



**Agenda Item No.**

## **AGENDA REPORT**

**DATE:** NOVEMBER 16, 2004

**TO:** CITY COUNCIL

**FROM:** COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING

**SUBJECT:** **P-D REZONING, VESTING TENTATIVE MAP 8457, DESIGN REVIEW APPLICATION NO. Y03-003 – KINROSS TERRACE.** Review of a proposed P-D rezoning and tentative map to accommodate construction of a 12-lot residential subdivision on a vacant 3.58-acre site previously a part of the Diablo Valley Golf Course situated at the end of Kinross Drive, north of Marchbanks Drive (a portion of APN 144-081-006).

### **STATEMENT OF THE ISSUE:**

The applicant is requesting that the City Council approve rezoning of a 3.58-acre site to allow for the development of a 12-unit residential subdivision on a vacant portion of the Diablo Hills Golf Course at the end of Kinross Drive, north of Marchbanks Drive. The proposed Kinross Terrace rezoning and tentative map has been reviewed at public hearings before the Planning and Design Review Commissions and has been revised a number of times in response to comments received by staff, the neighborhood, and Commissions. On October 28, 2004, the Planning Commission voted unanimously to recommend that the City Council adopt the Mitigated Negative Declaration and approve the Kinross Terrace rezoning.

### **RECOMMENDED ACTION:**

The Planning Commission and staff recommend approval of the Mitigated Negative Declaration and the proposed P-D, Planned District rezoning.

### **DISCUSSION:**

Background: The 3.58-acre project is situated within PD 859, which was adopted in 1966 as part of the Heather Farms development. PD 859 was approved with a mix of single and multi-family homes up to a maximum of 1,150 dwelling units, a nine-hole private golf course and clubhouse. The PD allowed clustering of homes on approximately 78-acres throughout the 150-acre site. The nine-hole golf course and accessory uses (parking, club house, driving range, etc) would occupy the remaining land area. PD 859 also set aside approximately 52 acres for a city park (future home of Heather Farms park). At some point in the mid 1970's the golf course was altered to shorten the 6<sup>th</sup> hole and redirect the 7<sup>th</sup> hole, eliminating the proposed project site from active play. Shortly thereafter, three tennis courts were installed by the original

developer at the northwest corner of Marchbanks and Kinross Drives in the proximity of the original 7<sup>th</sup> hole. Since that time, the remaining 3.58-acre portion of the site, where the 6<sup>th</sup> hole was originally located, has remained vacant.

In the mid-1980's, an application to develop the 3.58-acre site for a 51-unit condominium project was submitted. A draft environmental impact report was prepared and circulated on the proposed 51-unit project. The application was, however, withdrawn by the project sponsor prior to any city action. A proposal in 1996 for 20 units was also withdrawn prior to any city action.

Project Description: The project proposes construction of a 12-lot residential subdivision on a vacant 3.58-acre site consisting of 10 detached units and 2 attached units. Lot sizes for the 2 attached units are 3,916 and 4,992-square feet. The other ten lots range from 5,476 (Lot 10) to 30,208-square feet (Lot 1). The average lot size is approximately 11,300-square feet.

The project is located on land that was previously filled for the 6<sup>th</sup> hole of the golf course as described above. Presently the site contains native grasses and a number of trees planted as part of the golf course. Surrounding land uses include single-family residences on the knoll above to the north, multi-family residences to the east (Stoneridge Apartments), golf course property to the south, and single-family residences below to the west. A portion of the project site is adjacent to the Seven Hills Ranch property, which is an unincorporated property.

General Plan Land Use and Zoning: The 3.58-acre project site is designated MFL, Multifamily Low (6 to 14 du/ac) in the General Plan. The multi-family low designation envisions higher densities in close proximity to commercial and job centers and to serve as transition between single-family neighborhoods and commercial or higher density areas. The proposed 12 detached dwellings on 3.58-acres represent a density of 3 units per acre when viewed independently. Within the context of the entire planned district, a density of 6.6 units per acres is achieved.

The current PD 859 zoning establishes a maximum density of 1,150 units on approximately 78-acres throughout the 150-acre development. Currently, the Planned District contains approximately 986 units which would increase by 12 to 998-units should the project gain approval. The PD allows for a mix of unit types clustered around the private golf course. The proposed 12-lot subdivision would not exceed the maximum allowable density as established in the existing PD district regulations and would be consistent with the Multi-Family Low General Plan designation of 6 to 14 units per acre.

Other General Plan policies that relate to the proposed project include: Residential Development Policy 3, allowing infill development consistent with character of existing neighborhoods; Policy 7, prohibiting land use changes in residential areas unless findings can be made that character and integrity of neighborhood is preserved; City Design Program 8.1, Discourage gated communities and private streets; and Local Street Recommendation and Improvements, which states that Kinross Drive shall not be connected to Seven Hills Ranch Road.

The project is subject to General Plan Housing Element Policy 13.21 which requires 10% of the units within a for-sale project to be affordable to moderate income households. Based on the provisions in effect during the project review, the project would be required to provide 1 affordable unit. The applicant has designated Lot 8 as the affordable unit.

Environmental Review: A proposed Mitigated Negative Declaration has been prepared and may be considered for recommendation to the City Council (Attachment 3). Pursuant to the City's Environmental Review

Regulations, the City Council is responsible for adopting the proposed Mitigated Negative Declaration (MND) to be used in consideration of the proposed development and P-D, Planned Development Rezoning. The proposed MND was released for public review on September 28, 2004 and comments were solicited for a 30-day period ending on October 28, 2004.

The proposed MND evaluated the proposed project and concluded that the proposed project incorporates appropriate measures that would avoid or reduce potential impacts to a less-than-significant level and the project could not have a significant effect on the environment. Proposed mitigation measures have been incorporated into the Mitigated Negative Declaration for adoption as part of proposed project approval.

On October 19, 2004, a letter was received, signed by five area residents, requesting reconsideration of the decision to prepare a Mitigated Negative Declaration and specifying a number of concerns (Attachment 4). In review of the comments received, staff believes that no new information or substantial evidence is presented that the project may cause a significant impact on the environment. A response to these comments is provided (Attachment 5).

Based on the analysis and discussion contained in this staff report and the administrative record as a whole, staff and the Planning Commission believe that findings can be made to adopt the proposed MND.

Tree Preservation/Removal: A tree report, dated March 6, 2003, was prepared for the project by Treescapes, Inc. to evaluate on-site trees (Attachment 6). 52 trees were evaluated; 43 on-site and 9 on immediately adjacent off site properties. Of the 45 trees on site, the project proposes preservation of 20 trees and the removal of 23. Compliance with the City's Tree Preservation Ordinance and the project's tree report have been incorporated in the projects through mitigation measures contained in the Mitigated Negative Declaration for the project. All on-site and off-site trees shown on the grading plans to be saved will be protected during construction and will be bonded as set forth by the Tree Preservation Ordinance.

A tree report, dated August 8, 2004, was prepared by Joseph McNeil, Consulting Arborist, to evaluate trees adjacent to the off-site storm drain and sanitary sewer lines under Homestead Avenue and Seven Hills Ranch Road (Attachment 7). The report concludes that no trees (other than 2 dead poplar trees) would be removed and that excavation within driplines of trees would be accomplished by hand or with water or air spade. Compliance with recommendations contained in this arborist report and bonding as required by the City's Tree Preservation Ordinance have been incorporated into the mitigated negative declaration.

Referral comments for the City Arborist indicate that of the 23 proposed on-site tree removals, 19 trees comply with criteria for removal and can be authorized by staff. The remaining 5 trees to be removed (474, 485, 488, 1814, 1815) are highly protected Valley Oaks and require City Council approval. These trees are identified as being in reasonably good health but would be impacted by the proposed development.

The City Council, as the highest approving body, must consider the Tree Removal and Dripline Encroachment Permit applications for trees that have not been approved by the City Arborist for removal. The City Council may approve the removal or dripline encroachment permit for, a highly protected tree only if it finds that the burden to the applicant in not removing or encroaching within the dripline greatly outweighs the benefit to the public and that not removing or encroaching within the dripline of the tree would severely reduce the scale or feasibility of the development.

The Planning Commission and staff believe that the City Council can make the required findings for removal of the 5 on-site trees and for the dripline encroachments due to the site constraints associated with preserving wet land areas and open spaces throughout the site, and removing the non-engineered fill soil

that was installed in the 1960's with the development of the golf course. These constraints limit development of the site requiring greater land area to achieve desirable residential densities.

Preliminary landscape plans indicate that approximately 20 London Plane, 12 Flowering Pear tree in 24-inch box size. The plan also provides over 60 15-gallon trees throughout the site including Japanese Maple, Camphor, Evergreen Dogwood, Raywood Ash, Crape Myrtle, and Coast Redwood trees. The resulting tree planting will result in a net increase in tree cover. With the additional trees provided, the Commission believes that the proposed landscape plan will appropriately address the mitigation for the tree removals and provide tree plantings consistent with the surrounding neighborhood. Findings and conditions contained in the attached draft resolution support the tree removal, dripline encroachments, and preservation plan.

Sewer and Storm Water Drainage: In the initial phase of development review the project proposed a sewer pump and an on-site, underground storm water retention system. Referral comments from the City Engineering Division and the County Sanitation District recommended revisions to the proposed utility services to provide gravity systems. In response, the applicant has revised their plan to provide gravity systems to existing off-site facilities through easements on private property. A new 8-inch sewer line serving the proposed development would be routed to the west through an adjacent residential lot (Collins property), to an existing 6-inch sewer line in Homestead Avenue. A new 15-inch storm water pipe would be routed westerly, again through the Collins property, northerly along Homestead Avenue, then westerly along Seven Hills Ranch Road to discharge into an existing creek.

While these off-site utilities function hydraulically, the underground lines cross private property and require easements. The applicant has stated that they are working with the Collins property owners to secure an easement, although it has not been finalized or recorded. In addition, research has revealed that Homestead Avenue and Seven Hills Ranch Road, while appearing as public roads, have never been dedicated or accepted by either the City or County and remain privately held property. As specified in the Mitigated Negative Declaration, the City would not condemn off-site private properties to satisfy requirements for a private development. Mitigation measures require that the applicant secure the necessary off-site easements prior to approval of a final map.

Reduced width of Kinross Drive: In the applicant's initial discussions with neighbors in the vicinity of the project site, concerns about parking and inappropriate activities on the dead end portion of Kinross Drive were raised. There was a general consensus of surrounding neighbors that narrowing the roadway would reduce or eliminate the perceived nuisance. The applicant offered to reduce the width of the public street as part of this development proposal to eliminate parking on one side of the street.

Comments received from residents on the Mitigated Negative Declaration question the project's proposal to reduce the width of Kinross Drive citing the loss of street parking adjacent to neighborhood serving tennis courts. Staff noted that both the reduced and current widths are consistent with City roadway standards. The Planning Commission determined that the current street width was consistent with the surrounding streets and provided more street parking. The Commission also felt that the project provides an active use and would eliminate nuisance activities associated with the dead end street. In moving to approve the Tentative Map, the Planning Commission specified that the public Kinross Drive should remain at its current width.

Precedent for further golf course development: Comments from area residents received through out the review process expressed concern that this development proposal would set a precedent for further development of the private Diablo Hills Golf Course. Comments received on the Mitigated Negative Declaration requested that a condition be established with this development that would prohibit any further

development of the golf course. While the Planning Commission acknowledged they could not place a condition on the private golf course with this application, they did add a finding to the proposed rezoning recommendation expressing strong support for preservation of the golf course and noting the context of the approval recommendation is based on the projects unique site characteristics along a dead end street and having been historically removed from active golf course use.

**DOCUMENTS ATTACHED:**

1. Location Map
2. Project Plans
3. Mitigated Negative Declaration and Initial Study
4. Comment Letters and Responses
5. Tree Report (on-site trees), prepared by Treescapes, Inc. dated March 2003
6. Tree Report (off-site trees), prepared by Joseph McNeil Consulting Arborist, dated August 2004
7. October 28, 2004 Planning Commission staff report
8. Planning Commission Resolution 3329 (Recommendation on Rezoning)
9. Planning Commission Resolution 3330 (Tent Map approval, subject to Council action)
10. Proposed P-D, Planned Development Ordinance
11. City Council Resolution (Mitigated Neg Dec and Tree Removal)

**COUNCIL ACTION NEEDED:**

1. Move to adopt the Resolution approving the Mitigated Negative Declaration and Tree Removal Permit, and
2. Move to introduce and waive further reading of the proposed Planned Development Ordinance and Rezoning

Prepared By: Scott Harriman, AICP

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Planning Manager

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Community Development Director

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Approved By:  
City Manager