

FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDDP21-03031; WEST COAST LAND AND DEVELOPMENT, INC – PAMELA WEST (APPLICANT & OWNER).

I. FINDINGS

A. Growth Management Performance Standards

1. Traffic: Policy 4-c under Growth Management Program (GMP) requires a traffic impact analysis be conducted for any project that is estimated to generate 100 or more AM or PM peak-hour trips based upon the trip generation rates as presented in the Institute of Traffic Engineers (ITE). A project generating less than 100 peak-hour trips generally will not create or exacerbate any current traffic problems. The project provided a Transportation Impact Analysis prepared by W-Trans which concluded that the project would generate 10 AM trips and 12 PM trips. Since the proposed development would yield less than 100 peak-hour AM or PM trips, a project-specific traffic impact analysis is not required and the project is assumed to have a less than significant impact on the circulation system in the project vicinity.
2. Water: The GMP requires new development to demonstrate that adequate water quantity can be provided. The subject property currently receives water service from the Contra Costa Water District (CCWD), and the district has stated that water service is available for the project as the entire site is within the water districts service area.
3. Sanitary Sewer: The GMP requires new development to demonstrate that adequate sanitary sewer service is available. The project site currently receives sanitary sewer service from the Mount View Sanitary District (MVSD) and MVSD sewer mains in the area are available for the project. The district provided a letter stating that the applicant shall submit a sewer permit application with the district for review and approval.
4. Fire Protection: The fire protection standards under the GMP require that a fire station be within one and one-half miles of development in urban, suburban, and central business district, or requires that an automatic fire sprinkler system be installed to satisfy this standard. The project site is within the Contra Costa County Fire Protection District jurisdiction and is located approximately six minute drive time from Contra Costa County Fire Station #14 located at 521 Jones Street in Martinez. The project is required to comply with the applicable provisions of the California Fire Code, the California Residential Code, and Contra Costa County Ordinances that pertain to emergency access, fire suppression systems, and fire detection/warning systems. When it comes time to submit for building permits, the construction drawings would have to be reviewed and approved by the Contra Costa County Fire Protection District.
5. Public Protection: Public protection standards under the GMP require that a Sheriff Facility standard of 155 square feet of station area and support facilities per 1,000 in

population shall be maintained within the unincorporated area of the County. Based on the United States Census Bureau's estimate of 2.48 persons per household (between 2017-2021) for Martinez, the project would potentially increase the population by an estimated 89.28 people. Since the project would result in a relatively small change in population, the project would not impact the County's ability to maintain a Sheriff facility standard of 155 square feet of station area and support facilities per 1,000 members of the population. Thus, the project would not significantly affect the provision of police services to the Martinez area.

6. Parks and Recreation: As the project will add to the County's population, Condition of Approval (COA) #21 and #22 requires the project proponent to pay applicable Park Impact and Park Dedication in-lieu fees for the new units. These fees, in conjunction with all other Park Dedication fees collected for development within the County, will be used in part to purchase new park land and upgrade existing community parks as determined appropriate by the Board of Supervisors.
7. Flood Control and Drainage: The project is located in Flood Zone X, as designated on the Federal Emergency Management Agency's Flood Insurance Rate Maps. The project is required to meet collect and convey requirements of the County Subdivision Ordinance Title 9, by constructing the necessary drainage improvements, or obtaining necessary exceptions to the code. The applicant must also comply with the County's National Pollutant Discharge Elimination System (NPDES) Permit and Stormwater Management and Discharge Control Ordinance, Title 10, for stormwater treatment. With the included exception to Title 9, the new drainage improvements will both meet stormwater discharge requirements for stormwater treatment, while also accommodating all rainwater runoff generated by the project, as required by Title 9.

B. Development Plan Findings

1. **Required Finding:** *The proposed project is consistent with the purpose of the zoning district:*

Project Finding: The purpose of the M-29 Multiple Family Residential (M-29) district is to allow multiple-family residential development to be compatible as much as possible with nearby single-family residential zoning. The project will largely conform to the M-29 District development standards related to setbacks, lot coverage, and other standards. Variances to the development standards meet the intent of the standards, as required by the Variance findings. The project also has submitted a Density Bonus Request and is requesting parking ratios pursuant to Government Code 65915(p) and multiple reduction to development pursuant to Government Code 65915(e). With these requests, the

proposed project creates a multi-family apartment complex that is a permitted use under 84-26.402(3).

2. Required Finding: *The proposed project is architecturally compatible with other uses in the vicinity, both inside and outside the zoning district.*

Project Finding: Given the density of housing development in the area (townhomes, duplexes, single-family residence), the design does not conflict with the surroundings in building mass or height. The architectural style in this area of the County can be described as a diverse collection of Ranch, Mediterranean, Spanish Revival, and contemporary modern styles. The project's contemporary design would be comprised of three segments separated by staircase breezeways, joined under one unified flat roof to minimize the overall bulk of the structure. Building design incorporates a rectangular shape with all exterior walls of each level at the same location to create one cohesive building from top to bottom while the open breezeway at each level adds depth and variation to the exterior of the building. The façade of the building will have variation with sandstone color stucco alternating with pearl gray shingle siding. The colors of the building will be designed to compliment the surrounding natural palette of the area.

C. Variance Findings:

1. Required Finding: *Any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.*

Project Finding for Height: The project had a original request for a 38'-6" height. However, after the County Planning Commission hearing and subsequent meeting with the Board of Supervisor, the applicant agreed to lower the total height of the building. Therefore, the variance request is to allow a 34.25-foot tall building (where 30 feet is the maximum allowed). Given that the height is due to unique topographical characteristics and drainage restrictions, granting of the variance for the building height would not be considered a grant of special privilege. In order to meet drainage requirements that require stormwater to drain to adequate stormwater infrastructure at Windhover Way, the rear of the lot must be padded (i.e., filled with dirt to raise the grade). Currently, the rear of the lot is almost nine feet lower than the frontage (Windhover Way). The project will pad almost nine feet towards the rear to bring the site level and 4'-6" of padding under the building itself. This extensive amount of padding raises the finished grade under the rear of the building, resulting in a height that exceeds the 30-foot standard when measured from natural grade. Complying with the height restriction would present a practical difficulty because the project is required to have drainage improvements due to topography. Additionally, in order to meet the required density of the General Plan

Land Use Designation for this site, the project was required to add more units, which prompted the height increase. Strict application of the zoning code would present an unnecessary burden on the site by reducing the amount of units on site by eight, which would result in a total of 16 units, which is on the lower end for the General Plan Land Use Designation. For these reasons, the height of the building is not a grant of special privilege inconsistent with the limitations of other properties in the vicinity and respective land use district.

Project Finding for Driveway Aisle Width:

The variance request is to allow for a 24.5' driveway aisle width (where 25' is the minimum required) for a driveway aisle with parking spaces of ninety degrees located on the eastern side of the multi-family apartment building. Granting the variance for the reduced driveway aisle width would not be a grant of special privilege. The irregular flag-shaped property has an approximately 48-foot-wide by 72-foot-long strip of land that extends access to Windhover way. The strip of land presents a unique restriction only applicable to this site. The unique shape unreasonably limits development on the property in a way that the required density is only feasible with reduced driveway aisle width. In order to facilitate and maintain circulation and to allow the site to provide adequate parking spaces, the driveway aisle width needs to be slightly reduced. Complying with the ordinance for driveway aisle width would present a practical difficulty because it would reduce the amount of parking on the site and limit the total developable area. For these reasons, the reduced driveway aisle width is not a grant of special privilege inconsistent with the limitations of other properties in the vicinity and respective land use district.

2. **Required Finding: *That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.***

Project Finding for Height: Given that the additional height is due to unique topographical characteristics and drainage restrictions, granting of the variance for the building height is based on special circumstances. In order to meet drainage requirements that require stormwater to drain to adequate stormwater infrastructure at Windhover Way, the rear of the lot must be raised by padding from approximately 9 feet at the rear property line to 4'-6" underneath the building. Given that the site slopes away from Windhover Way, the building is required to be raised to address drainage issues. Thus, due to these special circumstances, the strict application of zoning regulations would deprive the subject property of rights enjoyed by other properties developed as multiple-family projects.

Project Finding for Driveway Aisle Width: The variance request is to allow for a 24.5' driveway aisle width (where 25' is the required minimum). The irregular flag-shaped property has a 48-foot-wide by 72-foot-long strip of land that extends access to Windhover Way. This unique shape limits the placement and development of a driveway aisle width on the property as there are already numerous other constraints. To provide a driveway aisle for parking spaces to be accessed, the only feasible location is between the parking spaces. The flagged driveway results in additional area on the lot that must be paved in order to reach the larger developable portion of the lot. Thus, a 25' driveway aisle would not be feasible while also providing parking, open space, covered parking and space for the building. Thus, due to these special circumstances, the strict application of the zoning regulations would deprive the subject property of rights enjoyed by other properties developed as multiple-family projects.

3. **Required Finding:** *That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.*

Project Finding for Height: Height limits are applied to provide an orderly residential development pattern and adequate air and light between neighboring development. The 4.25-feet of additional height would substantially meet the intent and purpose of the respective 30-foot height maximum as all building setbacks are met and exceeded. The building would maintain separation from neighboring properties. The variance request will allow for the project to address drainage and topography issues without burdening the applicant. Therefore the height would not have a detrimental effect on the adjoining properties and meet the intent and purpose of the respective land use district.

Project Finding for Driveway Aisle Width: The variance request is to allow for a reduced 24.5' driveway aisle width (where 25' is the minimum required). The driveway aisle width allows for cars to maneuver in and out of parking spaces. The proposed driveway aisle width is only 0.5' less than the minimum requirement. Due to site constraints, the project has balanced the need to provide the full driveway aisle width with the need to provide for adequate parking spots and landscaping requirements. The loss of 0.5' less for a driveway aisle width will not have a detrimental effect on the adjoining properties and meet the intent and purpose of the respective land use district.

4. **Findings for Granting an Exception Per Section 92-6.002:**

Request for an exception from Title 9 Offsite Collect and Convey Diversion requirements (Section 914-2.0040)

1. **Required Finding:** *That there are unusual circumstances or conditions affecting the property.*

Project Finding: The property slopes from the northwest corner to the southeast corner, away and considerably below street grade. There is no storm drain or easement at the lowest corner of the site. On-site drainage facilities will be installed to tie into the existing storm drain on Windhover Way to the west. The storm drain is deep enough to allow for gravity drainage from the stormwater treatment facilities but was not originally intended to accept stormwater runoff from this site. Considering this site's unusual circumstances and conditions, an exception from the County Ordinance Code prohibition regarding diversions would be required.

2. Required Finding: *That the exception is necessary for the preservation and enjoyment of a substantial property right.*

Project Finding: The diversion of stormwater is necessary to connect the project to stormwater facilities in the area. A connection at the southeast corner of the property is not currently possible, meaning this infill project is not feasible unless the exception is granted. Additionally, as described above, the drainage infrastructure already exists within the Windhover Way right-of-way making this the most appropriate location.

3. Required Finding: *That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the territory in which the property is situated.*

Project Finding: Capacity of the downstream drainage system will be verified to ensure it is sufficient to accommodate the additional runoff. Additionally, stormwater would be directed to existing infrastructure used by other properties in the area. Therefore, the exception will not be materially detrimental to the public welfare or injurious to other properties in the territory in which the subject property is situated.

The applicant will be required to provide a drainage report to verify the adequacy of the downstream drainage system. If the receiving system is found to be inadequate the applicant shall be required to improve the system to make it adequate.

5. Tree Protection and Preservation Findings:

Required Factors for Granting Tree Permit: The Zoning Administrator is satisfied the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied:

- Reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot.

- Where the arborist or forester report has been required, and the director is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.

The project proposes to remove tree #35, 36, 37 and 38. The project proposes to work within the dripline of tree # 40, 41 and 42. All feasible efforts have been made to retain the maximum number of trees and that development of this project cannot be reasonably accommodated on other parts of the property due to the shape and orientation of the property. The trees are required to be removed in order for the appropriate infrastructure to be built to support a project of this size. Development on this property can not occur without the removal of trees. An arborist report was provided which concluded that the trees to be removed are moderate to low health.

California Environmental Quality Act (CEQA) Finding

In accordance with CEQA Guidelines, Section 15071 and Section 15072, a Mitigated Negative Declaration/Initial Study (MND) was prepared and published for the project. The 20-day public review period for the MND started on July 11, 2023, and ended on July 31, 2023. Seven public comments were received during the public review period for the MND. The comments received did not specifically challenge the adequacy of the environmental document. Neither the comment nor the staff response to the comment result in any changes to the MND, and the impacts, mitigation measures, and findings of the MND are unchanged.

On the basis of the whole record before it, including the MND, and in accordance with Section 15074, the County Planning Commission finds that:

- There is no substantial evidence that the project with the proposed mitigation measures will have a significant effect on the environment;
- The MND reflects the County's independent judgement and analysis;
- The MND is adequate and complete; and
- The MND has been prepared in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA guidelines.

Pursuant to CEQA Section 15097, a Mitigation Monitoring Program has been prepared, based on the identified impacts and mitigation measures in the MND. The Mitigation Monitoring Program is intended to ensure that the mitigation measures identified in the MND are implemented. All mitigation measures are included in the Conditions of Approval for the project.

II. CONDITIONS OF APPROVAL FOR COUNTY FILE #CDDP21-03031

Project Approval

1. **Development Plan** for a 24-unit apartment project is APPROVED, as generally shown and based on the following documents:
 - Applicant and materials submitted to the Department of Conservation and Development, Community Development Division (CDD) on October 21, 2021;
 - Revised project plans received on March 15, 2022;
 - Preliminary Stormwater Control Plan prepared by CALICHI Design Group, prepared by Reco V. Prianto on February 15, 2022 and received on March 15, 2022;
 - Arborist Report prepared by Pam Nagle of Hort Science on January 17, 2022, Certified Arborist #WE-9617A, received on March 15, 2022;
 - Noise Assessment Report prepared by Michael Thill of Illingworth & Rodkin, Inc, on May 10, 2022, received on May 21, 2022;
 - Transportation Impact Analysis prepared by W-Trans and received on September 7, 2022;
 - Density Bonus Request received on March 15, 2022, and subsequent revised Density Bonus Requests dated August 24, 2022, October 12, 2022 and December 20, 2022.
 - Board of Supervisors Staff Report, dated March 26, 2024.
2. Approval is granted to allow the following variances that meet the requirements of Section 26-2.2006 of the County Ordinance Code:
 - A. 34.25' building height (where 30' is the maximum)
 - B. 24.5' driveway aisle width (where 25' is the minimum required)
3. Approval is granted to allow for the following exception that meet the requirements of Section 92-6.002 of the County Ordinance Code:
 - A. Exception to Collect and Convey Requirements.
4. Concession is granted for the following:
 - A. A reduction to the amount of Open Space requirement from 25% to 20.5%.
5. Reduction in development standards is granted for the following:

- A. State density bonus parking ratio; 40 off-street parking spaces provided for this project.
 - B. A reduction in development standards to allow for reduced parking stall sizes of 9' x 18', 9' x 17' and 7.5' x 14.5'. where 9' x 19' is the standard.
 - C. A reduction in development standards to allow for reducing parking setbacks including a 2' side yard (where 20 is the minimum) and a 17.5' front yard setback (where 25 is the minimum), per plans.
 - D. A reduction of the covered parking for 16 total covered spaces (where one-half of the required spaces shall be covered).
6. Any change from the approved plans shall require review and approval by CDD and may require the filing of an application to modify the Development Plan.

Application Fees

7. This Development Plan Permit application is subject to an initial application deposit of \$5,000.00, which was paid with the application submittal, plus time and materials costs if the application review expenses exceed the initial deposit. **Any additional fee due must be paid prior to issuance of a building permit, or 60 days of the effective date of this permit, whichever occurs first.** The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due, the Department of Conservation and Development may seek a court judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant may obtain current costs by contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance.

Indemnification

8. Pursuant to Government Code Section 66474.9, the applicant (including the property owner or any agent thereof) shall defend, indemnify, and hold harmless the County, agents, officers, and employees from any claim, action, or proceeding against the Agency (The County) or its agents, officers, or employees to attack, set aside, void, of annual, the Agency's approval concerning this development plan application, which action is brought within the time period provided in Section 66499.37. The County will promptly notify the applicant of any such claim, action, or proceeding and cooperate fully in the defense.

Compliance Report

9. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, or tree removal, whichever occurs first**, the applicant shall provide a permit compliance report to the Department of Conservation and Development, Community Development Division (CDD) for review and approval. The report shall identify all conditions of approval that are administered by the CDD. The report shall document the measures taken by the applicant to satisfy all relevant conditions. Copies of the permit conditions may be obtained from the CDD. The permit compliance review is subject to staff time and materials charges, with an initial deposit of \$1,500, which shall be paid at the time of submittal of the compliance report.

Signage

10. No signage is approved with this permit. Any proposed signage is subject to review and approval by the Department of Conservation and Development under a Sign Permit application. All signage must comply with the Sign Ordinance, Chapter 88-6, Ordinance No. 2022-03.

Inclusionary Housing and Density Bonus

11. This project is subject to Chapter 822-4, Inclusionary Housing Ordinance. Terms and definitions regarding the Inclusionary Housing Ordinance are pursuant to this chapter. Pursuant to Section 822-4.402(a) of the County Ordinance Code, in a residential development of 22 rental units, at least fifteen percent of the rental units shall be developed and rented as inclusionary units.

The applicant, owner, and/or developer (Applicant) is required to construct 3.3 inclusionary units for the project. The Applicant has submitted a revised Inclusionary Housing Plan received December 27, 2022, which proposed to construct three inclusionary units within the housing development. Two units will be available to lower-income households (80% Area Median Income (AMI)), and one unit will be available to a very low-income household (50% AMI). The fractional unit of 0.3 would be satisfied with the payment of a partial in-lieu fee.

The Applicant submitted a revised density bonus request with their revised inclusionary housing plan received December 27, 2022. As described in the HCI April 19, 2022, memo, the Applicant is eligible for a 24.5% density bonus as the Applicant proposed to build on-site three lower-income units or 13% of the units in the housing development as affordable to lower-income households. For this project, the inclusionary housing units are also the lower income units that qualify the project for a density bonus. The Applicant's Inclusionary Housing Plan and density bonus request propose a density bonus of 2 units, or a 9% bonus, with one requested concession and various reductions in development standards, bringing the total number of units in the project from 22 to 24.

Density Bonus – Concession/Incentive

Pursuant to Government Code 65915, the Applicant has proposed a housing development that will contain units that comply with Government Code 65915(b)(1)(A) and may request one concession/incentive for providing 13 percent of the total units of a housing development for lower-income households within the development. For use of the one concession, the Applicant requested reduced open space requirement pursuant to Government Code 65915(d). Additionally, the Applicant has requested parking ratios based on Government Code 65915(p) for a reduced parking requirement. The request also includes reductions in development standards pursuant to Government Code 65915(e) for reduced parking stall sizes, reduced parking setbacks and reduced covered parking.

The County accepted the Applicant's request for reductions in development standards for the following:

Density Bonus – Parking Ratio

- Parking ratios pursuant to 65915 (p).
- - 1 Bedroom Units = 1 off-street parking space (where 1.5 spaces are required)
 - 2 Bedroom Units = 1.5 off street parking space (where 2 spaces are required)

Density Bonus – Reduction of Development Standards

- Parking stall sizes of 9 feet x 18 feet and 9 feet x 17 feet (where 9 feet x 19 feet is required)
- Front Parking setbacks of 17.5 feet (where 25 feet minimum is required).
- Side Parking setbacks of 2 feet (where 20 feet minimum is required).
- 16 total covered parking (where one-half of the required spaces shall be covered).

The County accepted the Applicant's request for one concession, as follows:

- Open space requirement of 20% (where the open space requirement is 25% of land area, with 75% of that area landscaped)

Inclusionary Housing and Density Bonus Developer Agreement

12. **At least 90 days prior to CDD-stamp approval of plans for the issuance a building, demolition, or grading permit, whichever occurs first, and with the filing of a**

condition of approval compliance review, the Applicant shall initiate the County's preparation and execution of an Inclusionary Housing and Density Bonus Housing Agreement (Agreement), form to be provided by the County, with the County pursuant to County Ordinance Chapter 822-4 - Inclusionary Housing, County Ordinance Chapter 822-2 - Density Bonus, and Government Code 65915 to ensure that two (2) of the approved units are affordable to and occupied by lower-income households, and one (1) of the approved units is affordable to and occupied by a very low-income household. The Agreement shall be submitted to the Board of Supervisors for approval on behalf of the County. Following the execution of the Agreement, the completed Agreement will be filed and recorded on the subject property.

The three (3) on-site inclusionary units identified will include:

- 1 Studio unit at Very Low Income (50% AMI)
- 2 Two-bedroom units at Lower Income (80% AMI)

Maximum affordable rents shall be determined annually by the County and adjusted for family size appropriate for the unit.

The continued affordability of all lower-income rental units and very low-income rental units shall remain restricted and affordable to the designated income categories for fifty-five (55) years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

Definitions

Terms and definitions used in these conditions of approval may be found in the above-referenced County Ordinance Codes and Government Code.

- A. Affordable rent – means a rent, including a reasonable utility allowance determined by the Department of Conservation and Development (DCD) Director, or designee, that does not exceed the following calculations pursuant to Health & Safety Code Section 50053:

For Lower-Income Households: the product of thirty percent times sixty percent of the area median income adjusted for family size appropriate for the unit.

For Very Low-Income Households: the product of thirty percent times fifty percent of the area median income adjusted for family size appropriate for the unit.

- B. Inclusionary Unit – means a rental unit that is required to be rented at an affordable rent to the households specified in Section 822-4.402.

- C. Lower-Income Households – means a household whose income does not exceed the lower income limits applicable to Contra Costa County, adjusted for household size, as published, and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50079.5.
- D. Very Low-Income Households – means a household whose income does not exceed the very low-income limits applicable to Contra Costa County adjusted for household size, as published, and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50105.

Inclusionary Housing Partial In-Lieu Fee

13. **Prior to CDD-stamp approval of plans for the issuance of a building, demolition, or grading permit for the housing development, whichever occurs first**, the Applicant shall pay the County the partial in-lieu fee for the remaining fractional 0.3 inclusionary unit. The current in-lieu fee calculation is based on the 22 base units, and excludes the density bonus units, is \$48,401.10. However, the actual fee collected will be that which is applicable prior to CDD approval of the grading permit, building permit, or demolition permit, whichever occurs first.

This in-lieu fee is non-refundable and non-transferrable.

General

14. The following are general terms for the granting of density bonus and the Inclusionary Housing Ordinance.
- A. The Applicant hereby represents, warrants, and covenants that it will cause the Agreement to be recorded in the real property records of Contra Costa County, California, and in such other places as the County may reasonably request. The Applicant shall pay all fees and charges incurred in connection with any such recording. The recording of the Agreement shall occur after the acceptance of the document by the County and prior to CDD's approval of a building permit or grading permit.
 - B. The County will provide the Applicant a form for income certification to be completed by the renters. The income levels of all very low-income household and lower-income household applicants for units in the project shall be certified by DCD prior to initial occupancy and annually thereafter and records shall be maintained by the Applicant over the entire term of the period of affordability.

- C. The three (3) inclusionary units in the project shall be available for rent on a continuous basis to members of the general public who are income eligible. The Applicant shall not give preference to any particular class or group of persons in renting the units, except to the extent that the units are required to be rented to a very low-income household and lower-income households. There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age (except for lawful senior housing), ancestry, or disability, in the rent of any unit in the Project nor shall the Applicant or any person claiming under or through the Applicant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of renters of any unit or in connection with employment of persons for the construction of the project.
- D. In addition to any other marketing efforts, the lower-income units, and very low-income units shall be marketed through local non-profit, social service, faith-based, and other organizations that have potential renters as clients or constituents. The Applicant shall translate marketing materials into Spanish and Chinese. A copy of the translated marketing materials, tenant selection plan, and marketing **plan shall be submitted to Department of Conservation and Development (DCD) at least three months prior** to the marketing of the inclusionary units for the review and approval of DCD, and on an annual basis with the annual report.

Marketing may also include publicity through local television and radio stations as well as local newspapers including the Contra Costa Times, Classified Flea Market, El Mensajero, Thoi Bao Magazine, Berkeley/Richmond/San Francisco Posts, Korea Times, El Mundo, Hankook Il Bo, and the Sing Tao Daily.

- E. Upon violation of any of the provisions of the Agreement by the Applicant, the County may give written notice to the Applicant specifying the nature of the violation. If the violation is not corrected to the satisfaction of the County within a reasonable period of time, not longer than thirty (30) days after the date the notice is deemed received, or within such further time as the County determines is necessary to correct the violation, the County may declare a default under this Agreement. Upon declaration of a default or if the County determines that the Applicant has made any misrepresentation in connection with receiving any benefits under this Agreement, the County may apply to a court of competent jurisdiction for such relief at law or in equity as may be appropriate.

Development Standards

15. The inclusionary units are subject to the standards of Section 822-4.412 of the County Ordinance.
16. All inclusionary units must be constructed and occupied prior to or concurrently with the market rate units within the same residential development.

Location (Inclusionary Units)

17. Inclusionary units must be dispersed throughout the residential development and have access to all on-site amenities that are available to market-rate units.

Annual Reporting and Compliance Review

18. **Prior to the initial occupancy of each inclusionary unit**, the Applicant shall submit to the Department of Conservation and Development, a condition of approval compliance review application and fee along with the following information for review and approval of qualified tenants: forms and documentation that demonstrates the tenants of the inclusionary units have been certified as a qualified lower income household or very low-income households. **A hold shall be placed on the final inspection of the building permit** until all documentation has been deemed adequate by the Department of Conservation and Development.
19. **After the initial occupancy of the inclusionary units, the Applicant shall submit to the Department of Conservation and Development, a condition of approval compliance review application and fee along with an annual compliance review report for all inclusionary units and density bonus units.** The report must include the name, unit number, household size, and income of each person occupying inclusionary units, identify the number of bedrooms and monthly rent or cost (including utility allowance) of each inclusionary unit, and the affordability restriction of the unit. Tenants in rental housing developments shall provide consent to the owners to allow these disclosures. **The annual compliance review report is due April 1.**
20. The Applicant is responsible for keeping the Department of Conservation and Development informed of the contact information of the owner or local designee who is responsible for maintenance and compliance with this permit and how they may be contacted (i.e., mailing and email addresses, and telephone number) at all times.
 - A. **Prior to CDD-stamp approval of plans for the issuance a building, demolition, or grading permit, whichever occurs first, and with the filing of a condition of approval compliance review**, the Applicant shall provide the name of the owner or local designee representing the owner of the property for

permit compliance and their contact information including phone number, e-mail address, and mailing address.

- B. **Should the contact subsequently change (e.g., new designee or owner), within 30 days of the change**, the Applicant shall issue a letter to the Department of Conservation and Development with the project name, project address, name of the new party who has been assigned permit compliance responsibility and their contact information. Failure to satisfy this condition may result in the commencement of procedures to revoke the permit.

Park Impact Fee

21. **Prior to CDD stamp approval of plans for the issuance a building, demolition, or grading permit, whichever occurs first**, for the multiple-family residential building, the applicant shall pay the applicable park impact fee as established by the Board of Supervisors.

Park Dedication Fee

22. **Prior to CDD-stamp approval of plans for the issuance a building, demolition, or grading permit, whichever occurs first**, for the multiple-family residential building, the applicant shall pay the applicable park dedication fee as established by the Board of Supervisors.

Child Care Fee

23. **Prior to CDD-stamp approval of plans for the issuance a building, demolition, or grading permit, whichever occurs first**, for the multiple-family residential building, the applicant shall pay a per unit fee toward childcare facility needs in the area as established by the Board of Supervisors.

Aesthetics

24. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, whichever occurs first**, a lighting plan shall be submitted to the (CDD) for review and approval. The lighting plan shall provide the specifications of the proposed light post as shown on the approved plans. All outdoor lighting shall be directed down and screened away from adjacent properties and public/private right-of-way to prevent glare or excessive light spillover. **(MM Aesthetics-1)**

25. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, or tree removal, whichever occurs first,** a Final Landscape Plan shall be submitted to the (CDD) for review and approval. The Final landscape plan shall include the following: The location of the two required communal gathering areas and associated improvements, the height of the perimeter concrete walls have been increased to seven feet tall and the location and species of the trees to be planted along the northern property line which are required to reduce noise, light and visual impacts.

The Final landscaping plan shall conform to the County's Water Efficient Landscapes Ordinance. **Prior to requesting a final inspection,** the approved landscaping shall be installed and evidence of the installation (e.g., photos) shall be provided for the review and approval of CDD.

Restitution for Tree Removal

26. Required Restitution for Approved Tree Removal: The following measures are intended to provide restitution for the removal of four code-protected trees (Trees #35, 36, 37, 38)
- A. Tree Restitution Planting and Irrigation Plan: **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, or tree removal, whichever occurs first,** the applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of CDD. **The plan shall provide for the planting of ten 24-inch boxed trees or larger.** The plan shall comply with the County's Water Efficient Landscapes Ordinance. The plan shall be accompanied by an estimate prepared by a licensed landscape architect or arborist of the materials and labor costs to complete the improvements on the plan. **The plan shall be implemented prior to final building inspection of the building.**
 - B. Required Security to Assure Completion of Plan Improvements: **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, or tree removal, whichever occurs first,** the applicant shall submit a security (e.g. bond, cash deposit) that is acceptable to the CDD. The bond shall include the amount of the approved cost estimate, *plus* a 20% inflation surcharge.
 - C. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs of staff for processing the landscape improvement security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.

- D. Duration of Security: The security shall be retained by the County for a minimum of 12 months up to 24 months beyond the date of receipt of the security and from the time the final inspection for the apartment building was approved. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist to inspect the trees and to prepare a report on the trees' health. In the event that CDD determines that the tree(s) intended to be protected has been damaged, and CDD determines that the applicant has not been diligent in providing reasonable restitution, then CDD may require that all part of the security be used to provide for mitigation of the damaged tree(s).
- E. Integration with Final Landscape Plan: The tree restitution planting and irrigation plans described in subsection (a) above may be incorporated as part of the Final Landscape Plan required pursuant to Condition #26 above. However, the planting plan shall identify the replacement trees required to replace removed protected trees, which are intended to satisfy this condition. In addition, the provided estimate shall only cover materials and labor associated with the implementation of the required tree restitution, and not for the full landscape plan.

Contingency Restitution Should Altered Trees Be Damaged

- 27. This permit does not approve removal of any off-site trees as identified by the Consulting Arborist Tree Assessment dated received on March 15, 2022 as Tree #39 and #43. The project proponent must also preserve the Olive Trees #40, #41 and #42.
- 28. Security for Possible Damage to Trees Intended for Preservation: Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction activity damages trees that are to be preserved, the applicant shall provide the County with a security to allow for replacement of trees that are significantly damaged or destroyed by construction activity. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, or work within the dripline of trees, whichever occurs first, the applicant shall provide a cash or surety bond that is acceptable to CDD.** The security shall be an amount sufficient to cover:
 - A. Preparation of a landscaping and irrigation plan by a licensed landscape architect, arborist, or landscape contractor for the review and approval of the CDD. The plan shall provide for planting of four (4) trees of a native indigenous species of 15-gallons in size. The plan shall comply with the County's Water Efficient Landscapes Ordinance, and verification of such shall accompany the plan.
 - B. The estimated materials and labor costs to complete the improvements shown on the approved planting and irrigation plan (accounting for supply, delivery, and

installation of trees and irrigation). The bond shall include the amount of the approved cost estimate, plus a 20% inflation surcharge.

- C. Initial Deposit for Processing of Security: Prior to the removal or work within the dripline of trees or CDD stamp-approval of plans for issuance of building permits (e.g. demolition, grading or building), whichever occurs, the applicant shall provide a cash or surety bond that is acceptable to CDD, the County ordinance requires that the applicant pay fees to cover all staff time and material costs for processing the required security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.00.
- D. Duration of Security: The security shall be retained by the County for a minimum of 12 months and up to 24 months beyond the completion of the tree alteration improvements (i.e., date of final inspection). After the final inspection has been completed, the applicant shall submit a letter to the CDD, composed by a consulting arborist, describing any construction impacts to trees intended for preservation. As a prerequisite of releasing the bond between 12- and 24-months, the applicant shall arrange for the consulting arborist to inspect the trees and to prepare a report on the tree's health. The report shall be submitted to the CDD for review, and it shall include any additional measures necessary for preserving the health of the trees.

29. Tree removal shall occur only with an approved grading or building permit.

Pre-construction treatments

- 30. Prior to the removal of any trees the project proponent shall hire a certified consulting arborist to be on-site. The contract shall identify the arborist, field schedule, and contact information. The Arborist must review all plans for pre-construction treatment, demolition, grading, drainage, utility, and landscape with irrigation. Prior to issuance of a grading and/or building permit, a copy of the contract must be submitted to CDD for review.
- 31. The project's perimeter security fence will serve as the Tree Protection Zone. No grading, excavation, construction, or storage of materials should occur outside the project limit.
- 32. Off-site trees to be preserved may require pruning to provide clearance for demolition, grading and construction. Tree care firm providing the pruning shall be a State of California Licensed Tree Contractor (C61/D49). All pruning shall be done by Certified Arborist or Certified Tree Worker in accordance with the latest edition of the Best Management Practices for Pruning (International Society of Arboriculture) and the American National Standard for Tree Care Operations (Z133.1) and Pruning (A300).

33. Tree(s) to be removed that have branches extending into the canopy of tree(s) to remain shall be removed by a Certified Arborist or Certified Tree Worker and not by the demolition contractor. The Certified Arborist or Certified Tree Worker shall remove the trees in a manner that causes no damage to the tree(s) and understory to remain.
34. Trees to be removed shall be felled to fall away from **TREE PROTECTION ZONE** and avoid pulling and breaking roots of off-site trees to remain. If roots are entwined, the Consulting Arborist may require first severing the major woody root mass before extracting the trees.
35. All tree work shall comply with the Migratory Bird Treaty Act as well as California Fish and Wildlife code 3503-3513 to not disturb nesting birds. To the extent feasible tree pruning and removal should be scheduled outside of the breeding season. Breeding bird surveys should be conducted prior to tree work. Qualified biologists should be involved in establishing work buffers for active nests.

Tree Protection During Construction

36. Any approved grading, construction, demolition, or other work within 5-ft of the **TREE PROTECTION ZONE** near tree #39 must be monitored by the Consulting Arborist.
37. Any root pruning that will occur within 5-ft. of the Tree Protection Zone near tree #39 shall receive prior approval and may be supervised by the Consulting Arborist. Roots should be cut with a saw to provide a flat and smooth cut. Removal of roots larger than 2" in diameter should be avoided.
38. If roots 2" and greater in diameter are encountered during site work and must be cut to complete the construction, the Consulting Arborist must be consulted to evaluate effects on the health and stability of the tree and recommend treatment.
39. If injury should occur to any tree during construction, it should be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be applied.

Community Benefits Agreement

40. The applicant has agreed to enter into a Community Benefits Agreement with the County to make a onetime community benefits contribution to the County to benefit the local community, which funds may be used to, for example and without limitation: fund studies and actions to improve the functionality of roadways; establish or maintain parks or trails; maintain or beautify roadways, rights-of-way, or open space; or establish, maintain, or beautify other community improvements. **Prior to CDD stamp of approval for the issuance of a grading or building permit (whichever comes first),** the permittee shall provide CDD staff with evidence that the permittee and County have

entered into an agreement which details the terms and conditions of executing the permittee's planned Community Benefit initiative. The agreement shall be consistent with the draft Community Benefit Agreement attached to the March 26, 2024 Board of Supervisors Staff Report.

Archeological and Cultural Resources

41. The following measures shall be implemented during project-related ground disturbance and shall be included on all construction plans. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, or tree removal, whichever occurs first**, the applicant shall provide evidence that the measures and requirements listed below are include on the construction plans.

- A. All construction personnel, including operators of equipment involved in grading, or trenching activities will be advised of the need to immediately stop work if they observe any indications of the presence of an unanticipated cultural resource discovery (e.g. wood, stone, foundations, and other structural remains; debris-filled wells or privies; deposits of wood, glass, ceramics). If deposits of prehistoric or historical archaeological materials are encountered during ground disturbance activities, all work within 50 feet of the discovery shall be redirected and a qualified archaeologist contacted to evaluate the finds and, if necessary, develop appropriate treatment measures in consultation with the County and other appropriate agencies. If the deposits are not eligible, avoidance is not necessary.

If eligible, deposits will need to be avoided by impacts or such impacts must be mitigated. Upon completion of the archaeological assessment, a report should be prepared documenting the methods, results, and recommendations. The report should be submitted to the Northwest Information Center and appropriate Contra Costa County agencies.

- B. If human remains are encountered, work within 50 feet of the discovery shall be redirected and the County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation. If the human remains are of a Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the property and provide recommendations for the proper treatment of the remains and associated grave goods.

Upon completion of the assessment by an archaeologist, the archaeologist should prepare a report documenting the methods and results and provide recommendations for the treatment of the human remains and any associated cultural materials, as appropriate and in coordination with the recommendations of the MLD. The report should be submitted to the Northwest Information Center and appropriate Contra Costa agencies. **(MM Cultural-1)**

Geology and Soils

42. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, or tree removal, whichever occurs first,** the project proponent shall submit a geotechnical report update with the geotechnical review fee in the amount of \$3,000, referencing the proposed grading, drainage and foundation plans and providing specific criteria and standards for site grading, drainage and foundation design based on adequate subsurface data, laboratory testing of samples and engineering analysis. The scope of the geotechnical investigation shall address the following potential hazards: (i) expansive soils, (ii) corrosive soils, (iii) siting and design of any required bio-retention facilities and/or other measures that may be recommended to achieve compliance with the clean water requirements of the RWQCB, (iv) possible presence of existing undocumented fills and effective measures to control/ mitigate the settlement hazard, (v) provide seismic parameters based on the adopted California Building Code at the time that a residential building permit is requested. **(MM Geology-1)**
43. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, or tree removal, whichever occurs first,** the geotechnical report update required by Condition of Approval #40, above, shall be subject to review by the County's peer review geologist, and review/approval of the CDD. Improvement, grading and building plans shall carry out the recommendations of the approved report. **(MM Geology-2)**
44. Following rough grading (but prior to commencement of foundation-related work) the project geotechnical engineer shall perform corrosion potential testing of the graded building pad to determine if special precautions shall be required to avoid damage to improvements that are in contact with the ground (concrete or steel). **(MM Geology-3)**

45. The geotechnical report required by Condition of Approval #39 routinely includes recommended geotechnical observation and testing services during construction. These services are essential to the success of the project. They allow the geotechnical engineer to (i) ensure geotechnical recommendations for the project are properly interpreted and implemented by contractors, (ii) allow the geotechnical engineer to view exposed conditions during construction to ensure that field conditions match those that were the basis of the design recommendations in the approved report, and (iii) provide the opportunity for field modifications of geotechnical recommendations (with BID approval), based on exposed conditions. The monitoring shall commence during clearing, and extend through grading, including testing services during placement of engineered fill, installation of recommended drainage facilities, and foundation related work. A ***hard hold*** shall be placed on the "final" grading inspection, pending submittal of a report from the project geotechnical engineer that documents their observation and testing services during grading, installation of drainage improvements. **(MM Geology-4)**

Similarly, a ***hard hold*** shall be placed on the final building inspection for the apartment building, pending submittal of a letter-report from the geotechnical engineer documenting the monitoring services associated with implementation of foundation-related geotechnical recommendations. The geotechnical monitoring shall include pier hole drilling/ foundation preparation work/ installation of drainage improvements (e.g. collection of roof gutter runoff in a closed conduit and conveying it to a suitable discharge point; and possibly installation of a subdrain system around the perimeter of the foundation to control moisture beneath the foundation). **(MM Geology-4)**

46. All grading, excavation and filling shall be conducted during the dry season (April 15 through October 15) only, and all areas of exposed soils shall be revegetated to minimize erosion and subsequent sedimentation. After October 15, only erosion control work shall be allowed, unless additional grading is reviewed and specifically approved by the Building Inspection Division. **(MM Geology-5)**
47. Should unique paleontological materials be uncovered during grading, trenching, or other on-site excavation(s), all earthwork within 30 yards of the materials shall be stopped until the Community Development Division (CDD) has been notified, and a qualified paleontologist contacted and retained to evaluate the significance of the find, and, if deemed necessary, suggest appropriate mitigation(s). **(MM Geology-6)**

Traffic Study

48. Withing 6 months after the Certificate of Occupancy permit has been issued, the Developer or project proponents must submit a detailed Traffic Analysis and modeling study prepared by a qualified Transportation Consultant for the review and approval by Public Works Department and the Department of Conservation and Development, Community Development Division to determine if a traffic signal timing change is needed to increase the frequency and time of vehicle gaps while also reviewing traffic flow on Pacheco Boulevard.

Transportation Demand Management (TDM Program)

49. Consistent with the County's Transportation Demand Management (TDM) Ordinance, which requires a residential project with 13 or more units to develop a TDM program, a TDM Program must be submitted to the CDD for review **prior to CDD-stamp approval of plans for the issuance of a building or grading permit, whichever occurs first.** The TDM program shall include at least the following:
- A. The TDM Program should include a site map/plan that identifies existing and proposed bicycle, pedestrian, and transit amenities and improvements. The TDM program should also include a map/plan identifying key destinations (e.g. schools, community facilities, parks, shopping areas, major pedestrian and bicycle facilities, transit stops) in proximity to the project that can be reached by walking, biking, or taking transit.
 - B. The TDM Program should identify the promotions, events, and incentives that would be marketed to residents as part of the program. A list of potential promotions, events, and incentives can be found on the 511 Contra Costa website.
 - C. A sample of the virtual format (e.g. website) that would be used to display TDM information to residents.
 - D. Within six months following the granting of a certificate of occupancy of the new development site, the project shall submit to the Director of the Department of Conservation and Development a TDM notice that confirms the installation of facilities and site amenities, as well as implementation of commute program features and events (if required).

Electric Vehicle (EV) Ordinance

50. In accordance with the County's Electric Vehicle (EV) Ordinance, the project is required to provide ten percent of the total parking spaces at the site shall be EV charging spaces (3). Half of the EV charging spaces (minimum 1 space) shall install fully operational (minimum Level 2 or higher) EV charging stations. The remaining EV charging spaces shall be capable of supporting future electric vehicle charging infrastructure.

Bicycle Parking

51. A total of 8 bicycle spaces shall be provided, consisting of 6 long-term bicycle spaces and 2 short-term bicycle spaces.

Debris Recovery

52. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, whichever occurs first,** the developer shall submit a Construction Waste Management Plan, which identifies approved methods to comply with CalGreen requirement to recycle and/or salvage for reuse a minimum of 65%, or current CalGreen mandate, of construction and demolition (C&D) waste materials generated at jobsite.
53. **Prior to requesting a Final Inspection for the multiple-family residential building,** the developer shall submit a Construction Waste Management Final Report containing information and supporting documentation that demonstrates compliance with CalGreen requirements to recycle and/or salvage for reuse a minimum of 65%, or current CalGreen mandate, of C&D waste materials generated at jobsite.

Air Quality

54. The following mitigations shall be included on all construction plans and implemented throughout the construction phase of the project:
- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of

Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- The property owner or site contractor shall post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- Site accesses to a distance of 100 feet from the paved road shall be treated with a 6- to 12-inch compacted layer of wood chips, mulch, or gravel.
- All contractors shall use equipment that meets the California Air Resources Board's (CARB) most recent certification standard for off-road heavy duty diesel engines.
(MM Air Quality-1)

Construction Restrictions and Requirements

55. All windows and doors shall have the minimum ratings STC 26 and mechanical ventilation installed for the building. **(MM Noise-1)**
56. The following construction restrictions shall be implemented during project construction and shall be included on all construction plans. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, whichever occurs first,** the applicant shall provide evidence that the construction restrictions and requirements are included on the face of the construction plans.
- A. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors. The applicant shall notify neighbors within 300 feet of the subject property at least one week in advance of demolition, grading, and construction activities.
 - B. The project site shall be maintained in an orderly fashion at all times. All random debris and trash shall be disposed of in a timely manner. The project site must maintain and keep dust down by watering the site by use of a water truck, water hose, street sweeping and other dust control and maintenance measures.

- C. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number to call in complaints shall also be visible to ensure compliance with applicable regulations.
- D. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.
- E. The construction contractor shall ensure that unnecessary idling of internal combustion engines (i.e., idling in excess of 5 minutes) is prohibited.
- F. The construction contractor shall utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
- G. The construction contractor shall ensure that the construction staging areas shall be located to create the greatest feasible distance between the staging area and noise-sensitive receptors nearest the project site.
- H. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except the hours are limited to 9:00 am to 4:00 pm. This condition applies to all heavy construction equipment that vibrates.
- I. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:

New Year's Day (State and Federal)
Birthday of Martin Luther King, Jr. (State and Federal)
Washington's Birthday (Federal)
Lincoln's Birthday (State)
President's Day (State)
Cesar Chavez Day (State)
Memorial Day (State and Federal)
Juneteenth National Independence Holiday (Federal)
Independence Day (State and Federal)
Labor Day (State and Federal)
Columbus Day (Federal)

Veterans Day (State and Federal)
Thanksgiving Day (State and Federal)
Day after Thanksgiving (State)
Christmas Day (State and Federal)

For specific details on the actual day the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov)
California Holidays: <https://www.calhr.ca.gov/employees/pages/state-holidays.aspx>
(MM Noise-2)

PUBLIC WORKS CONDITIONS OF APPROVAL FOR PERMIT CDDP21-03031

Applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan submitted to the Department of Conservation and Development dated on March 15, 2022.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT.

General Requirements:

57. Improvement plans prepared by a registered civil engineer shall be submitted, if necessary, to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this subdivision. Any necessary traffic signage or striping shall be included in the improvement plans for review by the Transportation Engineering Division of the Public Works Department.

Roadway Improvements (Windhover Way):

58. The Applicant shall remove existing curb and sidewalk and install a standard driveway approach on Windhover Way to serve the project site. Driveway improvements and conforms shall match existing gutter line and grade.

59. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Windhover Way. Concrete shall be saw cut prior to

removal. Existing lines and grade shall be maintained. New curb and gutter shall be doweled into existing improvements.

Access to Adjoining Property:

Proof of Access

60. The Applicant shall furnish proof to the Public Works Department of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary, or permanent, public, and private road and drainage improvements.

Encroachment Permit

61. The Applicant shall obtain an encroachment permit from Public Works for construction of driveways or other improvements within the right-of-way of Windhover Way.

Site Access

62. The Applicant shall only be permitted access at the locations shown on the approved site/development plan.

Road Alignment/Intersection Design/Sight Distance:

63. The Applicant shall provide sight distance at the intersection of the private driveway with Windover Way in accordance with Chapter 82-18 "Sight Obstructions at Intersections" of the County Ordinance Code. The applicant shall trim vegetation, as necessary, to provide sight distance at this intersection, and any new signage, landscaping, fencing, retaining walls, or other obstructions proposed at this intersection shall be setback to ensure that the sight line is clear of any obstructions.

Bicycle – Pedestrian Facilities:

Pedestrian Access

64. Curb ramps and driveways shall be designed and constructed in accordance with current County standards. A detectable warning surface (e.g. truncated domes) shall be installed on all curb ramps. Adequate right-of-way shall be dedicated at the curb returns to accommodate the returns and curb ramps; accommodate a minimum 4-foot landing on top of any curb ramp proposed.

Drainage Improvements:

Collect and Convey

65. The Applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the stormwater to a natural watercourse, in accordance with Division 914 of the Ordinance Code. Applicant shall verify the adequacy at any downstream drainage facility accepting stormwater from this project prior to discharging runoff. If the downstream system(s) is inadequate to handle the existing and project condition for the required design storm event, applicant shall construct improvements to make the system adequate. The Applicant shall obtain access rights to make any necessary improvements to off-site facilities.

Exception (Subject to Advisory Agency findings and approval)

The Applicant shall be permitted an exception to allow a diversion of stormwater entering and/or originating on the subject property provided that the applicant verifies the adequacy of the stormwater facility or natural watercourse to which the stormwater shall be directed. If the off-site conveyance system, ultimate drainage facility or natural watercourse to which stormwater is proposed to be diverted is inadequate, the applicant shall be responsible for all costs related to the construction and/or right-of-way acquisition related to any necessary improvements to make the system adequate.

Miscellaneous Drainage Requirements:

66. The Applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.
67. The Applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.

National Pollutant Discharge Elimination System (NPDES):

68. The applicant shall be required to comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination System (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (San Francisco Bay - Region II).

Compliance shall include developing long-term best management practices (BMPs) for the reduction or elimination of stormwater pollutants. The project design shall

incorporate wherever feasible, the following long-term BMPs in accordance with the Contra Costa Clean Water Program for the site's stormwater drainage:

- Minimize the amount of directly connected impervious surface area.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention area) as reviewed and approved by Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES Permit.
- Place advisory warnings on all catch basins and storm drains using current storm drain markers.
- Shallow roadside and on-site swales.
- Construct concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
- Filtering Inlets.
- The applicant shall sweep the paved portion of the site at least once a year between September 1st and October 15th utilizing a vacuum type sweeper. Verification (invoices, etc.) of the sweeping shall be provided to the County Clean Water Program Administrative Assistant at 255 Glacier Drive, Martinez CA 94553 (925) 313-2238).
- Trash bins shall be sealed to prevent leakage, OR, shall be located within a covered enclosure.
- Other alternatives comparable to the above as approved by the Public Works Department.

Stormwater Management and Discharge Control Ordinance:

69. The applicant shall submit a final Storm Water Control Plan (SWCP) and a Stormwater Control Operation and Maintenance Plan (O+M Plan) to the Public Works Department, which shall be reviewed for compliance with the County's National Pollutant Discharge Elimination System (NPDES) Permit and shall be deemed consistent with the County's Stormwater Management and Discharge Control Ordinance (§1014) prior to issuance of a building permit. All time and materials costs for review and preparation of the SWCP and the O+M Plan shall be borne by the applicant.
70. Improvement plans shall be reviewed to verify consistency with the final SWCP and compliance with Provision C.3 of the County's NPDES Permit and the County's Stormwater Management and Discharge Control Ordinance (§1014).
71. Stormwater management facilities shall be subject to inspection by the Public Works Department; all time and materials costs for inspection of stormwater management facilities shall be borne by the applicant.
72. Prior to issuance of a certificate of occupancy, the property owner(s) shall enter into a Stormwater Management Facility Operation and Maintenance Agreement with Contra

Costa County, in which the property owner(s) shall accept responsibility for and related to the operation and maintenance of the stormwater facilities, and grant access to relevant public agencies for inspection of stormwater management facilities.

73. Prior to issuance of a certificate of occupancy, the property owner(s) shall annex the subject property into Community Facilities District (CFD) No. 2007-1 (Stormwater Management Facilities), which funds responsibilities of Contra Costa County under its NPDES Permit to oversee the ongoing operation and maintenance of stormwater facilities by property owners.
74. Any proposed water quality features that are designed to retain water for longer than 72 hours shall be subject to the review of the Contra Costa Mosquito & Vector Control District.

Drainage Area Fee Ordinance:

75. The Applicant shall comply with the drainage fee requirements for Drainage Area 57 as adopted by the Board of Supervisors. This fee shall be paid prior to issuance of a building permit.

ADVISORY NOTES

ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.

- A. NOTICE OF OPPORTUNITY TO PROTEST FEES, ASSESSMENTS, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

Pursuant to California Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations or exactions required as part of this project approval. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this project is approved. If the 90th day falls on a day that the Community Development Division is closed, then the protest must be submitted by the end of the next business day.

- B. This project may be subject to the requirements of the following agencies:

- Department of Conservation and Development, Building Inspection Division
- Contra Costa County Public Works Department
- Contra Costa County Fire Protection District
- Contra Costa County Health Services Department
- Contra Costa Water District
- Mountain View Sanitary District

The applicant is strongly encouraged to review these agencies' requirements prior to continuing with the project.

- C. The Applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Martinez Area of Benefit as adopted by the Board of Supervisors. Payment is required prior to issuance of a building permit.
- D. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
- E. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.