

FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE CDSD23-09646, CDRZ23- 03270, CDGP21-00004, CDDP23-03012; BENIOT MCVEIGH DK ENGINEERING (APPLICANT), DOBBINS PROPERTIES, LLC (OWNERS)

FINDINGS

A. General Plan Amendment Findings

1. **Required Finding:** The adoption of the proposed General Plan amendment is in the public interest, as required under Government Code Section 65358(a).

Project Finding: Adopting the General Plan amendment would redesignate 7.9 acres of the project site from Agricultural Lands (AL) to Residential Low Density (RL). redesignating the 7.9-acre southern portion of the site from agricultural use to residential development poses no immediate threat to the County's compliance with the 65/35 Standard. However, approval of the project may induce further development pressure on nearby agricultural lands also located within the ULL, including the remaining 16 acres of the project site as well as the 16-acre remnants of the Carr Ranch property immediately east of the project site. Mitigation Measure Agricultural Resources 1 has been included to mitigate the potential risk of future agricultural land conversion by requiring a deed restriction over the 16-acre open space area identified on the VTM as "Parcel A". Additionally, the applicant has agreed to designate Parcel A under a Resource Conservation (RC) designation to further limit future development pressure on Parcel A. As such, adopting this General Plan amendment would provide a positive impact by halting further conversion of agricultural land in the area.

2. **Required Finding:** The adoption of the proposed General Plan amendment will not exceed the annual limit on General Plan amendments specified in Government Code Section 65358(b).

Project Finding: Adoption of the General Plan amendment will not exceed the annual limit of four amendments to any mandatory element, as this would be the first amendment to the Land Use Element of 2025.

3. **Required Finding:** That upon adoption of the proposed General Plan amendment, the General Plan will remain internally consistent and compatible, as required under Government Code Section 65300.5(a).

Project Finding: Adoption of the proposed General Plan amendment will not cause inconsistency or incompatibility within the General Plan. Redesignating the project site from Agricultural Lands (AL) to Residential Low Density (RL) would not result in any policy changes that would be inconsistent or incompatible; rather, the redesignation simply allows for additional residences to be built compared to AL designation.

4. **Required Finding:** That adoption of the proposed General Plan amendment will not violate the provisions of the 65/35 Land Preservation Standard or Urban Limit Line, as outlined in Measure L -2006.

Project Finding: Adopting the General Plan amendment would redesignate 7.9 acres of the project site from Agricultural Lands (AL) to Residential Low Density (RL). The remaining 16-acre open space parcel, "Parcel A", would be redesignated from Agricultural Lands (AL) to Resource Conservation (RC). The subject property is located within the Urban Limit Line (ULL). The RL land use designation is an urban land use designation, which can only be established within the ULL. As such, the property's location is in compliance with the Urban Limit Line for the scope of the project.

As of 2024, approximately 28% of the total countywide land area has been designated for urban uses. Thus, redesignating the 7.9-acre southern portion of the site from agricultural use to residential development poses no immediate threat to the County's compliance with the 65/35 Standard. However, approval of the project may induce further development pressure on nearby agricultural lands also located within the ULL, including the remaining 16 acres of the project site as well as the 16-acre remnants of the Carr Ranch property immediately east of the project site. Mitigation Measure Agricultural Resources 1 has been included to mitigate the potential risk of future agricultural land conversion by establishing a deed restriction over the 16-acre open space "Parcel A". Additionally, Parcel A would be redesignated to a Resource Conservation (RC) designation which further limits future urban development pressure over this area of the property, consistent with the intent and purpose of the 65/35 Land Preservation Standard. As such, adopting this General Plan amendment will not violate the 65/35 Land Preservation Standard.

5. **Required Finding:** That adoption of the proposed General Plan amendment is compliant with the provisions of Measure J-2004, the Contra Costa Growth Management Program, and related Contra Costa Transportation Authority resolutions.
- a) **Project Finding:** The Contra Costa Transportation Authority (CCTA) is the County's designated Congestion Management Agency (CMA) who is responsible for administering the Measure J ½ cent sales tax to fund a voter-approved Expenditure Plan of transportation programs and projects, and to administer the Growth Management Program (GMP) that is designed to help Contra Costa County plan for and accommodate the continued increases in population, households, and jobs that are expected to occur through the year 2035.

The Measure J Expenditure Plan allocates funding for major projects and programs, including Local Transportation Maintenance and Improvement funds (i.e., return-to-source). To be eligible to receive return-to-source funds, local agencies must demonstrate compliance with the core requirements of the Measure J GMP. One component of compliance requires local agencies to evaluate the impacts of proposed new development and general plan amendments (GPA) by preparing a CCTA-compliant traffic study and evaluating impacts on the relevant Regional Transportation Planning Committee's (RTPC) Action Plans for Routes of Regional Significance (RRS). However, some projects and GPAs may not generate traffic volumes that trigger the threshold for application of these review procedures or negatively affect Action Plan's Regional Transportation Objectives (RTOs). Typically, major development projects and GPAs with 100 or more net-new peak hour vehicle trips would require notification to the RTPC and preparation of a traffic study. GPAs of 500 or more net-new peak hour vehicle trips would be subject to all of the above, as well as the GMP GPA review process (i.e., consultation with neighboring jurisdictions).

The proposed project includes a GPA, rezone, and a single-family residential subdivision (13 single-family residences of which 11 will contain attached accessory dwelling units (ADU)). The site is 23.9-acres where the southern 7.9 acres will contain all proposed development, and the remaining northern 16.0 acres would remain as agricultural open space. The proposed project site is located within the Lamorinda Action Plan area and is not directly accessible by any RRS. Given the scope of the proposed project (13 single-family units with 11 ADUs), review by the RTPC or application of the GMP GPA review process would not be required. Additionally, the County complies with all core requirements of the GMP.

Therefore, adoption of the proposed GPA and resulting development would be consistent with the provisions of Measure J and CCTA GMP.

B. Rezoning Findings

1. **Required Finding:** The change proposed will substantially comply with the general plan.

Project Finding: The project includes rezoning the 7.9-acre area of residential development, from its present General Agricultural (A-2) district to a site-specific Planned Unit (P-1) zoning district. The project also includes a General Plan Amendment redesignating the same area's General Plan land designation from Agricultural Lands (AL) to Residential Low-Density (RL). The project includes the development of single-family residences within the P-1 zoning district, consistent with the uses permitted RL designation. The project density within the P-1 district is consistent with the range of densities permitted within RL. Additionally, the residential land uses permitted under the project-specific P-1 will also be consistent with various other applicable policies and goals of the General Plan associated with the 65/35 Land Preservations Standard, transportation, utilities, conservation, and safety.

2. **Required Finding:** The uses authorized or proposed in the land use district are compatible within the district and to uses authorized in adjacent districts.

Project Finding: The project-specific P-1 zoning district will allow for the development of 13 single-family residential lots and associated improvements. The immediate project vicinity includes single-family residential development existing south and west of the project, and grazing lands to the north/east. The project does not involve any non-residential land uses within the P-1 district, thus, there is little potential for conflict with established residential or pastoral land uses. The residential development area will be consistent in scale and size existing residential development existing south/west of the site. Conformance with applicable regulations and policies set forth by Contra Costa County requiring design review, such as Ordinance Code 84-66.1402 (design objectives for P-1 planned unit districts), will further ensure that the visual character and quality of the Residential Development Area is consistent with community standards. Therefore, the uses permissible within the site-specific planned unit district are compatible within the district, as well as to uses authorized in adjacent districts.

3. **Required Finding:** Community need has been demonstrated for the use proposed, but this does not require demonstration of future financial success.

Project Finding: There is an increasing and continuous demand for additional housing stock within Contra Costa County, which the project's residential uses will contribute towards reducing. In addition, the project's deed restriction over undeveloped open space grazing land for permanent protection and preservation helps sustain the County's 65/35 Land Preservation Standard.

C. Vesting Tentative Map Findings

1. **Required Finding:** The advisory agency shall not approve a tentative map unless it shall find that the proposed subdivision, together with the provisions for its design and improvement is consistent with the applicable general and specific plans required by law.

Project Finding: The Project's Vesting Tentative Subdivision Map (VTM) application has been reviewed along with all other submitted plans, and for compliance with applicable regulations in effect on the date the application was deemed complete. The development shown on the VTM, as a whole, is consistent with the General Plan as explained in further detail in the "General Plan Consistency" section of these findings. There is no specific plan that covers the Project Site.

2. **Required Finding:** The advisory agency shall make findings as required concerning the fulfillment of construction requirements.

Project Finding: The project will be subject to building code provisions which are applicable at the time when building permit applications are submits. The VTM has been conditioned to require the undergrounding of all new utility distributions within the 7.9-acre residential development area. Any relevant undergrounding would be subject to Government Code section 66473.6, addressing reimbursements for relocating or undergrounding certain utilities. Additionally, the Project has been conditioned in a manner that requires the Applicant to complete most of the construction requirements (i.e. roadway improvements, drainage improvements) prior to recordation of the Final Map unless construction of said improvements is guaranteed with sufficient security in accordance with the

relevant provisions of the Subdivision Map Act and the County's Subdivision Ordinance.

D. Findings of Approval of P-1 Zoning District and Final Development Plan

1. **Required Finding:** The applicant intends to start construction within two and one-half years from the effective date of the zoning change and plan approval.

Project Finding: The applicant has indicated that they intend to commence construction within 2 ½ years off the effective date of the zoning change and plan approval.

2. **Required Finding:** The proposed planned unit development is consistent with the County General Plan.

Project Finding: The project includes a General Plan Amendment from Agricultural Lands (AL) to Residential Low-Density (RL) and includes a rezone of the project site to a Planned Unit District. (P-1). The RL General Plan designation is appropriate for low-density, predominantly single-family residential development on lots ranging from approximately 15,000 square-feet to one-acre in area. Residential density ranging from 1-3 Primary land uses in the RL designations shall include residences and structures typically ancillary thereto. The residential project is consistent with the Contra Costa County 2045 General Plan, as summarized below.

Urban Limit Line and 65/35 Land Preservation Standard: The County's General Plan includes a 65/35 Land Preservation Plan, which limits urban development to no more than thirty-five percent (35%) of the land in the County and requires that at least sixty-five percent (65%) of the land in the County be preserved for agriculture, open space, wetlands, parks, and other nonurban uses ("65/35 Land Preservation Standard").

Among other things, Measure C-1990 (approved by the County's voters) established the County's Urban Limit Line ("ULL") to implement and enforce the 65/35 Land Preservation Standard. The Measure C-1990 ULL was subsequently incorporated into the County General Plan and County Ordinance Code. In 2004, County voters approved Measure J. Among other things, Measure J required the County and all cities within the County to have a voter-approved urban limit line, developed and maintained in accord with the "Principles of Agreement for Establishing the Urban Limit Line" (collectively, "Principles"), to receive the sales tax

proceeds from Measure C-1988. In November 2006, County voters approved Measure L. Among other things, Measure L: (1) extended the term of the 65/35 Land Preservation Standard to December 31, 2026.

The project site is located entirely within the urban limit line, and includes a proposal to redesignate a 7.9-acre portion of the site from its present Agricultural Lands (AL) designation to a Residential Low (RL) designation, while the remaining 16-acre portion of the site outside of the area of development would be redesignated to Resource Conservation (RC). Thus, the general plan amendment includes general plan designations which are appropriate give the sites location within the ULL.

As of 2024, approximately 28% of the total countywide land area has been designated for urban uses. Thus, redesignating the 7.9-acre area of the development from an agricultural to a residential designation poses no immediate threat to the County's continued compliance with the 65/35 Land Preservation Standard. The project includes the establishment of a deed restriction over a 16-acre area (67%) of the project site which would preclude future urban development on the site at a ratio that is consistent with the goals of the 65/35 Land Preservation standard. Thus, the project would not conflict with the 65/35 Land Preservation Standard.

Land Uses: The entire project site is located within an Agricultural Lands (AL) General Plan Land Use designation. As part of the Project, the applicant seeks approval of a General Plan Amendment to change the 7.9-acre residential development area to a Single-Family Residential Low-Density (SL) designation. The project proposes maintaining the remaining 16-acres of the project site (identified as Parcel A on the VTM) as open space grazing land within its present AL designation. In the course of processing the Camino Pablo project applications, the Contra Costa County 2045 General Plan was adopted by the Board of Supervisor's on November 5, 2024. Upon the adoption of the Contra Costa County 2045 General Plan, the SL designation no longer appears on the County Land Use Map. Consequently, the project description has been changed to reflect the newly adopted land use designation of Residential Low Density (RL), which permits residential density equivalently (1-3 dwellings/net acre) as that of the former SL designation. At the suggestion of staff, the applicant has agreed that the newly-created Resource Conservation (RC) land use designation would be most appropriate for Parcel A given its intended preservation as open space grazing land.

The land uses permitted within the RL designation include low density, predominantly single-family residences on lots approximately 15,000 square-feet to one-acre in size. Limited non-residential uses that serve and support nearby homes may also be permissible within the RL designation.

The Resource Conservation (RC) designation is applied to the watersheds of reservoirs owned by public utilities, mitigation banks, habitat restoration sites, ecologically significant or environmentally sensitive areas that are not within publicly-owned parkland. The project is immediately adjacent to East Bay Municipal Utility District's East Bay watershed lands, including Upper San Leandro watershed which is adjacent to the project site. Additionally, CDD staff has identified Mitigation Measure Agricultural Resources-1, which would restrict structural development/improvements in the area of Parcel A via Grant Deed of Development Rights to Contra Costa County over this area of the Project site. The property owner intends to continue utilizing Parcel A for cattle grazing, a land use consistent with the RC designation.

Density: The RL designation allows for residential densities between 1-3 dwelling units per net acre. The 7.9-acre southern portion would have a net development area of 6.65 acres (without street Parcels D and E) with a resultant net density of 1.95 residential units per acre, which would be within the 1 and 3 dwelling units per net acre density range for the RL General Plan land use designation. There are no density standards applicable to the RC designation. Based on the above, the density of the project will be consistent with the allowed range detailed in the County General Plan.

Property Size: The General Plan Land Use Element indicates that sites within the RL designation can range from 15,000 square feet up to 1-acre in area. Lots within the residential development area will range between 15,368 to 27,827 square feet in area, all within specified range. The RC designation lacks discussion of a desired or anticipated property size for the designation since residential uses are not permitted within this land use designation. The area of residential development is consistent with the RL designation in terms of anticipated parcel sizes.

Stronger Communities Element: The Stronger Communities Element of the 2045 County General Plan provides policies for specific geographic areas of the unincorporated County. These specific area policies focus on providing additional policies that pertain to the unique characteristics and needs of each identified area. The Stronger Communities Element identifies 22 communities, selected through public input and collaboration with County staff, and provides policies/goals for

each. The project site, and the Lamorinda area in general, are not amongst the communities identified therein.

Growth Management Element: To regulate growth associated with development projects, the Growth Management Element of the General Plan includes policies intended to achieve the following goals: 1) that new residential and nonresidential growth pay for the facilities required to meet the demands resulting from that growth, 2) cooperative transportation and land use planning in Contra Costa County, 3) land use patterns that make more efficient use of the transportation system, and 4) infill and redevelopment in existing urban and brownfield areas.

The project is subject to regional development mitigation fees, including those established by the locally-applicable regional transportation planning committee, consistent with Policy GMP1.1 and GMP1.2. The project would not generate 100 or more daily peak hour trips, and thus does not warrant additional study for consistency with Contra Costa Transit Authority's travel demand forecasting, as specified in policy #GM-P2.3. The project fronts Camino Pablo, a county designated bicycle route within this area of the County. project is along a major thoroughfare for the area, which allows for the infill project to make efficient use of the existing transportation system, consistent with Goal GM-3. The project also supports multi-modal transportation with the inclusion of a new sidewalk along the interior cul-de-sac roadway as well as improvements to existing sidewalk along the project's Camino Pablo frontage. Based on the above, no conflicts are anticipated with the goals and policies within the Growth Management Element.

Housing Element: The Housing Element of the General provides an assessment of both the current and future housing needs within the County, and to includes strategies that establish housing goals, policies, and programs. To implement and address the County's housing needs and issues there are eight goals (HE-1 through HE-8) and goal-specific policies that are provided within the General Plan that address needs such as Housing/Neighborhood Conservation, Housing Production, Special Needs Housing, Housing Affordability, Provision of Adequate Residential Sites, Removal of Governmental Constraints, and the Promotion of Equal Housing Opportunities; some of which are implemented at a regional, policy, or program level, and thus would not be enforced at the planning review stage for an individual development project. As part of development review of the project, staff identified policies HE-1, HE-2 and HE-4 as applicable to the development. As discussed below, the project is consistent with and in furtherance of applicable housing element policies.

Housing Element Goal HE-1 is to “maintain and improve the quality of the existing house stock and residential neighborhoods in Contra Costa County.” The project is consistent with this goal as this project is residential in nature and would result in the construction of additional housing in the unincorporated Moraga area. Housing Element goal HE-2 is to “increase the supply of housing with a priority on the development of affordable housing.” The project would increase the housing stock in the area. Although no deed-restricted affordable units are, the project proponent has elected to contribute an in-lieu fee to comply with County’s Inclusionary Housing Ordinance (IHO) requirements for the provision of affordable housing in the County. The project’s compliance with the IHO is consistent with Housing Element goal HE-4 to “improve housing affordability for both renters and homeowners.”

Conservation, Open Space, Working Lands Element: The Conservation Element of the General Plan is concerned with the identification, preservation, and management of natural resources within the County including agricultural, ecological, water, historic and cultural, scenic, mineral and energy resources. There are no known mineral resources on the property. As part of the environmental review of the Camino Pablo project, staff has identified potential impacts to cultural resources, open space, and biological resources. With the implementation of mitigation measures, all such impacts are expected to occur at less than significant levels, if at all. Due to the project site’s location adjacent to the urbanized Town of Moraga, the potential for such resources existing on or in close proximity to the site is low. The project site has been completely disturbed by prior land-use activities, and vegetation is sparse due to compacted gravel applied to much of the site. There are no known occurrences of special status species of plants/wildlife on or near the site. There are no creeks/waterway, agricultural lands, or known mineral or cultural resources on or near the subject property. Therefore, the project has little to no potential for conflict with conservation policies intended to conserve such resources within Contra Costa County.

Public Facilities and Services Element: The Public Facilities and Services Element requires that new developments demonstrate that fundamental utilities and services can be provided to support the project. Accordingly, the availability of services such as fire protection and police protection, as well as the availability infrastructure for water, sanitary sewer, drainage, and recreational services are analyzed during the application review process.

- Fire Protection: As explained more fully in the Final IS/MND, the Project Site is in an area served by the Moraga-Orinda Fire District (MOFD). The

County and the MOFD have communicated throughout the application review and CEQA review portions of the Project. At the recommendation of the MOFD, Mitigation Measure **Public Services-1** has been added to the project, requiring the preparation of a Fire Protection Plan (FPP) for the district's review and approval. The development and implementation of the FPP will ensure that the project utilizes fire-resistant construction materials and create appropriate defensible space buffers, will ensure that the MOFD is able to provide effective emergency fire services to the project.

- Police Protection: The project site is within an area of the County served by the County Sheriff's office. The population increase associated with the 13 residential units is estimated to be approximately 37 persons. This represents a marginal increase for the area and thus, would only result in a nominal increase in calls for law enforcement. There is no indication in the record that the project would result in the need for new or expanded Sheriff facilities in order to maintain acceptable service ratios, response times, or other performance objectives. Further, the project is conditioned to require the formation of police services district for the 13 lots.
- Water: The Project Site is not currently located within the service area of a public water supplier, but is physically adjacent to the service area for the East Bay Municipal Utility District (EBMUD). In agency comments provided by the EBMUD, it is indicated that water service is available to the project upon annexation of the property within their service boundaries and sphere of influence. Thus, the project will have access to an adequate municipal water supply.
- Sanitary Sewer: The Project Site is not currently located within the service area of a public sanitary sewer provider but is physically adjacent to the service area for the Central Contra Costa Sanitary District (CCCSD). In agency comments provided by the CCCSD, it is indicated that sewer service is available to the project upon annexation of the property within their service boundaries and sphere of influence. Thus, the project will have access to an adequate sanitary sewer system.
- Drainage: The majority of the Project Site would be left undeveloped, and thus the existing drainage patterns in those areas would not be modified. Construction of the residences and streetscape improvements will require the installation of a new on-site storm drainage system. The new drainage

system will consist of street gutters, inlets, basins, and underground piping that will convey runoff to existing storm drain infrastructure within the Camino Pablo right-of-way. With the implementation of the new storm drainage system, designed to the specifications required under Division 914 of the County Ordinance Code ensure that the project will not result in the need for new or expanded unplanned off-site storm drain facilities.

- Recreational Services: The California Department of Parks and Recreation, the East Bay Regional Parks District, County, and incorporated cities in the vicinity of the Project Site each maintain state, County, or local parks, trails, and/or community recreational facilities throughout the County for public use. To ensure sufficient recreational areas are established to serve the County, the General Plan's Growth Management Element and the County Ordinance Code (Section 920-6.202) require three acres of neighborhood parks and recreational facilities per 1,000 members of the population. As stated previously, the project would not cause a significant population increase in the Moraga area. Accordingly, the project would not result in a significant increase in the use of existing recreational public resources in the area. Since the project would only marginally increase population in the area by an estimated 37 persons, and has ample access to existing parks, including Rancho Laguna Park \pm 750 feet south of the project, the project will not expectedly necessitate the provision of new park facilities. Additionally, all new single-family residences in unincorporated Contra Costa County are subject to Park Dedication and Park Impact Fees, which are collected prior to the issuance of building permits for the new single-family dwellings. The small scale of the project, and the collection of requisite Park Impact and Park Dedication fees ensures that the project will not result in any significant adverse impacts on park facilities in the County.

Health and Safety Element: The Health and Safety Element of the General Plan is coordinated with the Land Use Element, and as a result may at times justify the lowering of density or alternate design modification for development such as the residential project based on health/safety hazards such as seismic hazards, air quality, wildfire hazards, and other hazards associated with climate change. The project site is not located within a FEMA flood hazard zone. The project site is not along the coastline, or waterways, thus, no conflict is expect to arise with policies pertaining to flooding or sea level rise.

The project site is not located within a liquefaction hazard, or Alquist-Priolo Fault hazard zones, as mapped by the California Department of Conservation. However, the site, including a portion of the residential development area, is within a landslide hazard zone, and past landslides have occurred on the subject property. General Plan Health and Safety Policies HS-P11.1 through HS-P11.6, require mapping of seismic hazards, prohibit construction of buildings where seismic hazards cannot be mitigated, and discourage construction within fault zones and steeply sloped areas. Various Geotechnical review letters prepared for the site by consulting engineers, ENGEO, have concluded that development of the site is feasible and provide recommendations for foundation design that are appropriate for the geologic setting. The project has been forwarded to the County peer review geologist, who concurs that existing landslide hazards on site can be mitigated through the use of soundly-engineered building foundations. All recommendations from the peer-review geologist have been incorporated as conditions of approval. Therefore, the project will mitigate geologic hazards consistent with the aforementioned policies of the Health and Safety Element.

The project site is located within a Very High Fire Hazard Severity Zone (VHFHZ), as mapped by CalFire. General Plan Policy #HS-P7.1 states that projects resulting in new residential units within the VHFHZ should be denied. This policy is not applicable to the Camino Pablo project due to the fact that the application was deemed complete on October 2, 2023, prior to the adoption of this policy as part of the November 5, 2024, adoption of the 2045 General Plan. The project will be required to provide a Fire Protection Plan, for review/approval by the Moraga Orinda Fire Protection District, consistent with Policy #HS-P7.4. The fire protection plan will provide measures for fire-resistant construction material and modifying fuel loading. The project is subject to fire district requirements to provide defensible space, and the provision of adequate water supply for fire suppression purposes. With the development and implementation of the Fire Protection Plan the project would be considered generally consistent with applicable Fire Hazard Policies specified within the health and safety element.

Transportation Element: The Transportation Element of the General Plan includes policies and goals intended to promote effective transportation system that promotes multi-modal transportation. The project site is located along Camino Pablo in the unincorporated Moraga area of the County. The project includes a sidewalk along one side of the interior access roadway, which connects to existing sidewalk improvements along the portion of Camino Pablo fronting the site. The project includes an offer of dedication over a 25-foot-wide portion of the project site along Camino Pablo, a public right-of-way maintained by the Town of Moraga.

The project is conditioned to require the applicant to consult with the Town of Moraga regarding frontage improvements along this right-of-way, including studies relating to the installation of traffic calming measures or the removal of on-street parking to facilitate the installation of a Class II bicycle lane. The project, including anticipated frontage improvements along Camino Pablo, is consistent with and in furtherance of Transportation Element policies requiring development projects to minimize conflicts between vehicles and pedestrians/cyclists (Policy TR-P3.2), manage access points along collector roadways by minimizing vehicular access points (Policy TR-P4.4), and designing roadways to include traffic calming and complete streets features to accommodate emergency response vehicles while maintaining safety for vulnerable road uses (Policies TR-P4.10).

3. **Required Finding:** In the case of residential development, it will constitute a residential environment of sustained desirability and stability, and will be in harmony with the character of the surrounding neighborhood and community.

Project Finding: The residential development area will be located in a small southerly portion of the site and focused in an area of minimal topographical relief in a small “saddle” nestled between two small hilltops. The residential development would be lower in elevation (than the hilltops along the eastern property boundary, where site elevations are highest and which is adjacent to open space and more prominent easterly ridgelines. The project’s residential uses will be consistent with the aesthetics of the existing residential and urban character of the areas to the west, northwest, and south. Additionally, since low density residential land uses are considered compatible with pastoral land uses, and therefore would not conflict with adjacent open space lands east and north of the site. The residential component of the project has been designed to complement surrounding architectural styles and will include building materials similar to those used in residential developments in the project vicinity. In addition, improvements within the residential development area will be consistent, in scale and size, with other development in the immediate vicinity of the project site, including one- and two-story residences within adjacent subdivisions. Conformance with applicable regulations and policies set forth by Contra Costa County that require design review, such as Ordinance Code 84-66.1402 (design objectives for P-1 planned unit districts), will ensure that the visual character and quality of the Residential Development Area is consistent with community standards.

4. **Required Finding:** The development of a harmonious integrated plan justifies exceptions from the normal application of this code.

Project Finding: The project site presently consists of 23.9 acres of pastoral land amongst rolling hillsides that steadily increase in elevation towards the eastern property boundaries and beyond. The topographical characteristics of the site are such that the project will require numerous retaining walls throughout the residential development area, many of which extend across multiple adjoining lots and would necessitate numerous variance approvals within a traditional zoning district. Excluding the aforementioned retaining walls, residential development within the P-1 district has been designed to conform to development standards (i.e. setbacks, minimum side/rear yards, building height) that are applicable within the Single-Family Residential (R-15) District.

E. Environmental Findings

Following are the findings required pursuant to the California Environmental Quality Act (CEQA) to adopt a Mitigated Negative Declaration/Initial Study for the project, prior to the approval of a project.

- A draft Mitigated Negative Declaration/Initial Study (MND), State Clearinghouse Number SCH 2024110934, was prepared for the Camino Pablo project on November 26, 2024. The public review period for the draft MND started on November 26, 2024 and extended through December 26, 2024. On December 13, 2024, at the request of the applicant, CDD staff published a revised IS/MND which corrected typographical errors and added clarification to discussion of mitigation measures identified in CEQA checklist sections pertaining to Public Services and Wildfire. The revised draft IS/MND was recirculated on December 13, 2024 and the public comment period was extended through January 15, 2025.
- A Final MND has been prepared for the Camino Pablo Project, including the comments received on the draft IS/MND, responses to the comments received, and staff-initiated text changes.
- The comments received and staff responses to the comments do not substantially alter staff's findings regarding potentially significant project related impacts, nor do they diminish the effectiveness of mitigation measures identified within the draft MND.

- The text changes are not the result of any new significant adverse environmental impact, do not diminish the effectiveness of any mitigation included in the pertinent section, and do not alter any findings in the section.
- The final MMRP includes substitution mitigation measures modifying biological resources mitigation measures **Biological Resources 3 – 5**. The substitute mitigation measures would enhance the effectiveness of these mitigation measures. The implementation of the substitute mitigation measures would not result in any new substantial environmental impacts, as discussed in more detail in the response to public comments section of the Final IS/MND. Therefore, they may be included as part of the project approval without recirculating the document pursuant to CEQA guidelines section 15074.1.
- On the basis of the whole record before it, including the draft and final MND, the County Planning Commission finds that:
 - i. There is no substantial evidence that the project with the identified mitigation measures will have a significant effect on the environment;
 - ii. MND SCH 2024110934, consisting of the draft MND and final MND, reflects the County's independent judgement and analysis;
 - iii. The MND is adequate and complete; and
 - iv. The MND has been prepared in compliance with the California Environmental Quality Act and the State and County CEQA guidelines.

CONDITIONS OF APPROVAL FOR COUNTY FILES # CDGP21-00004, CDRZ23-03270, CDSD23-09646, CDDP23-03012

Project Approval

1. The Vesting Tentative Map and Final Development Plan for the Camino Pablo 13-lot residential subdivision is APPROVED as generally shown on the following documents:
 - Project application and materials submitted to the Department of Conservation and Development, Community Development Division (CDD) on April 20, 2023;
 - *General Plan Amendment, Rezoning, Final Development Plan & Vesting Tentative Map Subdivision #9646*, by dk Engineering, stamped received by CDD on June 30, 2023;
 - Revised architectural plans, *Camino Pablo*, by Hunt, Hale, Jones, stamped received by the CDD on June 30, 2023;
 - South Camino Pablo Preliminary Landscape Plan by Camp & Camp Associates, stamped received by the CDD on June 30, 2023;
 - Geotechnical review letter by ENGEO, dated June 29, 2023;
 - Camino Pablo Hydrologic & Hydraulic Analyses by dk Engineering, stamped received June 30, 2023;
 - Preliminary Stormwater Control Plan prepared by dk Consulting, stamped received June 30, 2023;
2. This Development Plan is approved contingent upon Board approval of a major subdivision request, County File #CDSD23-09646, general plan amendment request, County File #CDGP21-00004, from Agricultural Lands (AL) to Residential Low Density (RL) and Resource Conservation (RC) designations, and a rezoning of the area of residential development (County File #CDRZ23-03270) from General Agricultural (A-2) to Planned Unit District (P-1). If either the general plan amendment or the rezoning application is not approved, then this approval shall be null and void.

Application Costs

3. The applications submitted were subject to an initial deposit of \$5,200 for General Plan Amendment, \$7,000 for rezoning, \$11,000 for major subdivision, and \$7,000 for the final development plan. The applications are subject to time and material costs if the

application review expenses exceed the initial deposit. Any additional fee due must be paid prior to an application for a grading or 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 in the event that additional fees are due.

Site Specific Planned-Unit (P-1) Zoning District

4. Permitted Land Uses within the Planned Unit (P-1) District shall be administered consistently with those permitted within the R-15 single-family residential zoning district.
5. Development standards within the Planned Unit (P-1) District shall be administered consistently with those applicable to the R-15 single-family residential zoning district.

Accessory Dwelling Units

6. This approval does not constitute Accessory Dwelling Permit approvals. The establishment of an Accessory Dwelling Unit on any lot resultant from this subdivision shall be subject to CDD review and approval of a separate ministerial ADU permit application.

Indemnification

7. The applicant agrees to defend, indemnify, and hold harmless Contra Costa County and its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, and employees to attack, set aside, void, or annul this approval. The applicant also agrees to defend, indemnify, and hold harmless Contra Costa County and its agents, officers, and employees from any and all liability caused by negligent or wrongful acts of the applicant, its agents, or employees arising out of the issuance or exercise of this Development Plan permit, or the interpretation of any of its provisions, and to pay all claims, damages, judgements, legal costs, adjuster fees, and attorney fees incurred by the County or its agents, officers, and

employees related thereto. The applicant shall be entitled to select its own legal counsel in the defense of all such actions. The applicant shall provide written acknowledgement and acceptance of this condition of approval.

Compliance Report

8. **At least 45 days prior to recordation of the Final Map, issuance of a grading or building permit, or tree removal, whichever occurs first**, the applicant shall submit an application for COA Compliance Review and provide a report on compliance with the conditions of approval of this permit for the review and approval by the CDD. The report shall list each condition followed by a description of what the applicant has provided as evidence of compliance with that condition. The CDD may reject the report if it is not comprehensive with respect to the applicable requirements for the requested permit. The fee for this application is a deposit of \$1,500.00 that is subject to time and material costs. Should staff costs exceed the deposit, additional fees will be required.

Except for those conditions administered by the Public Works Department, the report shall list each conditions followed by a description of what the applicant has provided as evidence of compliance with that condition. A copy of the permit conditions of approval may be obtained from the CDD.

Affordable Housing – Inclusionary Housing

The following conditions of approval are for the purpose of compliance with Chapter 822-4 (Inclusionary Housing Ordinance) of the County Ordinance Code. Terms and definitions used in the following conditions of approval may be found in the above-referenced County Ordinance Code.

9. The project includes a general plan amendment, rezoning, development plan, and subdivision of 23.90 acres for the construction of 13 for-sale units and is subject to County Ordinance Code, Chapter 822-4, Inclusionary Housing Ordinance. Terms and definitions regarding the Inclusionary Housing Ordinance are pursuant to this chapter.

The intent of the Inclusionary Housing Ordinance is to require at least 15 percent of the dwelling units in a residential development of five or more for-sale units to be developed as inclusionary units Chapter 822-4.410(b).

As an alternative to the requirement to construct inclusionary housing, the applicant/owner has proposed the payment of a For-Sale Housing Fee per the Inclusionary Housing Plan signed by the applicant on June 30, 2023. This alternative to collect an in-lieu fee, as established in DCD's fee schedule, has been accepted per Section 822-4.404.

Prior to the recordation of a final map, parcel map, or CDD approval of any building permits for the proposed development, including grading permits, the applicant shall pay to the County the full amount of the Inclusionary Housing Ordinance For-Sale Housing In-Lieu fees. The current calculation of the in-lieu fee is \$85,800.78. The final calculation of the in-lieu fee will be calculated upon payment. This in-lieu fee is non-refundable and non-transferable.

In-lieu Fee Calculation: \$ 6,600.06/unit x 13 for-sale units = \$85,800.78

10. Should the applicant choose not to pay the in-lieu fee in full prior to the recordation of a final map, parcel, map, or CDD approval of a building permit, then the applicant must construct the required number of inclusionary units on-site, off-site, or a combination of both on-site and off-site to comply with the Inclusionary Housing Ordinance requirements.

Police Services District

11. Election for Establishment of a Police Services District to Augment Police Services: Prior to the recordation of the final map the property owner shall participate in the provision of funding to maintain and augment police services by voting to approve a special tax for the parcels created by this subdivision approval. The tax shall be a per parcel annual amount (with appropriate future CPI adjustment) established at the time of voting by the Board of Supervisors. The election to provide for the tax shall be completed prior to filing the Final Map. The property owner shall be responsible for paying the cost of holding the election, payable at the time the election is requested by the owner. Allow a minimum of three to four months for processing.

Child Care

12. Prior to the issuance of building or grading permits, whichever occurs first, the applicant shall pay a per unit fee toward childcare facility needs in the area, as established by the Board of Supervisors. The current childcare fee is \$400 per unit,

however, the actual fee collected will be that which is applicable at the time of building permit issuance.

Landscaping

13. **At least 45 days prior to recordation of the Final Map, issuance of a grading or building permit, whichever occurs first, the applicant shall provide a final landscape and irrigation plan for all landscaped areas of the project for CDD review/approval.** The landscaping plan shall conform to the California Model Water Efficient Landscape Ordinance as well as the County's Landscapes Ordinance, if one is adopted. Prior to requesting 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.

Defensible Space – Fuel Management

14. Vegetation removal activities, as may be necessary within ephemeral drainage feature(s) for fire suppression (fuel management) purposes, shall be limited to hand-operated string trimming or other less intrusive methods recommended by the consulting biologist. Discing, mowing, grubbing, or any vegetation management using vehicles shall be prohibited within the drainage feature.

Site Lighting

15. All outdoor lighting within the residential development area should be directed downward and/or shielded to prevent light spillover onto adjacent properties.

Park Impact/Park Dedication Fees

16. Prior to issuance of building permits for any building containing residential units, the applicant shall pay a per-unit park dedication fee, as established by the Board of Supervisors.
17. Prior to the issuance of building permits for any building containing residential units, the applicant shall pay a per-unit park impact fee, as established by the Board of Supervisors.

Street Names

18. **Prior to recordation of the Final Map**, proposed street name(s) shall be submitted for review by the Department of Conservation and Development, GIS/Mapping section. Alternate street names should be submitted. CDD certification of the Final Map may occur after street name approval.

Provision of Utility Service to Subdivision

19. **Prior to recordation of the Final Map**, the applicant shall provide evidence that the property has been annexed within the service boundaries of the East Bay Municipal Utility District.
20. **Prior to recordation of the Final Map**, the applicant shall provide evidence that the property has been annexed within the service boundaries of the Central Contra Costa Sanitary District.

Community Benefit Agreement

21. **At least 30-days prior to occupancy of a residential unit constructed for this project**, the permittee shall provide CDD staff with evidence that the permittee and the County have entered into an agreement which details the permittee's planned contributions intended to provide community benefits.

MITIGATION MEASURES FROM THE MITIGATION MONITORING PROGRAM APPLIED AS CONDITIONS OF APPROVAL FOR COUNTY FILE #CDGP21-00004, CDRZ23-03270, CDSD23-09646 & CDDP23-03012

Agricultural Resources

22. A deed restriction shall be established over the 16-acre open space Parcel A of the Vesting Tentative Map, requiring its preservation in perpetuity as open space. This will substantially limit the extent to which future conversion of agricultural lands could occur in the vicinity by providing permanent protection of open space land that comprises roughly 65% of the project site. **(M.M. Agricultural Resources-1)**

Air Quality

23. The following dust control measures, as recommended by the Bay Area Air Quality Management District (BAAQMD) shall be included on the construction drawings for the project, and implemented during construction: **(M.M. Air Quality-1)**

- a. All exposed non-paved surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and access roads) shall be watered at least two times per day and/or non-toxic soil stabilizers shall be applied to exposed non-paved surfaces.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered and/or shall maintain at least 2 feet of freeboard.
- c. All visible mud or dirt tracked 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.
- d. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
- e. 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.
- f. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- g. All truck equipment, including their tires, shall be washed off prior to leaving the site.
- h. Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted wood chips, mulch or gravel.
- i. The prime construction contractor shall post a publicly visible sign with the telephone number and person to contact regarding dust complaints. The County and the construction contractor shall take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

24. The following emissions measures, as recommended by the Bay Area Air Quality Management District (BAAQMD) shall be included on the construction drawings for the proposed project and implemented during construction: **(M.M. Air Quality-2)**

- a. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the

California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points.

- b. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- c. The applicant shall require construction contractors to reduce construction related fugitive VOC emissions by ensuring that low-VOC coatings having a VOC content of 50 grams per liter or less are used during the coating of the buildings interiors and exterior surfaces.
- d. All construction equipment larger than 50 horsepower used at the site for more than two continuous days or 20 hours total shall utilize diesel engines that are USEPA certified "Tier 4 final" emission standards for particulate matter and be equipped with CARB-certified Level 3 Diesel Particulate Filters. Prior to the CDD stamp approval of any construction plans for the issuance of demolition, construction, or grading permits, the construction contractor shall submit the specifications of the equipment to be used during construction to CDD staff.

Biological Resources

25. Prior to issuance of a grading permit, special-status plant surveys shall be conducted for the bent-flowered fiddleneck (*Amsinckia lunaris*), Mt. Diablo fairy lantern (*Calochortus pulchellus*), and Diablo helianthella (*Helianthella castanea*). The plant surveys shall be conducted during the March through June blooming period in which the species are most identifiable. These surveys shall be conducted in compliance with all survey guidelines published by the California Department of Fish and Wildlife (CDFW, 2018), U.S. Fish and Wildlife Service (USFWS, 2011), and California Native Plant Society (CNPS, 2001). If the survey finds any of the listed special-status plant species on the project site, the applicant shall consult with the USFWS and/or CDFW, as appropriate, to develop an approved mitigation plan to ensure that potential impacts to the identified species are less than significant. The applicant shall fully implement the mitigation plan prior to initiation of any project construction activity. **(M.M. Biological Resources -1)**

26. Prior to commencement of construction activities, a qualified wildlife biologist shall survey the project site for California red-legged frog (CRLF) to verify the absence or presence of the species. One day and one night survey shall be conducted during the

non-breeding season. At least one survey must be completed between January 1 and August 15. Day surveys shall be conducted between 1 hour after sunrise and 1 hour before sunset. Night surveys are used to identify and locate adult and metamorphosed frogs and shall be conducted no earlier than 1 hour after sunset. Surveys shall be performed in accordance with applicable U.S. Fish and Wildlife Service (USFWS) protocol. Because the potential for CRLF to occur on the project site is limited to a dispersal capacity only, surveys performed during the breeding season to identify eggs and larvae are not required.

Once site clearing or grading commences, all ruts, holes, and burrows shall be inspected for CRLF by a qualified biologist prior to and during excavation or removal in order to look for and avoid amphibians that may be present on the project property. If any CRLF are found during initial site disturbance, a qualified biologist possessing a valid federal Endangered Species Act (ESA) Section 10(a)(1)(A) permit or USFWS-approved under an active biological opinion, shall be contracted to trap and to move amphibians to nearby suitable habitat outside the fenced project site. **(M.M.**

Biological Resources – 2)

27. Prior to commencement of ground disturbance or vegetation removal from the project site, a qualified wildlife biologist shall perform a preconstruction survey the project site for Alameda whipsnake to determine the presence or absence of this species. The survey shall be conducted no more than 48 hours prior to vegetation removal or ground disturbance. If any whipsnakes are identified, the biologist shall develop appropriate mitigation to protect the species and compensate for lost Alameda whipsnake habitat. The mitigation shall be determined in consultation with the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) and implemented to the satisfaction of those agencies. Incidental take permits shall be obtained from these agencies prior to the County issuing a grading permit.

(M.M. Biological Resources – 3a)

28. Prior to the implementation of Mitigation Measure Biological Resources-3a, the project applicant shall install appropriate exclusion fencing around the entire area of project disturbance, with a suitable buffer to be determined by a qualified wildlife biologist, to prevent any snakes or other wildlife from encroaching onto the site. The foot of the exclusion fencing shall be buried sufficiently deep to prevent wildlife from crawling or tunneling under the fence and the upper portion of the fence shall be curved outward, such that any snakes or other wildlife attempting to scale the fence

will fall off the fence once they become inverted, preventing their incursion onto the site. The fencing shall be installed to the satisfaction of the wildlife biologist. (**M.M. Biological Resources – 3b)**)

29. The project sponsor shall require the construction contractor to implement the following protective measures during project construction: (**M.M. Biological Resources – 3c)**)

Open Trenches: Any open trenches, pits, or holes with a depth larger than one-foot shall be covered at the conclusion of work each day with a hard, non-heat-conductive material (i.e., plywood). No netting, canvas, or material capable of trapping or ensnaring wildlife shall be used to cover open trenches. If use of a hard cover is not feasible, multiple wildlife escape ramps shall be installed, constructed of wood or installed as an earthen slope in each open trench, hole, or pit that is capable of allowing large (i.e., deer) and small (i.e., snakes and frogs) from escaping on their own accord. Prior to the initiation of construction each day and prior to the covering of the trench at the conclusion of work each day, a qualified biologist or on-site personnel shall inspect the open trench, pit, or hole for wildlife. If wildlife is discovered, it shall be allowed to leave on its own accord.

Open Pipes Restriction: All pipes, culverts, or similar structures that are stored vertically or horizontally at the construction site for one or more overnight periods shall be securely capped on both ends prior to storage and thoroughly inspected by a qualified biologist or on-site personnel for wildlife prior to utilization in construction of the project.

Fence and Signpost Restriction: Any fencing posts or signs installed temporarily or permanently throughout the course of the Project shall have the top three post holes covered or filled with screws or bolts to prevent the entrapment of wildlife, specifically birds of prey. The Qualified Biologist or on-site personnel shall be responsible for ensuring compliance with this measure throughout the course of the Project and shall inspect each post.

30. Onsite Worker Education Program. A qualified biologist shall administer a pre-construction training program for all employees, contractors, and personnel working at the project site prior to performing any project activities, to be hosted at the project site. The presentation shall include, at minimum, a discussion of sudden oak death prevention, critical root zone protection, the biology of the habitats and species identified in this IS/MND and those with potential to be present at the project site, which shall include a walkthrough. The Qualified Biologist shall also include, as part of the education program, information about the distribution and habitat needs of any species that may be potentially present, legal protections for those species, penalties for violations, and project-specific protective measures identified in the biological mitigation measures required by this IS/MND. Interpretation shall be provided for non-English speaking employees, contractors, or personnel otherwise working on the project site, prior to their performing any work at the project site. **(M.M. Biological Resources – 3d)**

31. Implementation of the below mitigation measure would reduce construction period impacts on the Western Bumblebee to less than significant levels: **(M.M. Biological Resources -4)**

Prior to commencement of ground-disturbing activities, a qualified wildlife biologist shall perform a habitat assessment of the project site and surrounding landscape to identify and map suitable nesting, foraging, and overwintering habitat for the Western bumble bee. If suitable habitat is identified, a qualified wildlife biologist shall perform focused preconstruction surveys of the project site for Western bumblebee to determine the presence of this species. To maximize probability of detection, a minimum of three focused surveys shall be conducted during the colony active period (i.e., April through September) and when floral resources are in peak bloom. If any Western bumblebee are identified, or if surveys are not conducted and presence is presumed, the biologist shall develop appropriate mitigation to protect the species and compensate for potential habitat loss. The mitigation shall be determined in consultation with the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) and implemented to the satisfaction of those agencies. Incidental take permits shall be obtained from these agencies prior to the County issuing a grading permit.

If suitable nesting, foraging, or overwintering habitat is identified within the project site during the habitat assessment, a biological monitor with experience conducting surveys for special-status bumble bee species shall be present onsite during

vegetation removal and/or ground-disturbing activities that take place during any of the "Queen and Gyne Flight Period and Colony Active Period" (February through October).

32. If project grading or construction is scheduled to take place between February 1 and September 15, a preconstruction survey of the project vicinity for nesting birds shall be conducted by a qualified biologist experienced with the nesting behavior of bird species of the region. The survey shall determine if active nests are present within the planned area of disturbance or within 250 feet of the construction zone for non-raptors and 1,000 feet for raptors. The survey shall be performed no more than 14 days prior to the commencement of construction activities and a second focused survey shall be conducted within 48 hours prior to construction activities that would occur during the nesting/breeding season. If ground disturbance activities are delayed following a survey, then an additional preconstruction survey shall be conducted such that no more than two weeks will have elapsed between the last survey and the commencement of ground disturbance activities. If a lapse of project-related activities of seven days or longer occurs, another focused survey shall be conducted before project activities can be initiated. Copies of the preconstruction survey(s) shall be submitted to the Contra Costa County Department of Conservation and Development, Community Development Division (CDD) and the California Department of Fish and Wildlife.

If an active bird nest is found within the survey radii, species-specific measures shall be prepared by a qualified biologist and implemented to prevent abandonment of the active nest. A protective buffer shall be established, with the distance to be determined by a competent biologist based on the site conditions—such as whether the nest is in a line of sight of the construction—and the sensitivity of the birds nesting. Typical protective buffers are as follows: 1) 1,000 feet for large raptors such as buteos, 2) 500 feet for smaller raptors such as accipiters, and 3) 250 feet for passerines. No project personnel or equipment shall be allowed to enter the protective buffer until the qualified biologist determines that the young have fully fledged and will no longer be adversely affected by the project.

A qualified biologist shall observe any identified active nests prior to the start of any construction-related activities to establish a behavioral baseline of the adults and any nestlings, and the nest site(s) shall be monitored by the biologist periodically to see if the birds are stressed by the construction activities and if the protective buffer needs to be increased. The perimeter of the nest setback zone shall be fenced or adequately

demarcated with stakes and flagging at 20-foot intervals, and construction personnel and activities restricted from the area. A survey report by a qualified biologist verifying that no active nests are present, or that the young have fledged, shall be submitted prior to initiation of grading in the nest-setback zone. The qualified biologist shall serve as a biological monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. All buffers shall be shown on all sets of construction drawings. **(M.M. Biological Resources – 5)**

Cultural Resources

33. The following mitigation measures shall be implemented during project construction: **(M.M. Cultural Resources-1)**

- a. A program of onsite education to instruct all construction personnel in the identification of archaeological deposits shall be conducted by a certified archaeologist prior to the start of any grading or construction activities.
- b. If archaeological materials are uncovered during grading, trenching, or other onsite excavation, all work within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA), and the Native American tribe(s) that has requested consultation and/or demonstrated interest in the project site, have had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s) if deemed necessary.

34. Should human remains be uncovered during grading, trenching, or other onsite excavation(s), earthwork within 30 yards of these materials shall be stopped until the County coroner has had an opportunity to evaluate the significance of the human remains and determine the proper treatment and disposition of the remains. Pursuant to California Health and Safety Code Section 7050.5, if the coroner determines the remains may be those of a Native American, the coroner is responsible for contacting the Native American Heritage Commission (NAHC) by telephone within 24 hours. Pursuant to California Public Resources Code Section 5097.98, the NAHC will then determine a Most Likely Descendant (MLD) tribe and contact them. The MLD tribe has 48 hours from the time they are given access to the site to make recommendations to the landowner for treatment and disposition of the ancestor's remains. The landowner

shall follow the requirements of Public Resources Code Section 5097.98 for the remains. **(M.M. Cultural Resources-2)**

Geology

35. At least 60 days prior to recording the final Subdivision Map, requesting issuance of construction permits or installation of utility improvements, the project proponent shall submit a design-level geotechnical report for the project, based on adequate subsurface exploration, laboratory testing and engineering analysis. The scope of the geotechnical investigation should address to fully evaluated the following potential geologic/ geotechnical and seismic hazards, including corrosion potential testing. The report shall also provide a) recommendations and specifications pertaining to foundation design, including any proposed foundation retaining walls, b) pavement design, c) evaluation of the drainage design, including the proposed bio-retention facilities and their effect on planned improvements. The report shall also address d) temporary shoring and support of excavations, e) updated California Building Code seismic parameters, and f) outline the recommended geotechnical monitoring, which shall include the monitoring of foundation related work as it pertains to geotechnical recommendations. Two monitoring reports shall be required: One following rough grading, which shall present all test data gathered as well as geologic mapping of exposures created during grading, and a map showing the location and estimated depth of subdrains and the location of all cleanouts, and the geotechnical engineer's opinion on the compliance of the as graded project with the recommendations in the design level report. Lastly, a monitoring report shall be required prior to the final building inspection. It shall document monitoring of final grading, backfilling of utility, foundation preparation and subgrade preparation work for improvements, etc., and shall be submitted prior to requesting the final building inspection for each lot. (This monitoring report can be segmented so that one letter can document monitoring performed on all lots, or a grouping of lots or a series of monitoring reports for each lot). **(M.M. Geology-1)**
36. The geotechnical report shall be subject to review by the County's peer review geologist, and review/approval of the Zoning Administrator. Improvement, grading and building plans shall carry out the recommendations of the approved report. **(M.M. Geology-2)**
37. The geotechnical report required by **M.M. Geology-1** 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, 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 to that stage of construction, including monitoring and testing of backfilling required for utility and drainage facilities.

Similarly, a **hard hold** shall be placed on the final building inspection for each dwelling, pending submittal of a letter-report from the geotechnical engineer documenting the monitoring services associated with implementation of final grading, drainage, and foundation-related work. The geotechnical monitoring shall include documentation of conformance of retaining wall, pier hole drilling/ foundation preparation work and installation of drainage improvements. **(M.M. Geology-3)**

38. 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 by the grading permit. Any modification to the above schedule shall be subject to review by the Grading Inspector, and the review / approval of the Zoning Administrator. **(M.M. Geology-4)**

39. Prior to filing of the Final Map, the project proponent shall join with an existing Geologic Hazard Abatement District (GHAD) or create a new independent GHAD formed pursuant to Public Resources Code Section 26500. The GHAD documents are subject to review and approval by the CDD. GHAD formation requires a Plan of Control and an Engineers Report. These documents must be prepared by licensed professionals (engineering geologists and geotechnical engineers) and are subject to technical review by the Department of Conservation & Development. The project proponent is responsible for funding the technical review. **(M.M. Geology-5)**

- a. If the GHAD is to own the open space parcels, it will assume responsibilities that relate to their position as a GHAD and also the duties as a responsible property owner. The GHAD is charged with responsibilities relate to the prevention, mitigation, abatement, or control of geologic hazards, which includes (a) maintenance of facilities that enhance geologic as well as hydrogeologic stability, such as drainage facilities and associated improvements. The drainage facilities to be maintained by the GHAD shall include retaining on open space parcels, BMP water quality treatment facilities, concrete lined drainage ditches and open space storm drainage facilities, and other peripherally related open space responsibilities (e.g. erosion control, mowing).
 - b. The Plan of Control shall include (a) background information on the project and the open space, (b) characterize the geologic and seismic setting of the site, (c) provide a detailed evaluation of potential geologic hazards, (d) provide criteria for GHAD responsibility, (e) address activation of assessments and outline the process for transferring responsibility to the GHAD, (f) describe general landslide mitigation, (g) establish priorities for GHAD expenditures, and (h) outline the monitoring and maintenance schedule, including, but not limited to, provision for monitoring performance of GHAD maintained facilities in the aftermath of an earthquake that yields strong to violent earthquake shaking in the West County area. The engineers report shall provide the financial details needed to implement the Plan of Control.
40. A recorded deed disclosure shall provide notice to all the owners of the 13 residential lots of the existence of the Geologic Hazard Abatement District (GHAD) and its responsibilities, in addition to any easements and improvements granted to the GHAD. This notice may include provision for removal of landscaping or structures within the easements granted to the District without compensation. **At least 30 days prior to requesting a final building inspection for single-family residential development on any lot resultant from the proposed subdivision**, the applicant shall provide CDD staff with documentary evidence that the deed disclosure has been recorded on that lot. **(M.M. Geology-6)**
41. Prior to the issuance of a grading or building permit, whichever occurs first, the applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) and an Erosion Control Plan for review and approval by the Department of Conservation and Development, Building Inspection Division (BID) and by the Department of Public Works. The SWPPP shall identify the "best management practices" that are most

appropriate for the site, and the "Erosion Control Plan" shall provide the details of the erosion control measures to be applied on the site and maintained throughout the winter rainy season. In addition, the SWPP shall include dust control measures which are most appropriate for the project site. These measures may include, but would not be limited to, watering or seeding disturbed areas, covering stockpiles of dirt or aggregate, or other soil stabilization practices. **(M.M. Geology-7)**

Noise

42. The following standard County noise reduction measures shall be implemented during project construction and shall be included on all construction plans: **(M.M. Noise-1)**

- 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.
- b. 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.
- 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 Department of Conservation and Development, Community Development Division (CDD) phone number shall also be visible to ensure compliance with applicable regulations.
- d. 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 and 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)

- e. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 A.M. to 4:00 P.M.
43. The following noise reduction measures as recommended in the 2024 Illingworth & Rodkin *Camino Pablo Noise and Vibration Assessment* shall be implemented during project construction and shall be included on all construction plans. **(M.M. Noise-2)**
- a. Construction of residences shall be stages such that residential units at the west and south boundaries of the site shall be constructed as early as possible to provide acoustical shielding for adjacent offsite residences. Constructing units along the western and southern boundaries of the site will provide approximately 10 dB of noise reduction during the remainder of project construction activities.
 - b. Temporary noise barriers shall be constructed, where feasible, to screen any stationary noise-generating equipment located within 200 feet of adjacent offsite residences. Temporary noise barrier fences will provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.

- c. Construction staging areas shall be established at onsite locations that will create the greatest distance between the construction-related noise sources and adjacent offsite residences for the duration of project construction.
 - d. Material stockpiles as well as equipment parking areas shall be located as far as feasible from adjacent offsite residences.
44. The 2024 Illingworth & Rodkin *Camino Pablo Noise and Vibration Assessment* recommended construction notification. Accordingly, the following additional noise mitigations shall be implemented. **(M.M. Noise-3)**
- a. At least one week prior to commencement of grading or any other construction activity, the applicant shall provide written notification to occupants of properties within 300 feet of the exterior boundary of the construction site that construction work will commence. The notice shall include 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 shall also be visible to ensure compliance with applicable regulations.
 - b. A copy of the notice shall be concurrently transmitted to the CDD. The notice shall be accompanied by a list of the names and addresses of the property owners noticed and a map identifying the notification area.
45. The applicant shall submit a Wildfire Protection Plan (WPP) for review and approval by the Moraga-Orinda Fire District (MOFD). The final fire protection plan shall include items listed in section 4903.2.1.1 and the following: **(M.M. Public Services-1)**
- a. A map identifying all proposed plants in the fuel modification zones with a legend that includes a symbol for each proposed plant species. The plan shall include specific information on each species proposed, including but not limited to:
 - i. The plant life-form.
 - ii. The scientific and common name.
 - iii. The expected height and width for mature growth.
 - b. Identification of irrigated and non-irrigated zones.
 - c. Requirements for vegetation reduction around emergency access and evacuation routes.

- d. Identification of points of access for equipment and personnel to maintain vegetation in common areas.
- e. Legally binding statements regarding community responsibility for maintenance of fuel modification zones.
- f. Legally binding statements to be included in covenants, conditions and restrictions regarding property owner responsibilities for vegetation maintenance.

PUBLIC WORKS CONDITIONS OF APPROVAL FOR COUNTY FILE #CDGP21-00004, CDSD23-09646, CDRZ23-03270, & CDDP23-03012

The applicant shall comply with the following conditions of approval prior to filing of the final map.

General Requirements

- 46. In accordance with Section 92-2.006 of the Ordinance Code, this subdivision shall conform to all applicable provisions of the Subdivision Ordinance (Title 9). Any exceptions therefrom must be specifically listed in this conditional approval statement. The drainage, road and utility improvements outlined below shall require the review and approval of the Public Works Department and are based on the vesting tentative map received by the Department of Conservation and Development, Community Development Division, on June 30, 2023.
- 47. The applicant shall submit improvement plans prepared by registered civil engineer to the Public Works Department and pay appropriate fees in accordance with the County Ordinance and these conditions of approval. The conditions of approval below are subject to the review and approval of the Public Works Department.

Road Dedications

- 48. The applicant shall convey to the Town of Moraga, by Offer of Dedication for a 25-foot width, for the right-of-way necessary for the planned future width in accordance with the Town of Moraga arterial roadway designation standards along the frontage of Camino Pablo.

Roadway Improvements

49. The applicant shall design and construct road improvements along the frontage of Camino Pablo, subject to the review and input of the Town of Moraga and the review and approval of the (County) Public Works Department.
50. The applicant shall construct the on-site road system to County public road standards and convey to the County, by Offer of Dedication, the corresponding right-of-way.

Access to Adjoining Property

Proof of Access

51. 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

52. The applicant shall obtain an encroachment permit from the Town of Moraga, if necessary, for all work within the public right of way from the Town of Moraga including the construction of driveways or other improvements.
53. The applicant shall obtain a hauling permit from the Town of Moraga if the site grading generates or requires import of soil exceeding 500 cubic yards.

Site Access

54. The applicant shall only be permitted access at the locations shown on the approved site/development plan.
55. The applicant shall restrict access along Camino Pablo frontage of this property, with the exception of the access points shown on the applicant's site plan, as specifically approved under these conditions of approval.

Abutter's Rights

56. The applicant shall relinquish abutter's rights of access along Camino Pablo with the exception of the proposed road intersection.

Offsite Traffic Analysis

57. The applicant shall implement speed reduction measures on Camino Pablo south of Sanders Ranch Road to the southern terminus to reduce the 85th percentile travel speed to 25 miles per hour to the satisfaction of the Town of Moraga **or** study the impacts of parking removal in this area to provide a Class II bike facility.

58. The applicant shall provide a traffic study regarding installation of an all-way stop-control at the intersection of Tharp Drive and Camino Pablo, with crosswalks across all legs of the intersection. The report shall be submitted to the Town of Moraga for review.

Sight Distance

59. The applicant shall submit a preliminary improvement plan and profile to the Public Works Department for review showing all required improvements to the fronting or off-site County roadway. The sketch plan shall be to scale, show horizontal and vertical alignments, transitions, curb lines, lane striping and cross sections and provide sight distance at the intersection of Street A and Camino Pablo for a design speed of 25 miles per hour. The plan shall extend a minimum of 164 feet beyond the limits of the proposed work

Street Lights

60. Property owner(s) shall annex to the County Facilities District (CFD) 2010-1 formed for Countywide Street Light Financing. Annexation into a streetlight service area does not include the transfer of ownership and maintenance of street lighting on private roads.

Landscaping

61. The applicant shall submit four sets of landscape and automatic irrigation plans and cost estimates, prepared by a licensed landscape architect, to the Public Works Department for review and to the Zoning Administrator for review and approval, prior

to filing of the Final Map. Applicant shall pay appropriate fees in accordance with County Ordinance.

Utilities/Undergrounding

62. The applicant shall underground all new utility distribution facilities. Applicant shall provide joint trench composite plans for the underground electrical, gas, telephone, cable television and communication conduits and cables including the size, location and details of all trenches, locations of building utility service stubs and meters and placements or arrangements of junction structures as a part of the Improvement Plan submittals for the project. The composite drawings and/or utility improvement plans shall be signed by a licensed civil engineer.

Drainage Improvements

Collect and Convey

63. The applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the stormwater to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code

Miscellaneous Drainage Requirements

64. The applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.
65. The applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
66. Private storm drain easements, conforming to the width specified in Section 914-14.004 of the County Ordinance Code, shall be dedicated over the proposed storm drain lines traversing the site.

National Pollutant Discharge Elimination System (NPDES)

67. 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 storm water 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 storm water 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.
- Offer pavers for household driveways and/or walkways as an option to buyers.
- 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.
- Other alternatives comparable to the above as approved by the Public Works Department.

Storm Water Management and Discharge Control Ordinance

68. 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 filing of the Final Map/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.

69. 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 Storm water Management and Discharge Control Ordinance (§1014).
70. Storm water management facilities shall be subject to inspection by Public Works Department staff; all time and materials costs for inspection of storm water management facilities shall be borne by the applicant.
71. Prior to filing of the Final Map, 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.
72. Prior to filing the Final Map, 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.
73. 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.

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 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et. seq, the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a ninety-day (90) period after the project is approved.

The 90-day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the CDD within 90 days of the approval date of this permit.

- B. The applicant shall submit grading and building plans to the Building Inspection Division and comply with Division requirements. It is advisable to check with the Division prior to requesting a grading or building permit or otherwise proceeding with the project.
- C. The applicant is responsible for contacting the Health Services Department Environmental Health Division regarding its requirements and permits.
- D. The applicant must submit building plans to the Moraga Orinda Fire Protection District and comply with its requirements.
- E. It is the applicant's responsibility to contact Local Agency Formation Commission (LAFCO) regarding the annexation of the project site into the service boundaries of utilities providing municipal water and sanitary sewer services to the project.

- F. The applicant is advised to consult with the Central Contra Costa Sanitary District regarding applicable approvals from this agency.
- G. The applicant is required to submit plans to the East Bay Municipal Utility District for approval.
- H. The applicant is responsible for contacting the Contra Costa Mosquito and Vector Control District regarding its requirements and permits.
- I. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee ordinance for the Central County Area of Benefit as adopted by the Board of Supervisors. Payment is required prior to the issuance of a building permit.
- J. This project is subject to the development fees in effect under County Ordinance as of October 2, 2023, the date the vesting tentative map application was accepted as complete by the Department of Conservation and Development. These fees are in addition to any other development fees, which may be specified in the conditions of the approval.