

**NORTH MCKAY RANCH SUBDIVISION PROJECT**

Case Number PLN-9902-GPA

Assessor Parcel Number 017-032-003, 017-071-004, 017-071-009, 017-072-002, 017-072-003, 017-073-007, 017-073-009 and 303-012-020

**RECOMMENDED COMMISSION ACTION:**

1. Describe the application as a Public Hearing;
2. Request staff to present the project;
3. Open the public hearing and receive public testimony; and
4. Close the public hearing and adopt the two resolutions to take the following actions:
  - a) Recommend that the Board of Supervisors certify the Environmental Impact Report for the North McKay Ranch Subdivision project; and
  - b) Recommend that the Board of Supervisors adopt the Statement of Overriding Considerations; and
  - c) c) Recommend that the Board of Supervisors adopt the Mitigation Monitoring and Reporting Program;
  - d) Make all required findings for approval of the General Plan Amendment, Zone Reclassification, Tentative Subdivision Map Subdivision and Planned Unit Development, Special Permit and Development Agreement; and
  - e) (e) Approve the North McKay Ranch Subdivision project as recommended by staff and subject to the recommended conditions.

**Staff Analysis of the Evidence Supporting the Required Findings**

The proposed project involves the development of an approximately 81-acre parcel and would involve a mixed-use development with 320 residential units, approximately 22,000 square feet of commercial development, an off-site sewer line, and an off-site water storage tank. The proposed development would include single-family dwellings, multi-family dwellings, and neighborhood commercial. The residential mix could include 146 single-family houses and 174 multi-family units. Two proposed commercial parcels would contain approximately 22,000 square feet of commercial space. Approximately 21.73 acres would remain as undeveloped open space that would be dedicated to the County for future trail management or conveyed in fee. The off-site water storage tank would be owned and managed by the Humboldt Community Services District (HCSD) and would support the proposed development. The proposed project is anticipated to be developed in nine phases over a period of 20 years, but a final phasing plan would be based on market conditions. The proposed project would require annexation into HCSD for the provision of utilities. The project includes an amendment to the Eureka Community Plan land use maps and a zone reclassification to designate land for Commercial General (CG) and Residential Medium Density (RM) use and to apply corresponding Neighborhood Commercial (C-1) and Apartment-Professional (R-4) zoning. The project will be a Planned Development. A Special Permit is required for work within Streamside Management Areas for two isolated wetlands in the northern part of the project, a wetland at the proposed location of the Arbutus Street extension and stream crossings related to the extension of Redwood Street. A total of 0.168 acres of wetlands would be impacted and 0.050 acres of riparian habitat will be impacted as a result of the project. Development of the proposed project would require removal of approximately 59.27 acres of timberland.

The proposed project includes annexing to the Humboldt Community Services District and will be extending and installing necessary infrastructure to serve the project. A sewer line will also be extended to Hemlock Street and Walnut Drive to provide sanitary sewer facilities to the proposed project. An off-site water tank will be constructed on land currently planned Timberlands and Zoned Timberland production Zone. The water storage tank will be located on land that is already owned by a public utility and managed for water

distribution purposes. The installation of an additional water storage tank on this site already utilized for public services will not have a significant adverse impact on the production of timber..

The project includes a General Plan Amendment, Zone Reclassification, Tentative Subdivision Map, Planned Unit Development, Special Permit, and Development Agreement. There are findings required by Humboldt County Code and California Government Code for all these actions. These findings are addressed in in the attached resolutions however in general the project must be found:

- a) to be in the public interest,
- b) to be consistent with the applicable goals of the General Plan.
- c) to be consistent with the applicable zoning and subdivision regulations.
- d) not detrimental to the public health, safety, or welfare; or materially injurious to property or improvements in the vicinity; and
- c) to not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the midpoint of the density range specified in the plan designation) unless certain site-specific findings are made.
- d) that an environmental impact report (EIR) has been prepared and all significant environmental effects have been eliminated or mitigated to a level of insignificance, or the required findings in Section 15091 of the CEQA Guidelines are made.

### **Staff Analysis**

The project meets various objectives of the Humboldt County General Plan.

- Comply with the Humboldt County Local Agency Formation Commission (LAFCo) policy to create a more logical service boundary and provide more effective delivery of municipal services by annexing all existing unincorporated islands zoned for development in the HCSD.
- Ensure new residents receive the same level of service as current residents.
- Ensure existing service levels to current County residents are not reduced in order to provide services to the HCSD service area.
- Promote economic vitality by maintaining and expanding small businesses and local services for residents.
- Assist County in meeting housing needs to accommodate forecasted population growth.
- Incorporate parks and open space, including trails, into the project design in a manner that would provide community connectivity and is aesthetically pleasing.
- Promote economic growth through new capital investment for an expanded population and increased tax base.
- Provide a diversity of housing choices in one development that would cater to various segments of the community, including low-cost, single-family homes

The property is planned Residential Low Density and is zoned Residential Single Family with combining zones for Planned Unit Developments, Recreation, and Greenway and Open Space areas. In order to accommodate the additional density and meet the goal for self-sustainable walkable neighborhoods a general plan amendment and zone reclassification are needed to change the proposed development pattern from residential low-density to multi-family and commercial.

The GPA and zone reclassification do not increase the total number of units which could be placed on the site but allow for a range of residential densities which allow housing at differing levels of affordability. The existing land use allows up to 7 units per acre which on paper could allow up to 561 parcels. The 320 units proposed are well below this number.

It is important to consider the 2019 County Housing Element identified that up to 323 units would be constructed on this property in meeting the Regional Housing Needs Allocation. The County is significantly behind in providing housing to its share of regional housing obligations. The county's projected housing needs for the current period (2019-2027) is 1,413 units spread across all housing income categories. This project providing 320 units, providing housing to a variety of different housing income categories is a priority under the County Housing Element.

Further, the amendment results in a portion of the property designated for neighborhood commercial facilities which will serve the needs of the residents of the development and reduce the need for people to travel by motorized vehicle to shop for convenience items. A supermarket is also within convenient walking distance of the site. Lastly, the amendment facilitates the transfer of approximately 21.73 acres to the County for future trails and open space which will serve the public.

The project is a planned development which will allow for flexibility in the development standards, most specifically for the minimum lot size standards of the proposed R-4 zone and the setback requirements of the proposed lots. The purpose of the planned development regulations is to allow flexibility in the administration of the development standards for the purpose of providing clustered development in concert with the provision of residential amenities such as open space, recreation areas, and neighborhood commercial services. This project is planned around a variety of housing types and commercial and recreational development that benefits from the flexibility in design standards.

### ***Proposed Land Uses***

#### *Residential*

Up to 320 residential units would be constructed on 81 acres, including approximately 174 multi-family units on 19 acres, 50 small-lot single-family units (includes 18 affordable single-family units) on approximately 6 acres, and 96 single-family lots on approximately 32 acres. The multi-family buildings are anticipated to be two stories and no more than three stories in height. The single-family homes would not exceed 35 feet in height. As shown in Figure 2-4, the multi-family units would be located on the western portion of the project site, closer to Redwood Fields Park. The large-lot, single-family homes would be located farther away to the east bordering the community forest and at least 300 feet away from Ryan Creek Slough. All development is proposed to occur on the flat upper terrace portion of the property.

#### *Commercial*

The proposed neighborhood commercial land use could include professional and business offices and other neighborhood-serving retail, such as bakeries, banks, barber shops, beauty salons, book stores, clothing and apparel stores, coin-operated dry cleaning and

laundries, dry cleaning and laundry services, drug stores, restaurants and licensed premises appurtenant thereto, automobile service stations, and other uses as principally permitted under the C-1 zoning designation. The commercial buildings would be up to 45 feet in height. The commercial uses would be located at the intersection of proposed new internal roadways, Redwood Street and Arbutus Street, and centrally accessible from other proposed land uses and existing land uses to the west.

#### Open Space and Recreational Amenities

The proposed project would include the designation of approximately 21.73 acres as permanent open space (areas of steep slopes and drainages) to be preserved through a permanent easement and would be dedicated to the County or conveyed in fee to the County. This would include the northern portion of the project site south of Phase 9. The proposed project would provide 20-foot-wide trail easements and construct trail connections to the future public trails accessing the McKay Community Forest.

These easements and trail connections would be developed in phases. For the purposes of this EIR, tentative locations are identified; final trail alignments would be subject to the approval of the Public Works Director. A temporary trail would be provided from Fern Street, Arbutus Street, or Redwood Street to the McKay Community Forest as part of the project's first phase, and would be abandoned as each subsequent phase and accompanying trails are developed. Phase 3 would include two trail connections. One would provide access from Arbutus Street/Oakview Drive and could be from Lot 52 proposed for multi-family development. A second trail connection and parking lot would be provided between lots 57 and 58, to connect Canyon Lane to the McKay Community Forest. Phase 8 or 9 would include a trail connection to the adjacent McKay Community Forest from Oakview Drive on the southern portion of the project site. The development of future trails outside the project site are not part of the proposed project and are not evaluated in this EIR. Redwood Fields Park would remain in place and would be accessible to the residents of the new subdivision. Landscaping for the proposed project would include a mix of trees, shrubbery, and grass for the residential units and commercial spaces.

### **Natural Resource Impacts**

#### Biological Impacts

Numerous biological resource surveys have been prepared. Based on the results of the literature, and database review and field surveys, an inventory of sensitive and critical habitat within the project site has been mapped. This inventory is found in the Draft EIR and refined in the Final EIR. The project is anticipated to require federal permits. A Clean Water Act Section 404 Nationwide Permit for wetland fill and work within riparian areas may likely be required. No critical habitat for sensitive species will be impacted. Development within the stream channels and wetland areas have been minimized through project refinements and mitigation measures. The project as designed will not be inconsistent with adopted habitat recovery plans or interim recovery strategies. Approximately 0.338 acres (14,723 square feet) of wetlands exist within the project area. An estimated 0.168 acres (7,318 square feet) of the wetlands (50%) will be temporarily (0.017 acres) and permanently (0.151 acres) impacted by the extension of Redwood Street and Arbutus Street in Phase 2. The two ephemeral (headwater) streams that cross the proposed Redwood Street extension would be culverted during roadway construction. All riparian and wetland areas will be required to be mitigated at a 1:1 ratio.

The property is in a Greenway and Open Space (GO) Combining Zone per the Eureka Community Plan. The Greenspace and Open Space zone is applied in sensitive habitat areas historically known as gulches. Greenway and Open Space areas are mapped to contain Streamside Management Areas, measured from the centerline of the stream and all slopes of 30% or greater on lands adjacent to streams and all streams and level areas below those slopes. Road, street and utility crossing and trails and parks are compatible

uses within the GO areas upon approval of a Special Permit. All subdivisions within areas which have the GO combining zone must submit a detailed development map prepared by a licensed engineer or surveyor that shows the SMA areas and the greenway and open space areas. The Applicant has submitted a detailed map (see preliminary grading and drainage plan) prepared by Brian Ontiveros, a licensed engineer, which shows these areas and demonstrates that all areas are outside of the greenway and open space areas with the exception of the road crossings, for which a Special Permit is requested.

#### Timberland Impacts

While the property is currently heavily timbered, it was immediately rezoned out of Timberland Production Zone as part of the adoption of the Eureka Community Plan in 1995. As required by the immediate rezone the property owner at the time, Louisiana Pacific Corporation, paid a tax recoupment fee of \$290,874 and obtained approval of a timberland conversion permit from the Department of Forestry and Fire Protection. The timberland conversion permit was approved by the Director of the Department of Forestry and Fire Protection on August 21, 1995. The conversion permit included the finding that the conversion of these lands to non-timbered uses would not have a substantial affect on the continued timber growing use or open space use of other land zoned TPZ within one mile of the project site. The conversion of these lands were analyzed and approved as part of the rezone of the land to residential.

#### **Circulation**

General Plan Policy C-P5: Level of Service Criteria states:

*The County shall strive to maintain Level of Service C operation on all roadway segments and intersections, except for U.S. 101, where Level of Service D shall be acceptable. Level of Service improvements for automobiles should not adversely affect Level of Service and/or Quality of Service for other modes of transportation, if possible.*

A Traffic Study for the McKay Ranch Subdivision was prepared in May 2018 by TJKM found 12 intersections had the potential to be impacted and needed to be analyzed for level of service conditions to determine consistency with this Humboldt County General Plan policy. The study found 9 of these intersections would be functioning below LOS C under both Future (2040) with no project and Future (2040) plus Project conditions. The traffic study identified improvements to all intersections operating at LOS D or worse in the future condition with Project, with the exception of the Harris and Harrison intersection where a traffic signal is already in place. The study also calculated the project's contribution to LOS delay at these intersections as a percentage of the Future plus Project conditions.

The project is not responsible for mitigating existing LOS delay conditions but is responsible for its proportionate share of the traffic contributed to the intersection. (Dolan v. City of Tigard, 512 U.S. 374). The project's cumulative fair share is 197%, which is roughly two intersections. County Public Works identified two intersections that are priority needs for signalization based on circulation patterns, and which may serve an equivalent share of the total of improvement costs for intersections that fall below LOS C. Signalization of these intersections is a condition of approval of the subdivision map. The various intersection improvements would help minimize traffic congestion in the vicinity of the proposed project. Additional traffic calming facilities such as roundabouts, chicanes and traffic circles would necessitate a reduction in off-street parking for existing residents and a reduction in available space for the proposed residential development and is not feasible for this project. SB 743 became effective in July of 2020 and LOS may no longer be used for determining the significance of environmental impacts. LOS may be evaluated as part of a General Plan policy which is what is presented here.

## **Tribal Consultation**

The following Tribes were contacted regarding the project:

- Wiyot Tribe
- Bear River Band of the Rohnerville Rancheria
- Blue Lake Rancheria

These Tribes were contacted as part of the referral process as soon as the project was submitted to the County. Additionally, formal consultation pursuant to SB 18 and AB 52 occurred. Representatives of all three tribes responded that no further consultation was desired

## **Environmental Review**

An Environmental impact Report (EIR) has been prepared and circulated for public review pursuant to sections 15080 through 15097 of the CEQA Guidelines.

The Draft EIR was released for public and agency review on May 15, 2020, with a 45-day review period ending on June 29, 2020. The Draft EIR contains a description of the proposed project, description of the environmental setting, identification of proposed project impacts, and mitigation measures for impacts found to be significant, as well as an analysis of proposed project alternatives. The Draft EIR was provided to interested public agencies and the public and was made available for review on the County's website.

There are 14 impact areas identified as potentially significant but has been reduced to an impact level of Less than Significant through the implementation of Mitigation Measures. One of the impact areas that had mitigation was traffic. The mitigation requirements to install signal at 7 intersections. This was clearly beyond the proportional traffic contribution of the project and so this chapter needed to be rewritten. Subsequent to release of the DEIR, the law for determining traffic effects changed, and so the traffic analysis needed to be completely rewritten.

On July 1, 2020, the provisions of CEQA Guidelines Section 15064.3 "Determining the Significance of Transportation Impacts" became effective. Before July 1, 2020, traffic congestion levels (known as level of service, or LOS) were the main measurement to determine the negative environmental impacts of development and transportation projects. Under SB 743, these effects are now measured according to the number of miles the project would require people to drive (known as vehicle-miles traveled, or VMT). Because of this shift in determining the significance of transportation impacts, Humboldt County decided to recirculate two environmental impact analysis sections that have been impacted by this shift from LOS to VMT: the Land Use and Planning section and the Transportation section of the Draft EIR were recirculated to the public for comment between October 18, 2021, and December 1, 2021 in the Partial Recirculation Draft EIR.

The Draft EIR and Partial Recirculation Draft EIR identified potential significant impacts that can be mitigated to less than significant levels on aesthetics, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions and climate change, hydrology/ water quality, noise, public services, recreation, utilities and service systems, transportation and traffic, and wildfire.

The Draft EIR and Partial Recirculation Draft EIR identified significant impacts on greenhouse gas emissions and climate change, and wildfire, that cannot be mitigated to less than significant levels.

## **Public and Agency Comments on DEIR**

Comments on both the original and partially recirculated Draft EIR were received from various agencies and individuals including from Cal-Fire, Cal-Trans, the Coalition for Responsible Transportation, Environmental protection Center, Humboldt Baykeeper, Humboldt trails Council, Humboldt County Association of Governments, California Water Quality Control Board and the Humboldt Local Agency Formation Commission.

Comments have generally been related to traffic, wildfires and safety, natural resources, noise, and affordability. Numerous comments covered similar issues, particularly with regards to greenhouse gases, and transportation. All these comments are identified and addressed in the FEIR included as Attachment 4 to this staff report.

#### Alternatives

The EIR identified project alternatives for review and consideration. These include a No Project alternative, a Project Redesign alternative, and a Reduced Density Alternative, as well as three alternative locations for the proposed project.

The Environmentally Superior Alternative was identified to be the Reduced Density alternative. This alternative would result in a smaller overall development footprint and would accommodate 150 multi-family units and 130 single family homes, which is a reduction of 36 units. This alternative would have incrementally less environmental impacts to aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, and traffic and transportation. Although there may be incremental reduction to many impacts only significant impacts to Wildfire would be fully avoided. All other impacts would still require the proposed mitigation. This alternative would fail to meet the project objective to facilitate the creation of affordable housing across all income levels and to assist the county in meeting its regional housing needs. Accordingly, staff is not recommending approval of the Environmentally Superior Alternative.

#### Statement of Overriding Consideration

Pursuant to Section 15093 of the CEQA Guidelines, the County may only approve a project with unavoidable significant impacts if specific economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the project outweigh its unavoidable, adverse environmental impacts. The project provides significant economic and public benefits as identified below.

1. Housing Needs

The Regional Housing Needs Allocation (RHNA) indicates that the County is expected to accommodate 3,390 new housing units within the four income levels between December 31, 2018, and August 31, 2027. RHNA shows that forty percent of the total housing units will need to be within the unincorporated areas of the County. This project would develop 320 units over a 15–20-year period and over the 8.7 year period the first six phases of this project would generate approximately 16 percent of the County's RHNA allocation. Approval of the project is important for meeting the County's housing needs and for complying with state housing law.

2. Economic Benefits

Potential economic impacts that could be generated from the project would extend into numerous areas of the economy, including significant employment gains in the immediate term from construction, increased income generated and spent in the local economy and increased tax revenue directed towards local and state entities. Approval of the project would provide important economic growth.

3. Recreational Benefits

The project would function as an extension of the Cutten community to the east and would provide substantial additional open space to the County's residents.

Approximately 21.3 acres of forest lands would be preserved and dedicated to the County and access points will be provided within the development to connect to the existing McKay Community Forest. Approval of this project will contribute to a logical and orderly expansion of public recreational purposes to serve the surrounding community.

### Development Agreement

The applicant is seeking approval of a Development Agreement to allow for the extension of the Subdivision to a maximum of 20 years over 9 individual phases. Given the amount of infrastructure investment and the need to develop the project consistent with market conditions the phasing and extension is appropriate. Given that the subdivision project will provide a significant benefit to the county's housing inventory over the lifetime of the project the Development Agreement is in the public interest.

### **Staff Recommendation**

Because the project involves a General Plan Amendment and Zone Reclassification, the Planning Commission must make a recommendation to the Board of Supervisors who will make the final decision on the project. Staff recommends that the Planning Commission recommend that the Board of Supervisors certify the EIR, adopt a Statement of Overriding Considerations, Adopt the MMRP, make the findings for approval and approve the project and development agreement as recommended by staff and subject the recommended conditions of approval.

### **ALTERNATIVES:**

Several alternatives to the recommended action have been identified:

1. The Planning Commission could elect not to recommend certification of the EIR and approval of the project. This is not recommended as this is a well designed project with multiple types of housing which will meet critical housing needs in the County.
2. The Planning Commission could elect to recommend approval of one of the identified project alternatives. This is not recommended as this is a well designed project with multiple types of housing which will meet critical housing needs in the County. A reduction in density will not achieve the objectives of the County.
3. The Planning Commission could elect to recommend that the applicant make amendments to the project not currently considered in the EIR. If this alternative is chosen staff recommends a continuance of this project to a date uncertain to enable the County to complete any additional environmental review necessary.