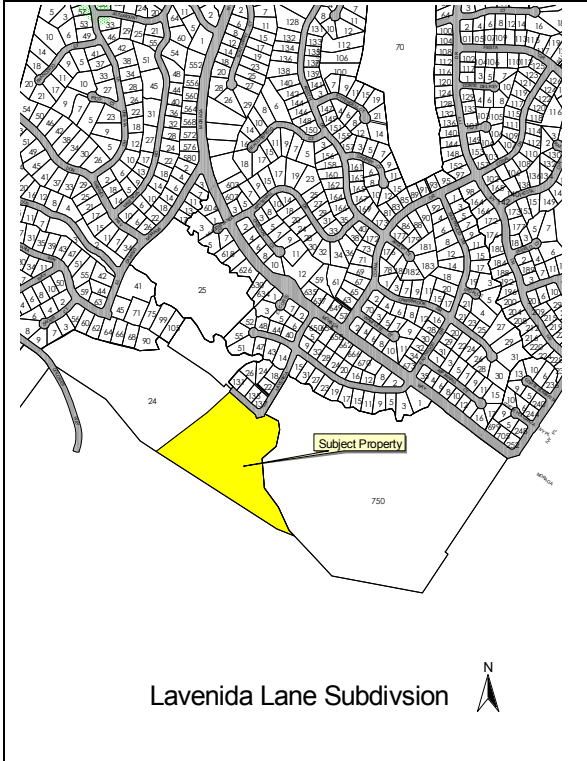




STAFF REPORT



AGENDA ITEM: 6

TO: Chair Adamson and Members of the Planning Commission

FROM: Planning Director

HEARING DATE: January 24, 2012

SUBJECT: Major Subdivision 10-001
Tree Removal Permit 10-008

PROJECT SITE: The vacant site west of the intersection of Lavenida Drive and Donna Maria Way (APN 271-120-011)

OWNER / APPLICANT: Moraga General Properties, LLC c/o Joan Bruzzone

AGENT: P/A Design Resources, Inc.

STAFF REFERENCE: Scott Pacheco, AICP
Associate Planner

Driving Directions: Take Moraga Way south towards the Town of Moraga and turn right at Lavenida Drive. Lavenida Drive ends at the “L” intersection with Donna Maria Way. The project site is directly across the intersection on the uphill side of Donna Maria Way.

REQUESTED ACTION:

Request for Vesting Tentative Map approval of a major subdivision (MJS 09-00) and a tree removal permit (TRP 10-008) to subdivide a vacant 12.2-acre site into 8 lots ranging in size from 54,518 square feet to 81,128 square feet. Most of the project site will be graded to repair existing unstable soil conditions on the site and 79 trees are proposed to be removed as a part of the project; 60 Walnut, 16 Oak, 2 Bay and 1 Hawthorne.

ZONING: RL-40 **LOT SIZE:** 12.2 Total Gross Acres

ACTION DEADLINE: 50 Days after the Environmental Review Document is acted upon. **AVERAGE SLOPE:** 22.02%

CEQA STATUS: Environmental Review has been prepared for the project in compliance with Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183. The Environmental Review Document has been distributed to the Planning Commission and made available for public review at the Orinda Library, the Orinda Planning Department, the Orinda City Clerk's Office and on the City's website at www.cityoforinda.org.

COMMISSION MEMBERS RESIDING WITHIN 500 FEET OF SUBJECT PROPERTY:
None.

ANALYSIS:

Project Location and Existing Land Uses

The Project site is located about four miles southeast of downtown Orinda on a hillside elevated above an existing single-family residential development to the northeast along Donna Maria Way. Miramonte High School property is adjacent to the east side of the Project site, the 20.33-acre J&J Ranch site (on which the Joaquin Moraga Adobe is located) (24 Adobe) is to the northwest, and the green for hole 14 and the tee box and fairway of hole 15 of the Moraga Country Club golf course are along the southwest site boundary. The southwest site boundary also defines the municipal boundary line between the City of Orinda and the Town of Moraga. Del Rey Elementary School is located on El Camino Moraga, north of the property within walking distance of the site.

A 13 lot subdivision is proposed to be developed on the adjacent Joaquin Moraga Adobe site. The adobe structure itself is over 350 feet from the subject property. Dense vegetation exists along the northwest property line and at the south corner of the Project site, which is located in a Very High Fire Hazard Severity Zone.

Two ephemeral drainages traverse the site and flow generally in an easterly direction into Moraga Creek, which is 350 feet northeast of the Project site. One of the drainages runs along the northwest side of the site while the other crosses the southeast corner of the site.

Proposed Project

The applicant proposes to subdivide the 12.2-acre site into 8 single-family home sites. The Project would result in construction of a cul-de-sac roadway, a detention basin, and a pedestrian trail along the roadway; installation of underground utilities within the new roadway (Lavenida Lane), including water, sewer, storm drains, power and telecommunications systems; vehicular and pedestrian crossing over the proposed detention basin; and installation of landscaping along the private roadway, around the detention basins and on the down-slope areas from the future home sites on each of the lots.

Home sites within the proposed subdivision would range in size from 54,518 square feet to 81,128 square feet. The number of developable lots permitted is determined by applying the zoning of the site (RL-40), the size of the site (12.2 acres) and the average slope of the site (22.02 percent) to the slope density equation found in Chapter 17.7-

Residential Minimum Lot Size and Hillside Development of the Orinda Municipal Code (“OMC”). Although the equation yields a maximum of nine single-family home sites, the applicant is proposing eight home sites.

Home designs are not a part of the subdivision application. When proposed, homes in the subdivision will be required to comply with all development standards and regulations in Title 17 of the OMC, including design review. All construction would comply with all local and state building ordinances and the requirements of the fire district.

As proposed, the Project includes dedication of an open space/conservation easement that complies with required creek setbacks as mandated by OMC section 16.64.220, thereby establishing development areas away from sensitive wetlands and riparian areas. The easement also creates a buffer between the Lavenida site and the J&J Ranch site in order to preserve privacy and views for the Joaquin Moraga Adobe.

Much of the site will be graded to repair two existing landslides on the property. A third landslide located away from the proposed development will not be repaired. The landslides were identified in the Preliminary Geologic and Geotechnical Reconnaissance Report (“Geology Report”) prepared for the Project (Exhibit A, Appendix A - pages 100-208). Following completion of the slide repair and subdivision improvements, the topography of the site will be contoured to resemble the natural hillsides of the area. Site earthwork and construction of the proposed subdivision improvements will result in the loss of 79 of the 196 trees on the site. The 79 trees to be removed are: 60 Black Walnut trees, 16 Oak trees, two Bay trees and one Hawthorne tree (June 2010 Arborist Report by Hort Science (Exhibit A, Appendix I - page 605-630)).

Landscaping

The proposed landscape plan is to re-vegetate the site to resemble natural oak woodland. The landscaping will be planted in two phases. Phase I will be planted with the subdivision improvements (Exhibit B, Plan Sheet L2) and Phase II will be implemented when future homes are constructed on the eight proposed lots (Exhibit B, Plan Sheet L1).

Phase I includes 144 trees and 108 shrubs and other ground cover plants. The trees and shrubs will mostly be planted along the roadway, around the bio-retention basins and on the lower portions of the new home sites away from the logical future construction areas. Two hundred and two (202) of the 252 trees and shrubs to be planted as a part of the subdivision improvements are native and therefore will be counted toward the total tree replacement requirement of 362 trees. The remaining 160 replacement trees and shrubs will be planted in Phase II when the future homes are built. If additional protected trees are proposed for removal with the subsequent development of home sites, then a tree removal permit would be required at that time. The Landscape Plan also includes the removal of invasive non-native vegetation on the site and a plan to manage vegetation to reduce wildfire hazards consistent with Chapter 17.17-*Landscaping* of the OMC.

Utilities and Storm Water Drainage

The Project site would be served by existing power and water and sewer system mains located in the Donna Maria Way right-of-way with connecting infrastructure installed under the new roadway. A new sanitary sewer line would be connected to the site to serve the proposed residences. The sewer system will comply with the design policies of the Central Contra Costa Sanitary District, including the utilization of gravity service, compliance with street location specifications, compliance with public easement requirements and adherence to hillside and creek policies.

At build-out, the Project will contain approximately 126,028 square feet of impervious surfaces. Much of the site will be graded to stabilize the soils.

A Stormwater Control Plan (SWCP), prepared by P/A Design Resources, Inc. for the site, was reviewed by the City Engineer and includes estimates of stormwater flows and a system to manage runoff from the Project site. The SWCP, which is attached as Exhibit A, Appendix B - pages 211-287, is incorporated by reference and all recommendations in the report are incorporated as elements of the Project. The plan indicates that with the exception of the rear of the future residence of Lot 4, which will require an individual stormwater facility, all pervious and impervious developed area within the Project will utilize the common bio-retention facility. All upstream post-development runoff for the entire site, including roads, driveways, roofs, patios, and landscaping will be collected by the on-site drainage system and conveyed to the common bio-retention facility located at the Project entry. This on-site system is disconnected from the off-site storm drain system by means of the bio-retention facility. The rate and quality of runoff from pervious surfaces will remain unchanged from existing conditions and will continue to be conveyed to Moraga Creek. In conformance with the requirements of the City's National Pollutant Discharge Elimination System ("NPDES") permit, a private storm drain system for each of the eight individual lots will be designed in the future and Lavenida Lane has been designed to convey Project-related runoff to a detention basin that will be located downhill on Lots 1, 2 and 3. After treatment in the detention basin, runoff would be combined with the overland runoff and discharged into Moraga Creek at a rate that does not exceed the pre-Project discharge rate.

The Regional Water Quality Control Board (RWQCB) also requires a Storm Water Pollution Prevention Plan (SWPPP) for this Project. The goal of the SWPPP is to identify potential pollutants and develop activities or structural improvements (Best Management Practices- BMPs) to eliminate or reduce discharges of these pollutants to storm water and, thereby improve storm water runoff quality.

Circulation

Access to the subdivision would be from the end of Lavenida Drive at its intersection with Donna Maria Way. There is an existing curb cut and gate near the approximate location of the proposed roadway. Near the site entrance on the Project site, the proposed roadway will bridge over the storm water detention basin, ascend the hillside at a 20 percent slope then flatten out near the cul-de-sac to access the proposed home

sites. The proposed roadway will be approximately 600 feet long and end in a cul-de-sac. Nine on-street parking spaces are proposed, two on the north side of the new roadway near the end of the cul-de-sac and seven on the south side of the new roadway.

Driveway access to Lot 3 would likely be from the portion of the proposed roadway just beyond (uphill of) the detention basin where the roadway begins its ascent. A hammerhead fire turnaround is proposed off the southeast side of the new roadway just past the steepest portion of the road and Lots 4, 5, and 6 will take their access from this fire turnaround. Lots 1 and 2 will take their access directly from the downslope side of the roadway, while Lots 7 and 8 will share a 220' +/- access driveway off the end of the new cul-de-sac.

A pedestrian path is proposed on the northeast side of the new roadway, connecting to Lavenida Drive and to the existing paths on the school district property. The Project also includes realignment of an existing trail used by Miramonte High School from the Project site to the adjacent school site east of the property. The developer has consulted with the school district and the school district has provided a letter of support for the Project.

Fire apparatus access has been designed to meet all fire district criteria.

A traffic study prepared for the Project includes an evaluation of proposed impacts related to traffic from the Project site. The traffic study, which is attached as Exhibit A, Appendix C - pages 291-378, is incorporated by reference and all recommendations in the report are incorporated as elements of the Project.

Construction Activities

All construction and grading activities will employ best engineering practices to avoid erosion, slides, or flooding, and to minimize the Project's effect on the environment, pursuant to the regulations in the California Building Code and Orinda Municipal Code.

The Geology Report includes an evaluation of proposed impacts related to unstable soils on the site. The Geology Report and all recommendations in the report are incorporated as elements of the Project. The Project applicant will remove two landslides as identified in the Geology Report and will rebuild these areas as a well-compacted engineered fill with appropriate subsurface drainage. Grading will be performed as described in the geotechnical reports and as approved by the City's Engineering and Public Works Department and the County Building Inspection Division.

Environmental Evaluation

Standards of Environmental Review:

The City reviewed the Project pursuant to the streamlined environmental review provisions mandated by the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21083.3 and its parallel CEQA Guidelines provision, Section 15183.

Public Resources Code Section 21083.3 and CEQA Guidelines section 15183 provide that a lead agency shall streamline environmental review for projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an Environmental Impact Report (“EIR”) was certified, except as might be necessary to examine whether there are project-specific effects that are peculiar to the project or its site. Public Resources Code Section 21083.3 and CEQA Guidelines §15183(a). The Guidelines specify that where the project’s density is consistent with the general plan, the public agency shall limit its examination of the project’s environmental effects to those effects that the agency determines (1) are peculiar to the project or parcel on which the project would be located, (2) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (3) are potentially significant off-site and cumulative impacts that were not discussed in the underlying EIR, and (4) were identified in the prior certified EIR but substantial new information, not known at the time the EIR was certified, evidences that the effect is more severe. CEQA Guidelines §15183(b).

CEQA further provides that the environmental effects of a project shall not be considered peculiar to the project or its site if the agency has adopted uniformly applied development policies or standards with a finding that these policies or standards will substantially mitigate that environmental effect when applied to future projects. If the agency did not make such a finding at the time it initially adopted the uniformly applied development policies or standards, it may hold a public hearing prior to approving a proposed project in order to consider whether, as applied to that project, such standards or policies substantially mitigate the project’s effects. CEQA Guidelines § 15183 (f). An additional EIR does not need to be prepared for a project that is subject to this streamlining provision if there is no impact that is peculiar to the parcel or to the proposed project. CEQA Guidelines §15183(c).

Environmental Review Outline:

Consistent with the streamlining provisions described above, the Environmental Review document prepared for the Project first examines whether or not the certified EIR for the City’s General Plan analyzed the identified environmental issues of:

- | | | |
|-----------------------------|-------------------------------------|--------------------------------|
| 1. Aesthetics | 2. Agriculture and Forest Resources | 3. Air Quality |
| 4. Biological Resources | 5. Cultural Resources | 6. Geology & Soils |
| 7. Greenhouse Gas Emissions | 8. Hazards and Hazardous Materials | 9. Hydrology and Water Quality |
| 10. Land Use and Planning | 11. Mineral Resources | 12. Noise |
| 13. Population and Housing | 14. Public Services | 15. Recreation |
| 16. Transportation | 17. Utilities | |

For each environmental issue area, the Environmental Review document then (1)

describes the applicable Project setting, (2) describes the applicable Project elements, (3) provides an analysis of the impact analyzed in the General Plan EIR as it pertains to the Project and describes any measures identified in the General Plan EIR that substantially mitigate potential Project impacts, (4) describes uniformly applicable development policies and standards adopted by the City that substantially mitigate potential Project impacts, (5) analyzes any impacts peculiar to the Project or Project site (i.e. impacts that are not mitigated by measures specified in the General Plan EIR and/or City-adopted and uniformly applied development policies or standards) and (6) analyzes significant off-site or cumulative impacts not discussed in the General Plan EIR.

Mitigation:

The Environmental Review shows that the Project's significant effects on the environment are mitigated through (1) feasible mitigation measures set forth in the General Plan EIR that address Project-specific effects and/or (2) uniformly applied development policies and standards adopted by the City. As a part of its action, the Planning Commission is requested to find that the feasible mitigation measures identified in the General Plan EIR will be undertaken. PRC § 21083.3 (c).

Findings of Environmental Review:

Through the Environmental Review (Exhibit A), the City finds that the Project would have a **less than significant impact** on the environment and that the Project's individually limited or cumulatively considered impacts (when connected to effects of past projects and to foreseeable future projects such as J&J Ranch) are **less than significant**.

Interdepartmental and Interagency Comments:

The proposed subdivision was circulated for interdepartmental review and comment to the Orinda Public Works and Engineering Department, the Parks and Recreation Department and the Police Department and was also circulated to the following agencies: Contra Costa County Central Sanitary District, East Bay Municipal Utility District, Pacific Gas and Electric Company, Orinda Union School District, Moraga-Orinda Fire Protection District, the State Office of Planning and Research (OPR) and a number of other agencies. None of the responding agencies indicated that the proposed subdivision would place an undue burden on the services they provide.

SCOPE OF REVIEW:

Review and approval of tentative subdivision maps is within the purview of the Planning Commission and subject to the provisions of Title 17 – Planning and Zoning, Title 16 – Subdivision, the California Environmental Quality Act (CEQA) and the Orinda General Plan. The regulations and restrictions applicable to this application have been summarized in the Development Review Compliance Table below.

A detailed discussion and analysis of the discretionary standards is provided on the following pages.

Development Review Compliance Table

The Planning Commission's decision in this matter is to be based on the findings of fact

	Criteria/Regulation	OMC Requirement	Proposed (Gross/Net)	Compliance
I.	RL-40 Zoning District Minimum Lot Size and maximum number of lots	54,450 sq ft min. lot size (includes application of slope density calculation of OMC §17.7.4.) 9 – maximum number of lots	Lot 1 = 67,180/ 64,677 SF Lot 2 = 70,162/ 54,518 SF Lot 3 = 63,738/ 54,975 SF Lot 4 = 81,128/ 81,128 SF Lot 5 = 76,933/ 57,589 SF Lot 6 = 58,604/ 54,604 SF Lot 7 = 70,580/ 54,583 SF Lot 8 = 55,378/ 55,378 SF	Yes
	Minimum Lot Depth	140 feet	Lot 1 = 208 feet Lot 2 = 358 feet Lot 3 = 171 feet Lot 4 = 416 feet Lot 5 = 233 feet Lot 6 = 321 feet Lot 7 = 333 feet Lot 8 = 149 feet	Yes
	Minimum Front Lot Width	140 feet	Lot 1 = 174 feet Lot 2 = 231 feet Lot 3 = 392 feet Lot 4 = 225 feet Lot 5 = 144 feet Lot 6 = 157 feet Lot 7 = 212 feet Lot 8 = 384 feet	Yes
II.	Subdivision Ordinance and Subdivision Map Act	Findings of consistency with the General Plan; Findings concerning the fulfillment of construction requirements; and findings of compliance with all the requirements of the City of Orinda Subdivision Ordinance (OMC Section 16) and the Subdivision Map Act		Subject to Planning Commission discretion and review
III.	Tree Removal Permit Standards - Section 17.21.5(D)	Findings required for the removal of protected trees involving a development plan application		Subject to Planning Commission discretion and review

to support each of the following discretionary standards. Each applicable standard and

guideline is in **bold typeface** followed by staff's analysis of the Project as it relates to each respective standard and guideline.

I. RL-40 Zoning District

Planning staff has reviewed the Project for compliance with the quantitative criteria of Title 17 and finds it to meet the minimum lot area, lot depth and width standards of the code. In addition to the qualitative criteria of the code, there are several qualitative standards that apply. It should be noted that the quantitative criteria are not entitlements and, at the Commission's discretion, standards that are more restrictive may be applied to meet the objectives of Title 17 and the General Plan.

Residential Minimum Lot Size and Hillside Development

An objective of the Minimum Lot Size and Hillside Development chapter is to allow reasonable development on hillside lots in a manner that preserves the semi-rural character of the community. To that end, progressively larger lot sizes and lower densities are required by the OMC as average slope increases.

The applicant has included all topography on the site in calculating the average slope of 22.02 percent. This calculation is used to determine the allowable density of the site. Per Schedule 17.7.4 Allowable Density and Lot Sizes on Sloping Terrain, the minimum lot size for a parcel zoned RL-40 with an average slope of 23 percent or less is 54,450 square feet (0.8 units per acre). Although nine units could be built on the 12.20-acre site, the applicant has determined it is only feasible to build eight units on the site due to the need for an access roadway, site topography, and water course setback requirements.

Section 17.7.6 Multi-lot Development Standards

Section 17.7.6 sets forth standards for multiple lot subdivisions on hillsides, as follows:

- 1. "Ridge views. Off- and on-development-site views of significant ridges shall not be substantially impaired. To determine which ridges are subject to this provision, the criteria set forth in the findings and objectives sections of Chapter 17 (Hillside Development) shall be utilized.**

The undisturbed portions of the site are part of the scenic vista visible from medium- and long-range vantage points to the north, northeast and east of the project site. Short-range vantage points include the intersection of Lavenida Drive and Donna Maria Way, which is directly adjacent to the northeast property line of the site. Medium-range vantage points include a location on Coral Drive near the Ardith Drive intersection, which is approximately 2,000 ft away; the south end of Crestview Court and segments of Crestview Court, which are approximately 4,500 and 5,300 ft away, respectively. Long-range views of the site can be taken from Donald Drive, which is approximately 6,200 ft, or 1.2 miles, away. From short-, medium- and long-range

vantage points, future residences on the proposed lots and portions of the proposed roadways would be visible, although these views would be increasingly screened over time as Project landscaping matures.

The scenic value and qualities of the Project site have previously been compromised due to existing development surrounding the property (e.g., roadways; the nearby golf course; the nearby schools; the existing residential development in the surrounding neighborhoods; and vacant residential building pads behind and uphill of the site in the Town of Moraga). Dense trees dominate the north, northwest and south edges of the Project site and existing and proposed vegetation will provide screening between the site and the adjoining existing and proposed residential neighborhoods.

The undeveloped hillsides above Dolores Way and above the golf course fairway southwest of the Project site have greater scenic qualities due to their prominence and natural forested state and their scenic qualities will not be degraded or impaired by development of the proposed subdivision.

The Project applicant has developed visual simulations depicting the future development of the Project and the surrounding properties from short-, medium-, and long range vantage points, which are attached as Exhibit A, Appendix D - pages 381-387.

As the Project is designed, the scenic qualities of the site are protected in large part through the open space easements over the riparian areas. In addition, the home sites are large enough to accommodate a significant amount of landscape screening to filter views of future development on the site and to allow flexibility with the home locations, as necessary. Through the City of Orinda design review process, the visual impacts of each proposed home will be evaluated.

2. **Hillside streets. Hillside street standards shall reflect a rural rather than urban character. Street alignments, where feasible, should be parallel to contours. Where a street location between a valley and ridge is unavoidable, directional pavements should be separated, with the principle of grading being half cut and half fill. Intermittent widening of streets for parking and turnarounds at appropriate places shall be encouraged.**

The proposed private roadway is designed to reflect a “rural” character with features such as: relatively narrow width at 20’, rolled concrete curb/gutter with integral color to blend in with the asphalt roadway, a small five-foot wide pedestrian trail along the south side of the roadway and a few pockets of street parking.

3. **Street lighting. Street lighting provided as part of a development in hillside areas shall be of low profile design, unobtrusive, and designed to enhance a rural character of the area.**

No street lighting is proposed.

4. **Walkways. When required, walkways shall be provided in accordance with a complete pedestrian circulation plan, and not rigidly appended into every street.**

A pedestrian trail will be located along the south side of the new roadway. This trail will provide access from the new lots to the system of trails on the adjoining Miramonte High School property east of the subject site.

5. **Trails. Bicycle and equestrian trails, if required, shall be integrated into an overall circulation plan for any development.”**

No bicycle or equestrian trails are proposed as a part of this development.

II. Subdivision Ordinance and Subdivision Map Act

1. **The City of Orinda Planning Commission finds that the Environmental Review Document is the appropriate environmental document and adopts the Environmental Review as prepared in Exhibit A.**

Staff has prepared an Environmental Review Document. Staff recommends that the Commission review the document and based on the analysis presented therein; adopt the Environmental Review as provided in Exhibit A.

2. **The proposal complies with the City of Orinda Zoning Ordinance, Subdivision Ordinance, and General Plan. In addition, the proposal complies with the State of California Subdivision Map Act.**
 - a. **The proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general and specific plans required by law.**

Orinda Municipal Code, Title 17- Planning and Zoning:

Quantitative Criteria

As discussed above in the Development Compliance Table, the proposed subdivision complies with the quantitative criteria of Title 17.

Discretionary Criteria

As noted earlier, the scenic qualities of the site are protected in large part through the scenic open space easements over the riparian areas. In addition, the home sites are large enough to accommodate a significant amount of landscape screening to filter views of development on the site

and to allow flexibility with the homes' locations, as necessary. Through the City of Orinda design review process further discretionary review will be required for future developments on the eight proposed lots. This review will require that future developments meet the following criteria:

Siting and Neighborhood Context. The proposed development is designed and located on the site so that it is visually harmonious with, but not necessarily identical to, other structures in the neighborhood. The proposed development is designed to blend into the existing landscape and natural context, protect undeveloped ridgelines and hillsides, maintain the dominance of wooded and open ridges and hillsides, and preserve significant or unique scenic vistas.

Design. The design elements are visually harmonious, in scale with the size of the structure, and balance environmental considerations. If the proposed development is an addition or remodel of an existing structure, the existing construction and proposed construction are visually harmonious. Facades and exterior walls shall be designed to reduce the blocky or massive features of building surfaces and provide articulation.

Privacy, views, light and air. The proposed development does not impair the existing views, block access to light and air or infringe on the privacy of neighbors in a substantial fashion. In considering this factor, decision makers shall balance the importance of minimizing impacts on neighboring properties and the applicant's ability to develop the property. The term "view" shall be defined in Section [17.22.4](#)

Landscaping. Primary landscaping elements complement and are appropriate for the structure, the site, and the neighborhood.

The proposed subdivision complies with the City of Orinda Zoning Ordinance.

Orinda Municipal Code, Title 16 – Subdivisions:

While chapters 16.32, 16.36, 16.40 and 16.48 of the Orinda Municipal Code contain provisions regarding street improvements, street lights, sidewalks, and curbs and gutters that if fully implemented would be inconsistent with General Plan goals of maintaining a semi-rural character, chapter 16.12.020 of the OMC allows modification of subdivision improvements, if required to comply with the General Plan.

The proposed roadway appears to maintain the semi-rural character of Orinda by limiting its width, providing a rolled curb, not providing lighting, and limiting the pedestrian path to five feet wide.

General Plan Consistency:

The General Plan identifies the site as Low Density: Single Family Residential (1 to 2 units per acre). The proposed subdivision meets this density criterion. The following goals and objectives of the General Plan apply to this project:

2.1.1 Land Use: Guiding Policies

- A. Maintain the semi-rural character of Orinda.
- B. Maintain the dominance of wooded and open ridges and hillsides.

2.2.1 Open Space and Parks: Guiding Policies

- C. Retain steep or unstable slopes as open space.
- D. Retain creeks and wildlife access corridors as open space for preservation of natural resources, consistent with flood control.

2.3.1 Circulation: Guiding Policies

- A. Permit new development only when adequate transportation systems and parking are provided.
- B. Design roadways to compliment semi-rural character following natural contours, and maintaining natural topography and vegetation close to road edges, where such can be done without compromising safety.

4.1.1 Conservation Element: Guiding Policies

- C. Preserve valuable wildlife habitats, particularly riparian habitats.
- C. Preserve oak woodlands and other native trees, and encourage planting and reforestation of oaks and other natives in hillside areas.
- D. Protect creeks from siltation, pollution, and debris buildup to minimize the danger of flooding in storms, to retain the aesthetic and habitat values of the creeks in their natural state, and enhance and restore them where possible. Prohibit major channelization.
- E. Achieve aesthetically sensitive grading that conforms to the natural contours, ensures safety and preserves trees and other vegetation to the greatest practical extent.
- F. Protect visually prominent ridgelines and hillsides from development.

Based on the average slope of the Project site, the minimum lot size proposed is 54,518 gross square feet. Discretionary approval will be required for any future improvements on these lots. Because of the size, existing vegetation, proposed open space easements, topography and flexible locations for homes on the new parcels, the subdivision design is consistent with the applicable policies of the General Plan and the proposed lots are designed in a manner that does not preclude their future development in a manner that will be consistent with the applicable

policies of the General Plan.

b. The Planning Commission finds that the tentative map is in fulfillment of construction requirements.

All of the proposed home sites will connect to public utilities, which include East Bay Municipal Utility District, Contra Costa Central Sanitary District, SBC Telephone and Pacific Gas and Electric.

Most of the site will be graded to repair existing slides and to create the roadway. The finished grade will resemble the natural topography of the hillside.

Prior to issuance of permits for any of the infrastructure improvements, the Project applicant will be required to obtain review and approval of all construction documents.

Subdivision Map Act

Section 66474 of the California Government Code (Subdivision Map Act) specifies that the Planning Commission must deny a tentative map if it makes any of the following findings:

(a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

As discussed above, it appears that the proposed subdivision is consistent with the applicable policies of the General Plan.

(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

As discussed above, it appears that the proposed subdivision is consistent with the applicable policies of the General Plan.

(c) That the site is not physically suitable for the type of development.

The Project site is located on a moderately sloped hillside surrounded by compatible uses including residences, a golf course, and school property. There is adequate public access to the site, utilities are available nearby, existing unstable soils can be remediated, sensitive riparian habitat can be avoided, and the size and shape of the site is suitable for the number of lots proposed.

For these reasons, it appears that the site is physically suitable for the

type of development proposed.

(d) That the site is not physically suitable for the proposed density of development.

The applicant has included all topography on the site in calculating the average slope of 22.02 percent. This calculation is used to determine the allowable density of development on the site. Per Schedule 17.7.4 - *Allowable Density and Lot Sizes on Sloping Terrain*, the minimum lot size for a parcel zoned RL-40 with an average slope of 23 percent or less is 54,450 square feet (0.8 units per acre). Although the code allows this site to be divided into nine lots, the applicant has determined that because of the need for an access roadway and because of the topography of the site it is only feasible to divide the 12.20-acre site into eight single family home sites. It appears the site is physically suitable for the proposed density of the development.

(e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

A Biological Assessment, entitled *Biological Resources Assessment and Preliminary Jurisdiction Determination for the 12-acre "Lavenida Lane" Project Site*, (Exhibit A, Appendix F - pages 411-515) was prepared for the Project by AECOM, Inc in June 2010 (the "AECOM Report"). The AECOM Report evaluated the potential for suitable habitat for special status species known to occur in the vicinity and evaluated impacts on biological resources associated with initial site preparation, construction and operation of Project roads and utilities, and construction and occupation of the residences.

According to the AECOM Report, the site is comprised of a variety of biological community types, and is characterized largely by open space with a mix of ruderal and native plant species sprouting from recently disked bare earth. Several black walnut trees from a remnant orchard are present in the center of the site, as well as some coast live oaks and dead trees. An unnamed drainage runs along the northwest side of the site, and another cuts through the southeast corner. These drainages are characterized by a dense riparian canopy and understory. Both drainages connect directly to Moraga Creek, which is located approximately 350 feet northeast of the Project site. The southeast corner of the site, on the south side of the drainage, contains dense scrub habitat dominated by a thick growth of coyote brush. Based on a preliminary wetland delineation prepared by AECOM, the site contains approximately 0.22 acres of wetlands and other jurisdictional waters, and approximately 5.7 acres of riparian corridor. No special status plant species were detected on the site

during the July 28, 2009 to August 19, 2009 reconnaissance surveys; however, 15 special-status plant species have a low potential to occur on the site. According to the AECOM report, 24 special status wildlife species have the potential to occur within the Project area.

Both construction and operation of the Project have been designed to minimize potential adverse impacts to biological resources. The proposed open space/conservation easement complies with City-required creek setbacks and also creates construction buffers. The majority of the Project disturbance and construction activity will occur in the center of the site, away from the riparian areas which have the highest potential to harbor special status wildlife species. Aquatic habitats will be avoided by the Project with the exception of installation of a storm drain outfall within an existing culvert. (AECOM report p. 51.) Installation of the outfall will employ bore and jack techniques to avoid impacts to the waterway and riparian habitat. This will avoid direct effects to sensitive habitat within the Project site. *Id.* Thus, the Project development area would avoid all sensitive natural communities, including wetlands, freshwater marsh, and riparian woodlands. Most of the habitat affected is ruderal or remnant orchard (i.e., 5.86 acres ruderal vegetation and 2.79 acres remnant orchard). Approximately 1.65 acres of native habitat will be disturbed (i.e. 1.38 acres Coast live oak woodlands, 0.04 acres Central Coast Riparian Scrub, and 0.23 acres Coyote Brush Scrub)

(f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.

Based on the project design and the conclusions of the technical reports completed for the proposed subdivision, it appears that the proposed improvements will not cause serious public health problems.

The project site is in a High Hazard area for wildfires. The Orinda-Moraga Fire District has reviewed the Project and the applicant has incorporated all recommendations proposed by the District as elements of Project design. The Project complies with the City's fire safety ordinance, the California Fire Code, fire safety provisions of the City's building and subdivision ordinances and the California Building Code.

(g) That the design of the subdivision or the type of improvements will 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 proposed subdivision will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

No local agency shall approve a tentative map, or a parcel map for which a tentative map was not required, unless the legislative body finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan required by Article 5 (commencing with Section 65300) of Chapter 3 of Division 1, or any specific plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3 of Division 1.

As discussed above it appears that the proposed subdivision is consistent with the applicable policies of the General Plan.

Finally, the Subdivision Map Act (Government Code Section 66473.1) requires subdivisions provide for energy conservation, as follows:

The design of a subdivision for which a tentative map is required pursuant to Section 66426 shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

Examples of passive or natural heating opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure.

Examples of passive or natural cooling opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure to take advantage of shade or prevailing breezes.

In providing for future passive or natural heating or cooling opportunities in the design of a subdivision, consideration shall be given to local climate, to contour, to configuration of the parcel to be divided, and to other design and improvement requirements, and such provision shall not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or structure under applicable planning and zoning in force at the time the tentative map is filed.

The location and size of the proposed parcels allows flexibility in the site design to take advantage of passive heating and cooling opportunities.

III. Tree Removal Standards

Seventy-nine of the 196 trees on the site are proposed to be removed because of the grading required for the landslide repairs and the construction of proposed subdivision improvements. The 79 trees to be removed are: 60 Black Walnut trees, 16 Oak trees, two Bay trees and one Hawthorne tree. A list of the trees to be removed with size and condition of each tree can be found on pages 6 and 7 of the June 2010 Hort Science Arborist Report (Exhibit A, Appendix I - pages 605-630). The Orinda Municipal Code requires applicants to replace protected trees approved for removal in accordance with the following standards:

1. The applicant shall plant one native tree with a diameter no less than 0.75 inches for each six inches or fraction of the aggregate diameter of trees removed. One-third of the replacement tree requirement may be fulfilled by planting native shrubs that mature at a height no less than five feet. The applicant may substitute a larger number of smaller trees or a smaller number of larger trees if approved by the Director based on a finding that tree replacement will be more beneficial to the health and vigor of all trees on the property.
2. If the development site cannot accommodate the replacement trees, with the written approval of the Director and the property owner, the applicant may plant the replacement trees on public or private property located in Orinda. Alternatively, the applicant may make an in lieu payment of \$125.00 for each replacement tree otherwise required.

To meet the tree replacement requirements, 362 trees are required to be planted. The applicant proposes to meet 100 percent of the replacement requirement on the Project site in two phases. In the first phase, 144 trees, 108 shrubs and ground cover plants will be planted as a part of the subdivision improvements. Planting in Phase I will mostly be along the roadway, around the bio-retention basins and on the lower portions of the new sites away from the logical future construction areas. Two hundred and two (202) of the 252 trees and shrubs to be planted as a part of the subdivision improvements are native and therefore can be counted toward the total tree replacement requirement of 362 trees. The second phase of planting the remaining 160 required replacement trees and shrubs will occur at the time of the development of homes on each lot in the subdivision.

OMC Section 17.21.5(D):

1. **The necessity for alteration, destruction, removal or relocation in order to construct a required improvement on public property, or within a public right-of-way: or to construct an improvement that allows economic enjoyment of private property.**

The trees to be removed are impacted by the grading required for the proposed landslide repairs and the construction of the subdivision improvements.

2. The extent to which a proposed improvement may be modified to preserve and protect a protected tree.

The protected trees proposed for removal are within landslide repair areas.

3. The extent to which a change in the existing grade within the protected perimeter may be modified to maintain and preserve a protected or heritage tree.

The trees proposed for removal are within areas that will be graded to repair landslides. The landslide repairs cannot be modified to preserve the protected trees.

Suggested Conditions of Approval

The applicant shall plant 202 of the required replacement trees/shrubs as a part of the subdivision improvements (Exhibit B sheet L2). A landscape performance agreement and a refundable cash bond in the amount of \$20,000 (\$125 X 160 trees) shall be deposited with the City for the remaining 160 native replacement trees required as a part of this Project. The landscape performance agreement shall stipulate that the equivalent of 20 native trees with a diameter of 0.75" at 4.5 feet above grade be planted on each lot prior to final inspection of homes constructed on each lot. A refund of 1/8th of the deposit shall be paid by the City to the applicant upon inspection by the City of complete installation of the required landscaping on each lot. The agreement shall further stipulate that if the required landscaping is not installed within 180 days of final inspection of each home, the applicant shall forfeit the deposit to the City for use by the City for public landscape projects per OMC chapter 17.21.

RECOMMENDATION:

Staff recommends the Commission open the public hearing, take testimony, close the public hearing, and evaluate the proposal for conformance with the applicable regulations. If the Commission takes action on the Project (approve/deny), then direct staff to prepare a Statement of Official Action and Notice of Determination reflecting the Commission's action. Prior to taking action on the subdivision and tree removal permit applications, action is required on the Environmental Review document. Staff recommends that the Commission find that the feasible mitigation measures identified in the General Plan EIR will be undertaken [as required by PRC § 21083.3 (c)] and that the Environmental Review document sets forth the City's compliance with CEQA.

Recommended Conditions of Approval:

1. The applicant shall plant 202 of the required replacement trees/shrubs as a part of the subdivision improvements (Exhibit B sheet L2). A landscape performance agreement and a refundable cash bond in the amount of \$20,000 (\$125 X 160 trees) shall be deposited with the City for the remaining 160 native replacement

trees required as a part of this Project. The landscape performance agreement shall stipulate that the equivalent of 20 native trees with a diameter of 0.75" at 4.5 feet above grade be planted on each lot prior to final inspection of homes constructed on each lot. A refund of 1/8th of the deposit shall be paid by the City to the applicant upon inspection by the City of complete installation of the required landscaping on each lot. The agreement shall further stipulate that if the required landscaping is not installed within 180 days of final inspection of each home, the applicant shall forfeit the deposit to the City for use by the City for public landscape projects per OMC chapter 17.21.

2. Prior to final map approval, the applicant shall produce a comprehensive list of site specific project elements, as referenced in the Environmental Review Document (Exhibit A). The purpose of the list is to assist with tracking the project components.

ATTACHMENTS:

- Exhibit A Environmental Review Document with Appendices
- Exhibit B ½ Size Plans (Commission Only)

This Staff Report along with all of its attachments is available on the City of Orinda website at www.cityoforinda.org.