATIVE MAP EXTENSION FOR THE PROJECT KNOWN AS DUARTE RANCH 9027 TENTATIVE MAP EXTENSION (TME 04-17). APNs 034-260-024, 034-260-025, and 034-260-026.****FINDINGS**

WHEREAS, on May 3, 2017, Richard Sestero of Albert D. Seeno Construction Co. ("Applicant"), filed an application requesting to extend the approval of Tentative Map 9027 (known as "Duarte Ranch Subdivision") for a period of one (1) additional year to allow time to record a final map on the second phase of the subdivision. The first phase (Unit 1) is currently under construction. The project is located on the southeast corner of Laurel Road and Rose Avenue and zoned P-1 (Planned Unit Development) District. APNs 034-260-024, 034-260-025, and 034-260-026; and

WHEREAS, on June 2, 2017, the project application was deemed complete per Government Code section 65920 et. seq; and

WHEREAS, the map is currently set to expire on May 8, 2017; and

WHEREAS, Duarte Ranch Subdivision consists of approximately 29 acres subdivided into 116 detached single family residential lots and a 2.1 acre park; and

WHEREAS, the General Plan Land Use Designation for the project site is Single Family Residential, High Density as depicted in the Oakley 2020 General Plan Figure 2-2 (Land Use Diagram). The site is zoned "P-1" (Planned Unit Development) District, which was approved along with a development plan for the Duarte Ranch Subdivision project; and

WHEREAS, the Tentative Map was originally approved by the Oakley City Council on May 8, 2006 through adoption of Resolution No. 76-06. Approval of the rezone to P-1 District was on May 22, 2006 through adoption of Ordinance No. 08-06; and

WHEREAS, on November 10, 2015, the City Council adopted Resolution No. 131-15, which deleted conditions of approval 55 and 56, and modified conditions of approval 41, 42, 46, 58, 59 from the original approval Resolution No. 76-06; and

WHEREAS, on April 12, 2016, the City Council adopted Resolution No. 43-16, which extended the Tentative Map approval for one (1) additional year to May 8, 2017; and

WHEREAS, it can be seen with certainty that the request for an extension to the tentative map will not result in any new physical impacts to the project, and therefore not result in any new significant environmental impacts. The project falls within the scope of the original California Environmental Quality Act (CEQA) analysis and no further environmental analysis is required; and

WHEREAS, on June 1, 2017, the Notice of Public Hearing for the project was published in the Contra Costa Times, and posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, and outside the library at Freedom High School located at 1050 Neroly Road; and

WHEREAS, on June 13, 2017, the City Council opened the public hearing and received a report from City Staff, oral and written testimony from the applicant and public, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the project, as revised by the City Council during its deliberations; and

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

WHEREAS, these Findings are based on the City's General Plan, the City's Zoning and Subdivision Ordinances, the Subdivision Map Act, Vesting Tentative Map 9027, the project's P-1 District and Final Development Plan, and the information submitted to the City Council at its June 13, 2017 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 Subdivision (hereafter the "Record").

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

- A. Regarding the application requesting approval of Duarte Ranch 9027 Tentative Map Extension (TME 04-17), the City Council finds that:
1. The proposed tentative map extension does not modify any of the original Tentative Map's design, and therefore, all of the findings made on the original tentative map (City Council Resolution No. 76-06) are still valid and apply to this extension; and
 2. All conditions of approval in City Council Resolution 76-06, not otherwise modified by City Council Resolution No. 131-15 or this resolution, are still in effect; and
 3. All conditions of approval in City Council Resolution No. 131-15, not otherwise modified by Resolution No. 43-16 or this resolution, are still in effect; and
 4. All conditions of approval in City Council Resolution No. 43-16, not otherwise modified by this resolution, are still in effect.

B. 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 the applicant's request for Duarte Ranch 9027 Tentative Map Extension (TME 04-17), subject to the following conditions:

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE NOTED (BOLD CONDITIONS ADDED OR AMENDED AT PUBLIC HEARING):

Planning Department Conditions

1. Applicant shall comply with the requirements of the Oakley Municipal Code and applicable Conditions of Approval from City Council Resolution Nos.76-06, 131-15, and 43-16, as well as City Council Ordinance No. 08-06. Any exceptions must be stipulated in these Conditions of Approval.
2. This approval shall extend the period of the tentative map for a period of one (1) additional year, resulting in Tentative Map 9027 expiring on May 8, 2018, unless it is further extended pursuant to the Subdivision Map Act or other automatic extensions. This extension, along with the previous extension of Resolution No. 43-16, shall constitute two (2) years of the maximum six (6) years of discretionary extension(s) allowed under Government Code section 66452.6(e).
3. 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.
4. The applicant shall indemnify, defend, and hold harmless the City of Oakley, the City Approving Authorities, and the officers, agents, and employees of the City from any and all claims, damages and liability (including, but not limited to, damages, attorney fees, expenses of litigation, costs of court).

Advisory Notes:

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

- A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.
- B. The project will require a grading permit pursuant to the Ordinance Code.
- C. Applicant shall comply with the requirements of Ironhouse Sanitary District.

- D. The applicant shall comply with the requirements of the Diablo Water District.
- E. Comply with the requirements of the East Contra Costa Fire Protection District.
- F. Comply with the requirements of the Building Inspection Division. Building permits are required prior to the construction of most structures.
- G. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
- H. 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.
- I. The applicant shall obtain an encroachment permit for construction within existing City rights of way.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the June 13, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Sue Higgins, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date