

4.7 LAND USE AND PUBLIC POLICY

This section provides an overview of land use policies that are pertinent to the proposed project, as well as an analysis of expected impacts and mitigation measures. Documents reviewed include the City of Oakland General Plan, Municipal Code and Zoning Ordinance.

A. *Existing Setting*

The project site is within the City limits of Oakland. City of Oakland land use designations, policies, ordinances and standards would apply to the project and are relevant to this environmental review.

The General Plan, Zoning Ordinance and Municipal Code contain a number of specific goals, policies and regulations to which the proposed Siena Hill project must conform in order to be consistent with these documents. Relevant General Plan policies and Zoning Ordinance regulations, potential impacts of the proposed project, and mitigation measures are discussed here and in subsequent chapters.

1. **City of Oakland General Plan Land Use and Transportation Element Designation and Policies**

Land use policies for the City are contained in the Land Use and Transportation Element of the General Plan, which was adopted in March 1998. According to the General Plan, the site's General Plan land use designation is Detached Unit Residential. This designation is intended to create, maintain, and enhance residential areas characterized by detached, single-unit structures.

The General Plan land use designations for parcels adjacent to the project site are varied. Parcels to the north of the project site are designated Housing & Business Mix and Resource Conservation Area. Parcels east of the project are designated as Mixed Housing Type Residential. Parcels to the south, within the area of the former Oak Knoll Naval Hospital, are designated as Community Commercial, Park and Urban Open Space, Institutional, and

Resource Conservation Area. Parcels to the west of Keller Avenue are also designated as Detached Unit Residential.

The following General Plan policies support the proposed project:

Objective N3 Encourage the construction, conservation, and enhancement of housing resources in order to meet the current and future needs of the Oakland community.

Policy N3.1 Facilitating the construction of housing units should be considered the highest priority for the City of Oakland.

Policy N3.2 In order to facilitate the construction of needed housing units, infill development that is consistent with the General Plan should take place throughout the City of Oakland.

Policy N3.8 High-quality design standards should be required of all new residential construction.

Policy N3.10 Off-street parking for residential buildings should be adequate in amount and conveniently located and laid out, but its visual prominence should be minimized.

Policy N6.2 Housing developments that increase home ownership opportunities for households of all incomes are desirable.

Policy N7.1 New residential development in Detached Unit and Mixed Housing Type areas should be compatible with the density, scale, design, and existing or desired character of surrounding development.

Policy N7.4 Local streets should be designed to create an intimate neighborhood environment and not support high speed nor large volumes of traffic. Providing on-site parking for cars and bicycles, planting and maintaining street trees, and landscaping, minimizing the width of driveway curb cuts, maintaining

streets, bike routes, and sidewalks, and orienting residential buildings towards the street all contribute to the desired environment.

Policy N7.8 Private development should maintain local Covenants, Conditions and Restrictions (CC&Rs) that are compatible with City development standards such as lot size, set backs, and height.

2. City of Oakland General Plan Housing Element

The housing element is a required element of the General Plan. State law requires the following specific content to be included in the housing element:

- ◆ An assessment of existing and projected housing needs.
- ◆ Goals, policies and quantified objectives to meeting needs for all income levels.
- ◆ A five-year action program that is being or will be undertaken to implement the policies and achieve the goals and actions of the Housing Element.

The following goals and policies of the City's 2004 Housing Element are relevant to the proposed project:

Policy 1.3 APPROPRIATE LOCATIONS AND DENSITIES FOR HOUSING: Consistent with the General Plan Land Use and Transportation Element adopted in 1998, review and revise its residential development regulations with the intent of encouraging and sustaining a diverse mix of housing types and densities throughout the City for all income levels.

Policy 1.7 REGIONAL HOUSING NEEDS: The City of Oakland will strive to meet its fair share of housing needed in the region.

Policy 3.1 EXPEDITE AND SIMPLIFY PERMIT PROCESSES: Continue to implement permit processes that facilitate the provision of housing and annually review and revise permit approval processes.

Policy 3.2 FLEXIBLE ZONING STANDARDS: Allow flexibility in the application of zoning, building, and other regulations.

Action 3.2.2 Planned Unit Development Zoning: Maintain the provisions in the Planning Code for planned unit developments on sites where the strict application of zoning standards could make development less feasible. Consider reducing the minimum lot area requirement for residential planned unit developments (PUD).

Policy 7.3 INFILL DEVELOPMENT: Continue to direct development toward existing communities and encourage infill development at densities consistent with the surrounding communities.

Policy 7.4 COMPACT BUILDING DESIGN: Work with developers to construct new housing that reduces the footprint of new construction, preserves green spaces, and supports the use of public transit.

3. City of Oakland Planning Code

The City's Planning Code includes the Zoning Ordinance, among other regulations. The project site is in the City of Oakland and therefore must comply with the City's Zoning Ordinance and its regulations. The following regulations set forth in the Zoning Ordinance apply to the Siena Hill project.

The project site is zoned R-50, Medium Density Residential. The Zoning Ordinance for the City of Oakland permits miscellaneous uses including residential care, essential service, limited childcare and telecommunications uses in addition to residential units, at a density of one unit per lot for lots less than 4,000 square feet and two units for lots greater than 4,000 square feet (City of Oakland Planning Code, Section 17.24.050). In R-50 zones, the City of Oakland also conditionally permits residential densities of one dwelling unit per 1,500 square feet for lots with total areas of greater than 10,000 square feet (City of Oakland Planning Code, Section 17.24.110).

The City is currently undertaking a comprehensive revision of its planning and zoning regulations to make them consistent with the General Plan adopted in March 1998. Because the General Plan was adopted more recently than the zoning regulations, the General Plan and zoning regulations may

conflict. When a conflict occurs between zoning regulations and the General Plan, the General Plan supercedes the zoning regulations. To address potential conflicts between the General Plan and zoning regulations, the City adopted “Guidelines for Determining Project Conformity with General Plan and Zoning Regulations” in May 1998 (as amended). Based on these guidelines and given the surrounding residential character and constraints of the site, City staff have applied the R-30, One-Family Residential zoning classification as the “best-fit” zone for the project site. According to the R-30 zoning regulations, one unit is permitted per lot and the minimum lot area is 5,000 square feet.

Surrounding zoning includes R-50 for areas along Rilea Way, Greenridge Drive and west and south of Keller Avenue. Parcels along Mountain Boulevard, Maynard Avenue and Sanford Street north of Keller Avenue are also zoned R-50. The residential area farther east along Keller Avenue and Canyon Oaks Drive is zoned R-40, Garden Apartment Residential. Parcels along Sanford Street south of Keller Avenue and along Dickson Court, Kentwood Court, Seacor Court and Fontaine Court are zoned R-30, One-Family Residential. The two parcels on the corners of Sanford Street and Mountain Boulevard are zoned C-10, Local Retail Commercial.

a. Variances

Chapter 17.102.400, Section A, establishes limitations on paving in yards that front on the street. Specifically, most lots can have a maximum of 50 percent paved surface, corner lots are allowed 30 percent maximum paved surface, and through lots may have only 25 percent maximum paved surface.

Chapter 17.102.400, Section E, establishes regulations for retaining walls. It states that, with some exceptions, retaining walls may not be more than 6 feet in exposed height, must be separated by a minimum of 4 feet, and that any portions of a retaining wall visible from the street must have architecturally treated surfaces.

b. Planned Unit Developments

The applicant has requested a planned unit development permit in compliance with the regulations in Oakland Municipal Code Chapter 17. A “planned unit development” (PUD) is a large, integrated development adhering to a comprehensive plan, meaning the units of the development will be constructed in a similar overall style, rather than being constructed piecemeal as individual units. The PUD regulations are intended to encourage the appropriate development of tracts of land sufficiently large to allow comprehensive planning, and to provide flexibility in the application of certain regulations to allow the most effective and efficient use of the site. In addition, PUDs encourage a harmonious variety of uses, allow units to share services and facilities, and ensure that new development is created in a way that is attractive, healthful, efficient, stable and compatible with surrounding areas.

B. Standards of Significance

The proposed project would have a significant impact if it would:

- ◆ Physically divide an established community;
- ◆ Result in a fundamental conflict between adjacent or nearby land uses;
- ◆ Fundamentally conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect and actually result in a physical change in the environment; or
- ◆ Fundamentally conflict with any applicable habitat conservation plan or natural community conservation plan.

C. Impacts and Mitigation Measures

The proposed project would be integrated in the existing established residential area surrounding the project site, and would not divide an established community. The project would consist of the same residential uses that already dominate the area, and would not create conflicts with these uses or with the institutional or commercial uses in the area. The City of Oakland does not have any habitat conservation plans or natural community conservation plans that apply to the project area, so no conflict would occur. Therefore, this impact discussion focuses on conflicts with the General Plan and Zoning Ordinance policies applicable to the site.

1. General Plan Land Use Designations, Policies and Objectives

Impact LU-1: The conflict between the proposed attached buildings and the General Plan land use designation of Detached Unit Residential has been identified as potential inconsistency with current planning policies. (Less than Significant)

The site's General Plan land use designation is Detached Unit Residential. This designation is intended to create, maintain, and enhance residential areas characterized by detached, single-unit structures. Although the proposed project consists of attached single-family homes rather than detached single-family homes, the size, scale and design of the units is compatible with both the single-family and multi-family homes surrounding the site. The proposed project consists of 32 single-family homes, to be constructed on 32 parcels. Each unit will be a single-family home on an individual lot with a zero lot line on one side.

By utilizing a zero-lot-line site plan, the project is able to cluster development, make the most efficient possible use of the available land on the site and comply with all applicable density requirements. The maximum allowable density in the Detached Unit Residential designation is 11 units per gross acre, and the density of the proposed project would be 8.2 units per acre, below the

maximum allowed. Put another way, under the Detached Unit Residential designation, the 3.9-acre lot could support a maximum number of 52 units. The project is well under this number. Moreover, the project does not exceed the density of the surrounding residential areas. Therefore, it is compatible in size and scale with the surrounding neighborhood. The proposed project also complies with the General Plan and Housing Element policies listed above, particularly those related to building infill housing, creating homeownership opportunities and encouraging compact development.

In summary, while the intent of the Detached Unit Residential classification is to “create, maintain, and enhance residential areas characterized by detached, single unit structures,” this does not preclude housing of other types. Moreover, the proposed project has front, rear, and one side yard setbacks, building footprints, and amount of open space that are similar to buildings in this classification. Only one side of the unit is attached and this is to allow for the clustering of units to reduce grading impacts. The project is requesting a PUD which allows for flexibility in the site plan and for clustering of units to achieve an integrated and comprehensive development. In addition, the proposed single-family residential project is consistent with the character of the Detached Unit Residential which states that “future development within this classification should remain residential in character with appropriate allowances for schools and other small civic institutions.” Furthermore, the project is consistent with the density permitted under this classification which allows 11 units per acre. The overall project would be 8.2 units per acre, well under the maximum density.

Therefore, the conflict between the proposed attached buildings and the General Plan land use designation of Detached Unit Residential would be a less than significant policy impact. The conflict would not be a physical impact in and of itself, but would be a policy determination to be considered by the Planning Commission when they review the merits of the proposed project and its potential environmental impacts. The potential physical impacts associated with this issue are fully addressed in other sections of this EIR.

Mitigation: None required.

2. City of Oakland Municipal Code

a. Zoning Ordinance

The project site is zoned R-50, Medium Density Residential. However, to address potential conflicts between the General Plan and zoning regulations, City staff have applied a different “Best Fit” zone for the project site under the guidelines described above. Due to the residential densities of the surrounding neighborhoods and the constraints of the site, City staff have determined that the more stringent density requirement of the R-30, One-Family Residential zone is the “Best Fit” zone for the project site.

According to the R-30 zoning regulations, one unit is permitted per lot and the minimum lot area is 5,000 square feet. Therefore, the 3.9-acre site could support a maximum of 33 units. The project is below this maximum, so no impact would occur. Moreover, the density of the project and the consistency with the proposed R-30 “Best Fit” Zone is more representative of the Detached Unit Residential designation than the current R-50 zoning.

b. Other Municipal Code Requirements

As discussed above, the project applicant has requested a planned unit development permit in compliance with Section 17.122 of the Municipal Code. Since the project will be subject to approval of a PUD permit, it may qualify for a waiver or reduction of yard and other dimensional requirements, as well as building height, as set forth in Section 17.122.100, Section G. This means that the City may choose to waive or modify these requirements that would otherwise apply in the R-30 zone in order to promote an integrated site plan such as the one presented in the proposed project.

The required approvals of the PUD permit and variances will ensure that the proposed project complies with applicable regulations in Title 17 of the Municipal Code, and no impact would occur.

