

## DANVILLE CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE Y

On July 16, 2019, the Danville Town Council adopted Ordinance No. 2019-06, approving a development plan-rezoning for the Magee Preserve project ("Ordinance" or "Project"). The Ordinance attached and incorporated by reference Resolution No. 46-2019, which approved the final development plan for the Project. Measure Y is a referendum of the Ordinance and was placed on the ballot as a result of a petition signed by the requisite number of voters.

The Project is located on a 410-acre site on the south side of Diablo Road and Blackhawk Road, extending approximately two miles east from the intersection of Diablo Road/Green Valley Road/McCauley Road. The property is currently used primarily for cattle grazing.

If the Project is approved by the voters, approximately 29 acres of the site could be developed with 69 single-family homes, while the remaining 381 acres would be preserved as permanent open space. The approval also requires the dedication of public easements for hiking and biking trails.

The current zoning for the property is a mixture of A-2 General Agricultural, A-4 Agricultural Preserve and P-1, Planned Unit Development. With the current and underlying zoning, the property could be developed with up to 78 single-family homes by subdividing the bulk of the property into five-acre parcels. The Ordinance would rezone the entire property to a single Planned Unit Development (P-1) District.

The Town's General Plan, which identifies the Magee property as a Special Concern Area, "strongly discourage[s]" development of the property with the five-acre ranchettes allowed under the current and underlying zoning and instead encourages transferring "the allowable number of homes to the least sensitive and obtrusive parts of the site...." The General Plan also provides that such transfer of density "would enable the bulk of the site to be set aside as permanent open space...[and] provide opportunities to establish park and trail connections...."

To allow for development of the property within the existing maximum density and consistent with the General Plan's direction to cluster any development in the least sensitive areas of the property, it is necessary to rezone the entire property to P-1, Planned Unit Development. Through the adoption of a development plan as part of the rezoning, P-1 zoning creates site specific, customized zoning for larger properties, such as this site. This customized zoning establishes all development standards, the uses permitted on the property, the amount and location of open space and trails or other recreational amenities. The use of P-1 zoning on this property was upheld by the Court of Appeal in a lawsuit challenging a similar rezoning of the property in 2013. Specifically, the Court

determined that "the entire Project site, including the areas designated as agricultural open space, may be cluster developed and zoned P-1."

A "yes" vote on Measure Y would result in the approval of the Ordinance and allow the Project to move forward.

A "no" vote on Measure Y would reject the Ordinance, which would mean that the Project could not move forward and the existing zoning for the property would remain in place.

Robert B. Ewing

City Attorney

**The above statement is an impartial analysis of Measure Y. If you desire a copy of Ordinance No. 2019-06, please call the City Clerk at (925) 314-3401 and a copy will be mailed to you at no cost to you.**

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