

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CSD21-09581:
ANDY BYDE, CALIBR VENTURES (APPLICANT) and CALIBR VENTURES INC
(OWNER)**

I. Findings

A. General Plan Growth Management Element Standards

- 1. Traffic:** Policy 4-c of the Growth Management Program (GMP) of the Contra Costa County General Plan requires a traffic impact analysis of any project that is estimated to generate 100 or more AM or PM peak hour trips. The project consisting of the future construction of 10 single-family dwelling units would anticipate to generate an additional seven AM and ten PM new peak period trips, and therefore, is not required to have a project-specific traffic impact analysis. Since the project would yield less than 100 peak-hour AM or PM trips, the project would not conflict with the circulation system in the area.

The Complete Streets Policy, adopted by the Contra Costa County Board of Supervisors on July 12, 2016, requires Complete Streets infrastructure sufficient to enable reasonably safe travel along and across the right of way such as streets, roads, highways, bridges, and other portions of the transportation system. The subdivision project includes a 28-foot-wide private street and a 5-foot sidewalk to connect to new frontage and sidewalk improvements on Walnut Boulevard for pedestrians and persons with disabilities within the project. Therefore, the project will be consistent with the Complete Streets policy.

- 2. Water:** The GMP requires new development to demonstrate that adequate water quantity and quality can be provided. The project site currently receives water service from the East Bay Municipal Utility District (EBMUD) and is able to extend services to the project site and provide water to the 10 future residential properties. In a letter dated July 6, 2023, EBMUD stated water main extension will be required, and each lot to be provided domestic service and its own service connection and meter will require EBMUD review and approval prior to water service, which will include all applicable water efficiency measures under Section 31 of EBMUD's Water Regulations. Therefore, the project is not expected to result in a significant increase in demand for water service for the project site or surrounding area.

- 3. Sanitary Sewer:** The GMP requires new development to demonstrate that adequate sanitary sewer quantity and quality can be provided. The project site currently receives sanitary sewer service from the Central Contra Costa Sanitary District. In an email dated July 7, 2021, the Sanitary District stated the project site is within their service area and sanitary sewer service is available to the project site, and would not be expected to produce an unmanageable added capacity demand on the wastewater system, nor interfere with existing, public facilities. The developer will need to construct an 8-inch diameter onsite public main sewer and private laterals. The Sanitary District's review and approval of all sewer improvements is required prior to construction. Therefore, the project is not expected to significantly increase the need for sanitary sewer service for the project site or surrounding area.
- 4. Fire Protection:** The GMP requires that a fire station be within 1 ½ miles of development in urban, suburban and central business district area, or requires that automatic fire sprinkler systems be installed to satisfy this standard. The project site is located within the service area of the Contra Costa County Fire Protection District (CCCFPD). Fire protection to the project site would be provided by Station No. 1 located at 1330 Civic Drive in Walnut Creek (approximately 1 ½ miles of driving distance to the site). Using an average travel speed of 35 miles per hour, an engine responding from Station No. 1 would take approximately 5 minutes to reach the project site, which meets the 5-minute response standard set by the County General Plan. Also, according to the CAL FIRE Fire Hazard Severity Zone Viewer, the project site is located within a Local Responsibility Area (LRA) and is not classified as a very high fire hazards severity zone, and is not within the State Responsibility Area (SRA). The nearest fire hazard severity zone (FHSZ) within an SRA is 1.8-miles southeast of the project site and is classified as a moderate FHSZ. The nearest VHFHSZ is approximately 3.96 miles southeast of the project site. In addition, as detailed in the comment letter for the project from the Fire District dated July 22, 2023, the project is required to comply with the applicable provisions of the California Fire Code, the California Building Code, and applicable Contra Costa County Ordinances that pertain to emergency access, fire suppression systems, and fire detection/warning systems, and automatic fire sprinklers will be required. Prior to the issuance of building permits, the construction drawings would be reviewed and approved by the fire district. Therefore, the project is not expected to significantly increase the need for fire service to the project site or surrounding area.

5. **Public Protection**: The GMP indicates a Sheriff facility standard of 155 square-feet of Sheriff station space per 1,000 persons of population. The project would increase the population of unincorporated Contra Costa County by approximately 28 persons, which is less than the facility standard and is a non-substantial increase. Therefore, the addition of 10 residential properties to the project area would not significantly affect the provision of police services to the area. Furthermore, the project is conditioned so that the subdivision would be required to establish a Police Services District to Augment Police Services.

6. **Parks and Recreation**: The GMP requires three-acres of neighborhood park per 1,000 in population. The project would increase the population by approximately 28 persons. The project does not adversely impact the County's ability to maintain the standard of having 3-acres of neighborhood parks for every 1,000 members of the population. Furthermore, the project is conditioned that the applicant pays a Park Impact and Park Dedication fee for each residence constructed.

7. **Flood Control and Drainage**: The project site is not located within a 100-year flood hazard area as determined by the Federal Emergency Management Agency (FEMA).

Division 914 of the County Ordinance Code requires that all storm water entering and/or originating on this property to be collected and conveyed, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having a definable bed and banks or to an existing adequate public storm drainage system which conveys the storm water to an adequate natural watercourse.

The project is to joint use the bioretention basin for detention purposes. A preliminary hydrologic analysis of the detention basin determined that the basin will mitigate peak flows from the site to below pre-project levels. Joint use of the basin is allowed, provided the stormwater treatment function of the basin is not used in the storage volume modeling for the detention function.

Section 914-12.002 of the County Ordinance Code sets the minimum storage volume for detention basins at 15 acre-feet, allowing for use of smaller systems with the approval of Public Works, and establishment of a public maintenance entity. An

exception request from this requirement per Chapter 92-6 of said Code to allow a smaller basin to be maintained by a private maintenance agreement. Findings for this exception request are under section E. Due to the small size of the project site and the lack of public entity to maintain such a facility, Public Works is not averse to the granting of this exception and allowing the responsible individual(s) to maintain it along with their obligation to maintain the stormwater management aspects of the basin as discussed in the preliminary Hydrologic and Hydraulic Analysis. This report was submitted in support of the runoff mitigation claims of the basin design, but will be subject to a more thorough review as the project progresses through final design.

Lastly, a Stormwater Control Plan (SWCP) is required for applications that will create and/or redevelop impervious surface area exceeding 10,000 square-feet in compliance with the County's Stormwater Management and Discharge Control Ordinance (§1014) and the County's Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit. This project will create and/or redevelop approximately 43,558 square-feet of impervious surface with driveways and single-family residential development, which is above the threshold for requiring submittal of a SWCP. A SWCP Exhibit and Report were submitted for Public Works review and are considered adequate for this phase of the project.

B. Tentative Map Findings

- 1. The County Planning Agency shall not approve a tentative map unless it finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general plan required by law.**

Project Finding: The General Plan land use designation for the project site is Single-Family Residential-low Density (SL). The project is to subdivide 2.88 acres into 10 residential lots and have a new private road off Walnut Boulevard provide access to all 10 lots. The primary land uses permitted in this designation include detached single-family homes and accessory buildings and structures. As the project will result in single-family residential properties, the project is consistent with the allowed uses of this general plan designation.

The General Plan also determines the allowed density for an area. The General Plan land use designation of Single-Family Residential-Low Density (SL) allows 1.0 – 2.9 units per net acre. However, as the project is eligible for density bonus (Gov. Code § 65915) it is allotted one concession to a development standard, and the applicant requests a concession to the development standard “net acreage” in calculating density, and to instead use gross acreage. Using gross acreage (2.88 acres) * (2.9 dwelling unit(du)/acre) = 8.35 du, fractional unit rounded to nine base units. When calculating density using density bonus with nine base units: (9 du) * (0.10 density bonus) = 0.9 du, fractional unit rounded to 1 du; 9 du + 1du = 10 units. Therefore, a 10-lot subdivision is consistent with the allowed density for the SL General Plan designation with the approval of a concession to use gross acreage to calculate density.¹

Also, the following goals and policies within the County 2005-2020 General Plan are applicable to the project:

- Transportation and Circulation Element - The project is consistent with the following General Plan Transportation and Circulation Element goal and policies.
Goal 5-J: To reduce single-occupant auto commuting and encourage walking and bicycling.
Policy 5-16: Curbs and sidewalks shall be provided in appropriate areas.
Policy 5-17: Emergency response vehicles shall be accommodated in development project design.

The Complete Streets Policy, adopted by the Contra Costa County Board of Supervisors on July 12, 2016, requires Complete Streets infrastructure sufficient to enable reasonably safe travel along and across the right of way such as streets, roads, highways, bridges, and other portions of the transportation system. The subdivision project includes a private street and a 5-foot sidewalk on one side of its curb to provide access for pedestrians to Walnut Boulevard, which will also receive new frontage improvements and 5-foot sidewalks. Therefore, the overall

¹ Government Code section 65915, subdivisions (f)(5) states, “All density calculations resulting in fractional units shall be rounded up to the next whole number.” Additionally, subdivision (q) states that “Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number.”

surrounding circulation system will be consistent with the Complete Streets policy.

The project has also been reviewed by the Contra Costa County Fire Protection District to verify the project is designed to accommodate proper access for emergency response vehicles. In a letter dated July 22, 2021, the Fire District found the project to meet such access standards.

- Housing Element - The project is consistent with the following General Plan Housing Element goals and policy.

Goal 1: Maintain and improve the quality of the existing housing stock and residential neighborhoods in Contra Costa County.

As the project increases the housing stock in a residential neighborhood, it is consistent with this goal of the General Plan.

2. The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision fulfills construction requirements.

Project Finding: The project will comply with the collect and convey regulations, storm drainage facilities, and design standards for private roads, except as otherwise provided for in the exemption requests made by the applicant. The applicant has requested exemptions related to offsite collect and convey diversion requirements, detention basin requirements, and underground utility requirements. The approval of each of these requested exemptions is supported by findings contained in Section D, below. Additionally, compliance with the California Building Code and all applicable County Ordinances is required for grading of the property and construction of residential buildings.

C. Tree Permit Findings

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

- 1. County Code Section 816-6.8010(2)(A):** The arborist report indicated that four code-protected trees: one California Black Walnut, 2 Almond trees, and one Plum tree, were in poor health and could not be saved.

- 2. County Code Section 816-6.8010(2)(G):** New single-family residential development requires removal of 39 code-protected trees and work within the dripline of 17 code-protected trees, and could not be reasonably accommodated on another area of the lot.

The project Arborist Report prepared by certified arborist Jennifer Tso (#WE-10270A) and dated January 10, 2023, provides an inventory and evaluation of all trees on and adjoining the project site that may be impacted by the proposed project. A total of 73 trees were surveyed, numbered, tagged, identified, measured, and evaluated. 39 code-protected trees would be development related removal, and work would occur within the dripline of 17 additional code-protected trees. There were 16 tree species inventoried, but only 3 species are listed in the County Tree Ordinance under the indigenous species list: 26 Valley Oaks, 12 California Black Walnut trees, and 2 Coast Redwoods. The other tree species include: 5 Almond trees, 5 Holly Oaks, 4 English Walnut trees, 2 Monterey Pines, 4 Privets, 1 Elm, 1 English Hawthorn, 1 Olive tree, 1 Pepper tree, and 6 various fruit trees.

The arborist report indicates these trees cannot be avoided and are not expected to survive, thus requiring removal. In addition, remaining trees that are proposed for preservation on and adjacent to the project site would be preserved through the implementation of the tree mitigation measures described in the arborist report. These mitigation measures will be required to be in place throughout the entire construction period.

D. County Code Section 96-10.002 (Underground Utilities - Exceptions) Exception Findings

There is an existing power pole located at the southwest corner of the property that will conflict with the required frontage improvements. Section 96-10.002 of the County Ordinance Code requires subdividers to underground utility distribution facilities along the project frontage. Approval of an exception request to this code section would allow the pole to remain in its existing place and taper the width of the road as it approaches the pole.

1. That there are unusual circumstances or conditions affecting the property.

Project Finding: The existing utility poles supporting the overhead lines along the frontage of the project contain electric service from PG&E and various utility services including AT&T, Comcast, and Wave Cable. The existing poles have

services branching to an unknown number of homes on Walnut Boulevard and View Lane. In addition, the overhead lines connect to the poles at an unusual angle. Undergrounding of the lines would result in new guy wires extending into the front yard of neighboring properties which would significantly impact neighboring properties.

2. That the exception is necessary for the preservation and enjoyment of the substantial right of the applicant.

Project Finding: As discussed above, the alignment and angles of the overhead lines connecting to the utility poles present challenges for undergrounding. Additional guy wires and supports will be added encroaching into the neighboring properties that are not a part of this project.

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

Project Finding: Leaving the existing overhead utility lines in place will not be detrimental to public welfare. All services will remain in place as is with minimal disruptions to neighboring properties. The guy wire supports will not encroach into neighboring yards as is the case with undergrounding. In addition, undergrounding the lines crossing Walnut Boulevard will cause a traffic burden on the community during construction.

Given the existing site conditions, Public Works will not be averse to the granting of this exception to allow the existing facilities to remain overhead, but the existing pole within the ultimate travel way will need to be relocated behind the sidewalk. In the event the western adjacent property is redeveloped, or the sidewalk is extended as a safe route to the nearby school, the curb alignment and travel way should not be encumbered by a utility pole.

E. County Code Sections 914-2.004(a) (Offsite Collect and Convey Requirements) and 914-12.002 (Detention Basins – Where Permitted)

Exception Findings

Section 914-2.004(a) requires runoff to be collected and conveyed without diversion. Section 914-12.002 sets the minimum storage volume for detention basins at 15 acre-feet, allowing for use of smaller systems with the approval of Public Works,

and establishment of a public maintenance entity. Approval of an exception request to these code sections would allow a smaller basin to be maintained by a private maintenance agreement, and water to be diverted from naturally flowing to an inlet at the north end of the property.

1. That there are unusual circumstances or conditions affecting the property.

Project Finding: Due to the size of the project site (2.88 acres) and the steep existing ground topography, a basin of fifteen acre-feet is impossible to achieve without exporting excessive volume of soil. In addition, the minimal drainage area of the site produces low stormwater runoff flow rates which do not necessitate the large configuration of the basin described in the code, and can take the runoff being diverted from the north end of the property.

2. That the exception is necessary for the preservation and enjoyment of the substantial right of the applicant.

Project Finding: As discussed above, the site in question cannot accommodate a fifteen-acre-foot basin while supporting any kind of development due to the existing topography. Requiring a fifteen-acre-foot basin would be inconsistent with both the State Density Bonus Law and Housing Accountability Act because the requirement would preclude the project at its requested density.

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

Project Finding: The purpose of the detention basin is to mitigate additional flows generated by development of the site. By directing stormwater runoff into the basin, the development is reducing the overall flow rates leaving the site alleviating impacts downstream. The basin will be privately maintained in accordance with standard maintenance procedures for bioretention and detention basins. Due to the small size of the project site and the lack of public entity to maintain such a facility, Public Works is not averse to the granting of the exceptions and allowing the responsible individual(s) to maintain it along with their obligation to maintain the stormwater management aspects of the basin, which includes the diverted stormwater runoff.

F. California Environmental Quality Act (CEQA) Findings

A CEQA Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for this project. It was determined that without mitigation the project may result in

significant impacts in the environmental areas of Aesthetics, Air Quality, Biological Resources, Tribal and Cultural Resources, Geology and Soils, and Noise. Therefore, pursuant to California Code of Regulations Section 15070, the IS/MND identified mitigation measures to be incorporated into the project that will reduce the impacts to less than significant levels. The IS/MND was posted for public review on June 21, 2023. The public comment period for accepting comments on the adequacy of the environmental document extended to July 21, 2023, during which thirteen public comment letters were received.

Pursuant to Section 21080.3.1 of the California Public Resources Code (PRC), correspondence detailing the project was provided to the Native American Tribes, the Wilton Rancheria on September 21, 2021, and the Confederated Villages of Lisjan Nation on January 7, 2023. The correspondence formally notified the Tribes of their opportunity to request consultation with the County regarding the potential for the project impacting tribal cultural resources, as defined in Section 21074 of PRC. Both Tribes did not request consultation, but did request to be notified if any findings were unearthed with the development of this project.

II. CONDITIONS OF APPROVAL FOR COUNTY FILE #CDS21-09581

DEPARTMENT OF CONSERVATION AND DEVELOPMENT, COMMUNITY DEVELOPMENT DIVISION (CDD), CONDITIONS OF APPROVAL FOR COUNTY FILE #CDS21-09581

Project Approval

1. County file #CDS21-09581 and its Vesting Tentative Map for Subdivision 3180 Walnut Boulevard, is APPROVED, by the Department of Conservation and Development, Community Development Division (CDD) as generally shown and based on the following documents submitted to CDD on January 10, 2024:
 - Vesting Tentative Map for Subdivision 3180 Walnut Boulevard, prepared by DK Engineering;
 - Storm Water Control Plan, prepared by DK Engineering;
 - Preliminary Grading and Utility Plans, prepared by DK Engineering;
 - Architectural Plans, prepared by William Hezmalhalch Architects;
 - Site Setbacks Plan, prepared by DK Engineering;
 - House Height Exhibit, prepared by DK Engineering; and
 - Preliminary Landscape Plan, prepared by Ripley Design.

And the following reports and/or studies:

- Arborist Report, prepared by certified arborist Jennifer Tso (#WE-10270A)

and of Traverso Tree Service, dated Jan 10, 2023;

- Air Quality, Greenhouse Gas Emissions, and energy Supporting Information Report, prepared by FirstCarbon Solutions, dated December 1, 2022;
- Biological Resource Analysis (BRA) Report, dated in July 2021, and subsequent BRA Report, dated May 2022, prepared by Olberding Environmental, Inc;
- Archaeological Survey Report, prepared by Garcia and Associates (GANDA), dated March 18, 2020;
- Historic Resource Assessment (HRA), prepared by FirstCarbon Solutions, dated December 16, 2022;
- Preliminary Geotechnical Exploration, prepared by ENGEO, dated March 12, 2020; and
- Noise Impact Analysis, prepared by FirstCarbon Solutions, dated September 28, 2022.

2. This Subdivision permit includes approval of a Concession to allow the use of gross acreage and not net acreage to calculate density pursuant to Government Code 65915(d) that results in 10 residential lots.

3. This Subdivision permit includes approval of waivers or reductions in development standards pursuant to Government Code 65915(e)(1). The R-20 single-family zoning district development standards are applicable to the project, except as otherwise provided in the table below:

Lot #	Lot Area (20,000 square feet minimum)	Footprint Area in square feet	Depth (120 feet minimum)	Average Width (120 feet minimum)	Front yard Setback (25 feet minimum)	Side Yard Setback (15 feet, 35 feet aggregate, minimum)	Retaining Walls (structure setbacks in feet)
Lot 1	9,645	2,483	145.3	66.4	20	15 feet aggregate, (no yard less than 5 feet)	0
Lot 2	10,889	2,533	168.6	64.6	20	15 feet aggregate, (no yard less than 5 feet)	0
Lot 3	11,731	2,913	174.1	67.4	20	15 feet aggregate, (no yard less than 5 feet)	0
Lot 4*	10,764	2,533	150.6	71.5	1 foot to shunt turn around; 20 feet from street	15 feet aggregate, (no yard less than 5 feet)	0

Lot #	Lot Area (20,000 square feet minimum)	Footprint Area in square feet	Depth (120 feet minimum)	Average Width (120 feet minimum)	Front yard Setback (25 feet minimum)	Side Yard Setback (15 feet, 35 feet aggregate, minimum)	Retaining Walls (structure setbacks in feet)
Lot 5	13,270	2,533	132	100.5	20 feet to face of garage; 10 feet to living area	15 feet aggregate, (no yard less than 5 feet)	0
Lot 6	17,659	2,483	127.2	138.8	20	15 feet aggregate, (no yard less than 5 feet)	0
Lot 7	9,292	2,533	130.9	71	20	15 feet aggregate, (no yard less than 5 feet)	0
Lot 8	9,555	2,913	134.5	71	20	15 feet aggregate, (no yard less than 5 feet)	0
Lot 9	9,819	2,442	138.2	71	20	15 feet aggregate, (no yard less than 5 feet)	0
Lot 10	15,797	2,533	141.3	111.8	20	15 feet aggregate, (no yard less than 5 feet)	0

Notes:
* Designated as affordable unit
** Double frontage: 15 feet (20 feet minimum)

4. This Subdivision permit includes approval of a Tree Permit to allow removal of 43 code-protected trees, and work within the dripline of 17 code-protected trees:

Tree #	Tree Species (trunk diameter in inches)	Action	Reason
301	Almond (12")	Work w/in dripline	Development
302	Valley Oak (17")	Work w/in dripline	Development
303	Monterey Pine (36")	Work w/in dripline	Development
306	Holly Oak (7")	Work w/in dripline	Development
309	California Black Walnut (14")	Work w/in dripline	Development

310	Valley Oak (30")	Work w/in dripline	Development
314	Valley Oak (14")	Work w/in dripline	Development
315	English Walnut (46") Multi-stemmed	Remove	Development
316	California Black Walnut (23")	Work w/in dripline	Development
321	California Black Walnut (13") Multi-stemmed	Remove	Poor health
322	Valley Oak (13")	Work w/in dripline	Development
323	Valley Oak (12")	Work w/in dripline	Development
324	Olive (18")	Work w/in dripline	Development
325	Almond (18") Multi-stemmed	Remove	Poor health
326	California Black Walnut (20")	Remove	Development
327	Valley Oak (24")	Work w/in dripline	Development
328	Valley Oak (11")	Work w/in dripline	Development
330	Plum (10")	Remove	Poor health
331	Almond (11")	Work w/in dripline	Development
332	Valley Oak (18")	Remove	Development
333	Almond (12") Multi-stemmed	Remove	Poor health
334	Valley Oak (15")	Work w/in dripline	Development
335	Valley Oak (19")	Remove	Development
338	Valley Oak (20")	Work w/in dripline	Development
339	Valley Oak (8")	Work w/in dripline	Development
340	Valley Oak (9")	Remove	Development
341	Valley Oak (13")	Remove	Development
342	Valley Oak (21")	Remove	Development
343	Valley Oak (17")	Remove	Development
344	Pecan (20") Multi-stemmed	Remove	Development
345	Pecan (7")	Remove	Development
346	Valley Oak (15") Multi-stemmed	Remove	Development
347	Pecan (31")	Remove	Development
348	English Hawthorn (20") Multi-stemmed	Remove	Development
349	Pepper (54") Multi-stemmed	Remove	Development
350	California Black Walnut (22")	Remove	Development
351	California Black Walnut (22") Multi-stemmed	Remove	Development

352	California Black Walnut (32") Multi-stemmed	Remove	Development
353	English Walnut (10")	Remove	Development
354	Apricot (7")	Remove	Development
355	Persimmon (18") Multi-stemmed	Remove	Development
356	Valley Oak (18")	Remove	Development
357	Pecan (37")	Remove	Development
358	Valley Oak (22")	Remove	Development
359	Holly Oak (12")	Remove	Development
360	Holly Oak (14")	Remove	Development
361	Valley Oak (14")	Remove	Development
362	Privet (20") Multi-stemmed	Remove	Development
363	Holly Oak (7")	Remove	Development
364	Privet (7")	Remove	Development
365	Privet (18") Multi-stemmed	Remove	Development
366	Holly Oak (7")	Remove	Development
367	California Black Walnut (14") Multi-stemmed	Remove	Development
368	Privet (28") Multi-stemmed	Remove	Development
369	Almond (19") Multi-stemmed		Development
370	California Black Walnut (19")	Remove	Development
371	English Walnut (18")	Remove	Development
372	California Black Walnut (14")	Remove	Development
373	English Walnut (26") Multi-stemmed	Remove	Development
374	Almond (28") Multi-stemmed	Remove	Development

5. The maximum number of lots approved for this subdivision is 10 residential lots.

Application Fees

6. This application is subject to an initial application deposit of \$10,000, which was paid with the application submittal, plus time and materials costs if the application review expenses exceed 100% of the initial deposit. Any additional costs due must be paid within 60 days of the permit effective date or prior to use of the permit,

whichever occurs first. The applicant may obtain current costs by contacting the project planner.

Indemnification

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

Compliance Report

- 8.** A permit compliance report shall be submitted to the Department of Conservation and Development, Community Development Division (CDD) for review and approval. The report shall identify all conditions of approval that are administered by the CDD. The report shall document the measures to be taken to satisfy all relevant conditions. Unless otherwise indicated, the permit compliance report will be required to demonstrate compliance with the applicable conditions of this report prior to filing the Final Map or planning approval of a grading or building permit, whichever occurs first.

The permit compliance report will be filed and reviewed through a Condition of Approval Compliance Check application with an initial deposit of \$2,000 (subject to time and materials).

Fencing

- 9.** Prior to planning approval of a grading or building permit, a fencing plan program shall be submitted to CDD for the review and approval. The approved program shall be attached to the CC&Rs.

Covenants, Conditions and Restrictions (CC&R's)

- 10.** Prior to recordation of the Final Map, Covenants, Conditions and Restrictions (CC&R's) shall be submitted to CDD for review and approval. This document shall include the maintenance obligation requirements of Public Works condition(s) of approval. The CC&Rs shall also require occupants to maintain garage spaces in a manner, which makes them available for off-street parking.

Signs/Walls

- 11.** Prior to planning approval of a grading or building permit, the details of the design, location, color and type of materials for any proposed signs and/or masonry walls shall be submitted to CDD for review and approval.

Park Impact Fee

- 12.** Prior to issuance of a building permit for a new residence, the applicable park impact fee as established by the Board of Supervisors shall be paid.

Park Dedication Fee

- 13.** Prior to issuance of a building permit for a new residence, the applicable park dedication fee as established by the Board of Supervisors shall be paid.

Child Care

- 14.** Prior to issuance of a building permit for a new residence, a fee for childcare facility needs in the area, as established by the Board of Supervisors, shall be paid.

Police Services District

- 15.** Election for Establishment of a Police Services District to Augment Police Services: Prior to the recordation of the Final Map, the owner of the property 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 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.

Exterior Lighting

- 16.** Prior to planning approval of a building permit, a Lighting Plan shall be submitted for review and approval by the CDD. At a minimum, the plan shall include the following measures:
- a. All outdoor lighting, including façade, yard, security, and streetlights, shall be oriented down, onto the project site or road.
 - b. Back shields or functionally similar design elements shall be installed on every lighting pole to reduce lighting from spilling off site, and to ensure that lighting remains within the project site.
- (AES-1)**

Biological Resources

- 17.** If project construction-related activities take place during the nesting season (February through August), an avian pre-construction survey for nesting passerine birds and raptors (birds of prey) within the project site and the trees within the adjacent riparian area shall be conducted by a qualified Biologist no more than 14 days prior to the commencement of the tree removal or project construction-related activities. If any bird listed under the Migratory Bird Treaty Act (MBTA) is found to be nesting within the project site or within the area of influence, an adequate protective buffer zone shall be established by a qualified Biologist to protect the nesting site. This buffer shall be a minimum of 75 feet from the project activities for passerine birds, and a minimum of 200 feet for raptors. The distance shall be determined by a qualified Biologist based on the site conditions (topography, if the nest is in a line of sight of the construction and the sensitivity of the birds nesting). The nest site(s) shall be monitored by a qualified Biologist periodically to see if the birds are stressed by the construction activities and if the protective buffer needs to be increased. Once the young have fledged and are flying well enough to avoid project construction zones (typically by August), a qualified Biologist shall determine if the project can proceed

without further regard to the nest site(s). Prior to issuance of a building or grading permit, the CDD shall determine if project construction-related activities will take place during the nesting season, and if so, the avian pre-construction survey shall be reviewed and approved by the CDD.

(MM BIO-1)

- 18.** If project construction-related activities take place during seasonal periods of bat activity (mid-February through mid-October – ca. February 15–April 15, and August 15–October 30), a bat habitat assessment within the project site shall be conducted by a qualified Bat Biologist to determine suitability of each tree or existing structure as bat roost habitat. Structures found to have no suitable openings can be considered clear for project activities as long as they are maintained so that new openings do not occur. Structures found to provide suitable roosting habitat, but without evidence of use by bats, may be sealed until project activities occur, as recommended by the Bat Biologist. Structures with openings and exhibiting evidence of use by bats shall be scheduled for humane bat exclusion and eviction, conducted during appropriate seasons, and under supervision of a qualified Bat Biologist. Bat exclusion and eviction shall only occur between February 15 and April 15, and from August 15 through October 30, in order to avoid take of non-volant (non-flying or inactive, either young, or seasonally torpid) individuals. Prior to issuance of a building or grading permit, the CDD shall determine if project construction-related activities will take place during seasonal periods of bat activity, and if so, the bat habitat assessment shall be reviewed and approved by the CDD.

(MM BIO-2)

- 19.** A pre-construction survey for special-status reptile species shall be conducted no more than 48 hours prior to the commencement of tree removal or project construction related activities to determine presence/absence of these species. Worker Environmental Awareness training discussing the potential for these species shall be conducted by a qualified Biologist or Biological Monitor for all construction personnel working within the project site. Prior to issuance of a building or grading permit, the reptile pre-construction survey shall be reviewed and approved by the CDD.

(MM BIO-3)

20. No work (including vegetation removal) shall take place within the riparian corridor and ephemeral drainage as indicated in the Biological Resource Analysis (BRA) Report completed by Olberding Environmental, Inc (Olberding) dated January 2023, unless evidence is provided to the CDD that the California Department of Fish and Wildlife (CDFW), Regional Water Quality Control Board (RWQCB), and/or United States Army Corp of Engineers (USACE) reviewed and approved work within these areas. The plan set for a building permit shall show fencing that is approved by a qualified biologist to ensure work does not take place in this area. As-built photos shall be required prior to issuance of a grading or building permit to ensure that this fencing is installed.

(MM BIO-4)

21. At no time shall silt-laden runoff be allowed to enter on-site aquatic features and their associated habitats. Erosion control measures shall be utilized throughout all phases of operation where sediment runoff from the project may enter these aquatic features. Best Management Practices (BMPs) to avoid erosion, uncontrolled stormwater runoff and bank deterioration shall be implemented, following the requirements of the proposed project's Stormwater Control Plan, and typically include silt fencing, coir rolls, and/or straw bale dikes.

(MM BIO-5)

22. No substances toxic to fish and wildlife shall be discharged or allowed to leach into the aquatic features present on-site. Materials deleterious or toxic to fish and wildlife, including, but not limited to, asphalt, tires, concrete, construction materials, treated wood, and creosote containing materials, shall not be stockpiled within 100 feet of any aquatic feature present on-site.

(MM BIO-6)

Restitution for Tree Removal

23. The following measures are intended to provide restitution for the removal of 43 code-protected trees:

A. Tree Replacement Plan: Prior to planning approval of a grading or building permit, the applicant shall submit a Tree Replacement Plan prepared by a licensed arborist or landscape architect for the review and approval of CDD. The Plan shall provide for the planting of at least 20 trees, minimum 15-gallons in size. The Plan shall show trees to be planted along Walnut Boulevard, and to provide screening between lots 5 and 6 and the neighboring properties, and shall be implemented prior to requesting a final inspection of the residential building permit for each lot.

- B. Required Security to Assure Completion of Plan Improvements: Prior to issuance of a grading or building permit, the applicant shall submit a security (e.g., bond, cash deposit) that is acceptable to CDD to ensure that the Tree Replacement Plan is implemented.

Determination of Security Amount: The security shall provide for a breakdown of all of the following costs:

- A labor and materials estimate for planting the 20 trees, minimum 15-gallons in size, and related irrigation improvements that may be required, prepared by a licensed landscape architect or landscape contractor.
 - An additional 20% of the total of the above amounts to address inflation costs.
- C. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs of staff for processing the landscape improvement security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.
- D. Duration of Security: The security bond for each lot shall be retained by the County for a minimum of 12 months up to 24 months following final building inspection. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist to inspect the trees and to prepare a report on the trees' health. In the event that CDD determines that the tree(s) intended to be protected has been damaged, and CDD determines that the applicant has not been diligent in providing reasonable restitution, then CDD may require that all part of the security be used to provide for mitigation of the damaged tree(s). Should one security be submitted for all lots, the security may be released upon complying with the requirements stated above and upon approval of a final inspection for the last lot constructed.

(MM BIO-7)

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

Contingency Restitution for Work Within the Dripline

- 25.** Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction activity nevertheless damages the tree(s) where work is within their dripline, the applicant shall provide the County with a security (e.g. bond, cash deposit) prior to planning approval of a grading or building permit, to allow for replacement of tree(s) intended to be preserved that are significantly damaged by construction activity. The security shall be based on:
- A. Extent of Possible Restitution Improvements – The planting of at least 20 trees, minimum 15-gallons in size, in the vicinity of the affected tree(s), or equivalent planting contribution, and subject to prior review and approval of CDD.
 - B. Determination of Security Amount: The security shall be submitted for each lot and provide for all of the following costs:
 - A labor and materials estimate for planting 20 trees, minimum 15-gallons in size, and related irrigation improvements that may be required, prepared by a licensed landscape architect or landscape contractor.
 - An additional 20% of the total of the above amounts to address inflation costs.
 - C. Initial Deposit for Processing of Security – The County Ordinance requires that the applicant cover all time and material costs of staff for processing a tree protection security. The Applicant shall pay an initial fee deposit of \$200 at time of submittal of a security.
 - D. Duration of Security: The security bond for each lot shall be retained by the County for a minimum of 12 months up to 24 months following final building inspection. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist to inspect the tree(s) and to prepare a report on the trees' health. In the event that CDD determines that the tree intended to be protected has been damaged by development activity, and CDD determines that the applicant has not been diligent in providing reasonable restitution of the damaged trees, then CDD may require that all part of the security be used to provide for mitigation of the

damaged tree(s). Should one security be submitted for all lots, the security may be released upon complying with the requirements stated above and upon approval of a final inspection for the last lot constructed.

(MM BIO-8)

Tree Protection

The following Tree Protection conditions shall be implemented during project construction and shall be stated on the site plan for building permit(s) as construction notes:

- 26.** The *Tree Protection Recommendations (TPR)* from the approved arborist report shall be present in the construction plans to be submitted for a building permit application, and shall be executed onsite during all phases of construction.
- 27.** Prior to issuance of a grading or building permit, the tree protective fencing as depicted in the approved arborist report shall be installed onsite. Color photographs of the installed fencing shall be submitted to CDD staff as evidence that this condition has been satisfied.
- 28.** Storage or parking vehicles, building materials, refuse, excavated spoils, or dumping of paint or poisonous materials on or around trees and roots is prohibited.
- 29.** Any construction activities that occur within the dripline of a tree, an arborist should be present. The arborist shall have the authority to require implementation of measures to protect the tree(s).
- 30.** The applicant shall immediately notify CDD staff of any damage that occurs to any tree during construction. Any tree not approved for destruction or removal that dies or is significantly damaged as a result of this project shall be replaced with a tree or trees of equivalent size and of a species as approved by the CDD to be reasonably appropriate for the situation.

Water Efficient Landscape Ordinance (WELo)

- 31.** Prior to planning approval of a building permit for a new residence, a completed WELo Part I for the landscaping specific to that property, shall be submitted to

CDD for review and approval. The approved Landscaping Plans under WELO Part I shall be present in the plans for a building permit.

- 32.** Prior to final building inspection, a completed WELO Part II – Certificate of Completion shall be submitted to CDD staff for review and approval.
- 33.** All landscaping shall comply with California Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495) and/or any applicable State mandated landscape/water related requirements applicable at the time of landscaping installation for the project. To the maximum extent feasible, landscaping plans shall use drought tolerant vegetation for the development.

Air Quality

- 34.** The following Bay Area Air Quality Management District, Basic Construction mitigation measures shall be implemented during project construction and shall be stated on the plans for building permit(s) as construction notes:
 - a. All exposed non-paved surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved 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 track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - 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. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage regarding idling restrictions shall be provided for construction workers at all access points.
 - g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

- h. The prime construction contractor shall post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall take corrective action within 48 hours of receipt of the complaint. The Bay Area Air Quality Management District (BAAQMD) phone number shall also be visible to ensure compliance with applicable regulations. A copy of this sign shall be provided to the Community Development Division (CDD).

(MM AIR-1)

35. The following Mitigation Measure shall be implemented during project construction and shall be included on all construction plans:

- a. All off-road equipment equal to or greater than 25 horsepower shall meet either United States Environmental Protection Agency (EPA) or California Air Resources Board (ARB) Tier 4 Final off-road emission standards during all construction activities.
- b. Prior to issuance of a grading or building permit, a construction management plan shall be submitted to the CDD for review and approval. The construction management plan shall demonstrate that the off-road equipment used on-site to construct the proposed project would comply with Tier 4 Final off-road emission standards. Off-road equipment descriptions and information included in the construction management plan should include, but is not limited to, equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number47T47T.

(MM AIR-2)

Cultural Resources

The following Cultural Resources mitigation measures shall be implemented during project construction and shall be stated on the plans for building permit(s) as construction notes:

- 36.** All project-related ground disturbance shall be monitored by an archaeologist who meets the Secretary of the Interior's professional qualification standards for archaeology. In the event that significant cultural resources are discovered during construction activities, the applicant/project owner or sponsor shall ensure that operations within a 100-foot radius of the find shall cease and the archaeologist will be consulted to determine whether the resource requires further study. The standard inadvertent discovery clause shall be included on the plans for grading permit(s) as construction notes to inform contractors of this requirement.

Potentially significant cultural resources consist of but are not limited to stone, bone, fossils, wood, or shell artifacts or features, including hearths, structural remains, or historic dumpsites. The archaeologist shall make recommendations to the County concerning appropriate measures, which shall be implemented by the applicant/project owner or sponsor to protect the discovered resources, including but not limited to recordation on appropriate California Department of Parks and Recreation (DPR) forms, evaluation, or excavation of the finds in accordance with CEQA Guidelines, Section 15064.5.

(MM CUL-1)

- 37.** In the event of accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code Sections 5097.94 and 5097.98 shall be followed. If during the course of construction activities there is accidental discovery or recognition of any human remains, the following steps shall be taken:
- A. There shall be no further excavation or disturbance within 100 feet of the remains until the County Coroner is contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall identify the person or persons it believes to be the Most Likely Descendant (MLD) of the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work within 48 hours, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code section 5097.98.
 - B. Where the following conditions occur, the landowner or his or her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the most likely descendant or on the project site in a location not subject to further subsurface disturbance:
 - The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being notified by the commission.
 - The descendant identified fails to make a recommendation.

- The landowner or his authorized representative rejects the recommendation of the descendant, and mediation by the NAHC fails to provide measures acceptable to the landowner.

(MM CUL-3)

Geology

38. Prior to submittal of a building or grading permit, the project applicant shall incorporate all recommendations provided in the project-Geotechnical Exploration into project plans, which shall be subject to review and approval by the County Geologist, or designee, prior to permit issuance. The geotechnical recommendations shall be implemented including general earthwork recommendations for site preparation, conditioning of expansive soils, removal of buried structures, removal of fill and disturbed soil, surface and subsurface drainage, biofiltration facilities, foundations, concrete flatwork, retaining walls, spread and pier footings, pavement areas, utility trenches, project review, and construction monitoring. Additionally, these include recommendations related to structural design, foundation design, foundation systems, slabs, moisture barriers, seismic design, walls, footings, slabs and walkways, concrete design, corrosion, pavement design, as well as lot maintenance, and future plan reviews.

(MM GEO-1)

39. The applicant shall retain a qualified Paleontologist to conduct paleontological monitoring during all earth-disturbing construction activities. Should any significant fossils (I.e., bones, teeth, or unusually abundant and well-preserved invertebrates or plants) be unearthed, the construction crew shall not attempt to remove them, as they could be extremely fragile and prone to crumbling, and to ensure their occurrence is properly recorded; instead, all work in the immediate vicinity of the discovery shall be diverted at least 15 feet until a professional paleontologist assesses the find and, if deemed appropriate, salvages it in a timely manner. All recovered fossils shall be deposited in an appropriate repository, such as the University of California Museum of Paleontology (UCMP), where they would be properly curated and made accessible for future study. Prior to issuance of a grading or building permit, evidence shall be provided to CDD that a qualified paleontologist is contracted to implement this mitigation measure.

(MM GEO-2)

Construction Restrictions

The following Construction Restrictions shall be implemented during project construction and shall be stated on the plans for building permit(s) as construction notes:

(MM NOI-1)

- 40.** Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:

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

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

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov)

California Holidays: <http://www.ftb.ca.gov/aboutftb/holidays.shtml>

Transportation of large trucks and heavy equipment is subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.

- 41.** Contractor and/or developer shall comply with the following construction requirements:
- A. The construction contractor shall ensure that all equipment driven by internal combustion engines shall be equipped with mufflers, which are in good condition and appropriate for the equipment.
 - B. The construction contractor shall ensure that unnecessary idling of internal combustion engines (i.e., idling in excess of 5 minutes) is prohibited.
 - C. The construction contractor shall utilize "quiet" models of air compressors and other stationary noise sources where such market available technology exists.
 - D. At all times during project grading and construction, the construction contractor shall ensure that stationary noise-generating equipment shall be located as far as practicable from sensitive receptors and placed so that emitted noise is directed away from the nearest residential land uses.
 - E. The construction contractor shall designate a noise disturbance coordinator who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (starting too early, bad muffler, and establish reasonable measures necessary to correct the problem. The construction contractor shall visibly post a telephone number for the disturbance coordinator at the construction site.

Street Names

- 42.** Prior to the recordation of the Final Map, proposed name(s) shall be submitted for review by the Department of Conservation and Development, GIS/Mapping Section. Alternate street names should be submitted. The Final Map cannot be certified by CDD without the approved street names.

Power Lines

- 43.** Where a lot is located within 300 feet of a high voltage electric transmission line, the applicant shall record the following as a deed disclosure:

"The subject property is located near a high voltage electric transmission line. Purchasers should be aware that there is ongoing research on possible potential adverse health effects caused by the exposure to a magnetic field generated by high voltage lines. Although much more research is needed before the question of whether magnetic fields actually cause adverse health effects can be resolved, the

basis for such a hypothesis is established. At this time no risk assessment has been made.”

When a Final Subdivision Report issued by the California Department of Real Estate is required, the applicant shall also request that the Department of Real Estate insert the above note in the report.

Will Serve Letters

44. Prior to recordation of the Final Map, a copy of a will-serve letter from East Bay Municipal Utility District shall be submitted to CDD.
45. Prior to recordation of the Final Map, a copy of a will-serve letter from Central Contra Costa Sanitary District shall be submitted to CDD.

Electric Vehicle

46. In accordance with the County’s Electric Vehicle (EV) Ordinance, a listed raceway to accommodate a dedicated 208/240-volt branch circuit shall be installed for each new residence.

DEPARTMENT OF CONSERVATION AND DEVELOPMENT, HOUSING AND COMMUNITY IMPROVEMENT (HCI) DIVISION, CONDITIONS OF APPROVAL FOR COUNTY FILE #CDS21-09581

47. Inclusionary Housing Ordinance: This project 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. Pursuant to Section 822-4.402(b) of the County Ordinance Code, a residential development of five or more for-sale units shall require at least fifteen percent of the for-sale units to be developed and sold as affordable units. At least twenty percent of the inclusionary units shall be sold at an affordable price to lower-income households. The remaining inclusionary units shall be sold to moderate-income families at an affordable price.
48. For-Sale Inclusionary Housing and Partial In-Lieu Fee: The applicant, owner, and/or developer (Applicant) is required to construct 1.35 affordable units (9 total base

units x 0.15 of total = 1.35 units) for the project. The Applicant has submitted a revised project proposal that included an Inclusionary Housing Plan and density bonus request dated March 22, 2022, that proposed to construct one for-sale moderate income inclusionary unit (affordable to households with an income up to 120% of Area Median Income) on Lot 4 of the property. The unit on Lot 4 is an approximately 2,533-square-foot single-family detached home consisting of four bedrooms. The one moderate-income unit proposed for compliance with the Inclusionary Housing Ordinance requirements is the same moderate-income unit required for compliance with the Density Bonus request. This unit may be referenced as inclusionary unit, density bonus unit, or both in these conditions. The requirements for the one moderate-income unit must comply with both the Inclusionary Housing Ordinance and State Density Bonus law, and the most restrictive requirements would apply.

The Applicant has proposed to pay a partial in-lieu fee for the fractional 0.35 inclusionary unit, and the County has accepted this proposal. The current calculation of the partial in-lieu fee for the fractional inclusionary unit is \$15,444.00. The final calculation of the in-lieu fee will be calculated upon payment. This in-lieu fee is non-refundable and non-transferable. A partial in-lieu fee of \$15,444.00 will be paid for the fractional .35 unit (.35 = 26% of the fee total of \$59,401. 26% of this fee = \$15,444.00)

- 49. Density Bonus Request:** The Applicant submitted a revised project description which included a density bonus request dated March 22, 2022. The Applicant proposed constructing one moderate-income unit, constituting 15 percent of the total for-sale units in the development.
- 50. Density Bonus – Concession or Incentive:** Pursuant to Government Code 65915(d), the Applicant may request one project concession or incentive for providing 15 percent (one unit) for moderate-income units of the total units within the for-sale housing development. The Applicant requested the concession to utilize gross acreage to calculate the maximum density allowed for the site instead of using the net acreage as required in the General Plan.

The County accepted the Applicant's request to use gross acreage when calculating the maximum base density allowed on the property and density bonus. This allowed for a maximum revised base density of nine units. When combined with a 10 percent density bonus (one additional unit), the result is ten total units in the housing development.

51. Density Bonus – Reduction in Development Standards: Pursuant to Government Code 65915(e), the Applicant proposed a waiver or reduction of the following development standards:

- Lot Area – where the County Ordinance Code requires a minimum parcel size of 20,000 square feet, the proposed lot sizes range from 9,292 to 17,659 square feet.
- Lot Width – where the County Ordinance Code requires a minimum average lot width of 120 feet, the proposed average lot widths range from 66.4 to 138.8 feet.
- Lot Depth – where the County Ordinance Code requires a minimum of 120 feet in depth, the proposed lot depths range from 127.2 to 174.1 feet. The lot depths for all proposed lots comply with the minimum requirement as proposed.
- Housing setbacks - where the County Ordinance Code requires a minimum front yard setback of 25 feet, a minimum side yard of 15 feet, and a minimum aggregate side yard of 35 feet, the proposed front yard setbacks and side yards are per the table under condition of approval #3.
- Retaining Wall Structure Setbacks – where the County Ordinance Code considers all retaining walls over three feet as a structure that must meet all setback requirements, the proposed retaining wall setback is 0 feet on all lots.

52. Inclusionary Housing and Density Bonus Developer Agreement: Prior to recordation of the Final Map or submittal of CDD stamp-approval of plans for issuance of building permits or grading permits for any portion of the residential development, whichever comes first, the Applicant shall execute an Inclusionary Housing and Density Bonus Housing Agreement (Agreement), form to be provided

by the County, with the County pursuant to Chapter 822-4 Inclusionary Housing, Chapter 822-2 Density Bonus, and Government Code 95915 to ensure that the property will be deed restricted for one unit to be affordable and sold to a moderate income household. The Applicant should allow for a minimum 90-day period for the preparation, County approval, and recordation of the Agreement prior to the milestones referenced above.

To initiate the County to prepare and execute an Agreement, the Applicant must file a condition of approval compliance review application accompanied by the appropriate fees, documents, and exhibits listed in the most recent Inclusionary Housing Plan Checklist and/or Density Bonus Plan Checklist. The Agreement must be submitted to the Board of Supervisors before execution by all parties and recordation.

The Agreement will establish the process for determining the unit's maximum sales price, buyer eligibility, and additional program details as referenced in Chapter 822-4, Inclusionary Housing Ordinance, and Government Code 65915.

A detailed timeline for the project, including the project's construction, marketing, the Applicant accepting and reviewing applications from qualified households, and the sale of the inclusionary unit.

- 53. General:** The following are general terms for granting a density bonus and compliance with the Inclusionary Housing Ordinance.
- a. The Applicant hereby represents warrants and covenants that will cause the Agreement to be recorded in the real property records of Contra Costa County, California, and other places the County may reasonably request. The Applicant shall pay fees incurred with any such recording. The recording of the Agreement shall occur after the acceptance of the document by the County and before the recordation of the Final Map, Parcel Map, or CDD stamp-approval of plans for issuance of building permits or grading permits for any portion of the residential development, whichever comes first.
 - b. The one inclusionary unit in the project shall be available for sale to members of the general public who are income eligible. The Applicant shall not give preference to any particular class or group of persons in selling the units, except that the units must be sold to a household with income no higher than 120% of the Area Median Income. There shall be no discrimination against or

segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age (except for lawful senior housing), ancestry, or disability, in the sale of the unit in the project nor shall the Applicant or any person claiming under or through the Applicant, establish or permit any such practice or practices of discrimination or segregation concerning the selection, location, number, use or occupancy of homeowners of any unit in connection with employment of persons for construction of the project.

- c. County will provide the Applicant with income certification forms to be completed by the potential homebuyers. The income levels of all moderate-income household applicants for the inclusionary/density bonus unit shall be pre-certified by the Applicant (or subsequent holder of the Agreement(s)) prior to submittal to the County for review and approval.
- d. Upon violating any of the Agreement's provisions by the Applicant, the County may give written notice to the Applicant specifying the nature of the breach. If the violation is not corrected to the satisfaction of the County within a reasonable period, not longer than thirty (30) days after the date the notice is deemed received, or within such further time as the County determines is necessary to correct the violation, the County may declare a default under the Agreement. Upon declaration of a default or if the County determines that the Applicant has made any misrepresentation in connection with receiving any benefits under this Agreement, the County may apply to a court of competent jurisdiction for such relief at law or in equity as may be appropriate.

54. Term of Affordability: The inclusionary unit shall be deed-restricted so that if the home is sold within forty-five (45) years, it must be sold at an affordable sales price to a moderate-income household. The inclusionary unit shall be deed-restricted upon sale to ensure the continued affordability of this unit for the required term of affordability in accordance with Government Code 65915.

55. Development Standards: The inclusionary unit must be constructed and finished in compliance with the approved Inclusionary Housing Plan. The unit is subject to the standards of Section 822.4.412 of the County Ordinance.

- a. The inclusionary unit must be constructed and occupied before or concurrently with the market rate units within the same residential development. A hold will

be placed on the final inspection/occupancy for all building permits issued within the subdivision to ensure that the inclusionary/density bonus unit meets this requirement.

- b. The average number of bedrooms for the inclusionary unit must be equivalent to the average number of bedrooms for market-rate units within the same residential development.

56. Marketing and Homebuyer Selection: It is anticipated that the Applicant will construct all project units and market them before construction completion. The Applicant shall submit documentation and other information to the County for review and approval at least 90 days prior to construction completion and prior to the Applicant's request for a final building inspection and final occupancy of the building. The documentation and information required for review and approval are listed in the most recent Inclusionary Housing Plan Checklist or Density Bonus Plan Checklist and include, but are not limited to, the following:

- a. Marketing Plan
- b. Homebuyer Selection Plan. The homebuyer selection plan should include a provision for a lottery process for the inclusionary/density bonus unit.
- c. Marketing Materials, including translated Marketing Materials in Spanish and Chinese.

In addition to other marketing efforts proposed by the Applicant in the marketing plan, the inclusionary unit shall be marketed through local, non-profit, social service, faith-based, and other organizations with potential buyers as clients or constituents. Marketing materials shall be made available online for at least one month before the first sale and shared with County Housing staff to promote to its mailing lists. The Applicant shall translate marketing materials, and the marketing plan shall be submitted to the Department of Conservation and Development before marketing the inclusionary housing unit.

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

57. Marketing and Homebuyer Selection: The developer shall refer all qualified homebuyers to a HUD Homebuyer Counselor prior to the sale of the inclusionary unit.

58. For-Sale Inclusionary/Density Bonus Unit Restrictions: The initial sale of a for-sale inclusionary unit shall occur only to a household that meets the following criteria:

- a. The household has not owned a residence within the previous three years; and
- b. The household has no more than two hundred fifty thousand dollars in assets. The amount excludes assets reserved for a down payment and closing costs, assets in retirement savings accounts, and medical savings accounts.
- c. The purchaser of the for-sale inclusionary/density bonus unit must agree to occupy the dwelling unit as their principal residence.
- d. The term of affordability for the inclusionary/density bonus unit is 45 years.

The for-sale inclusionary unit may be resold after the initial sale to a moderate-income purchaser at a moderate-income sales price.

If a moderate-income purchaser cannot be found after diligently marketing the unit widely and after a period determined by DCD, the unit may be sold to an above-moderate-income purchaser at a market price, provided that the sale results in a recapture by the County of financial interest in the unit equal to the sum of:

The difference between the initial affordable sales price and the appraised market value of the unit at the time of the initial sale; and

The County's proportionate share of any appreciation since the time of the initial sale. Appreciation is the difference between the resale price to the above-moderate-income purchaser and the appraised market value at the initial sale. The County's proportionate share of appreciation is equal to the percentage by which the initial affordable sales price was less than the appraised market value at the time of the initial sale.

59. Prequalification of Homebuyers and Compliance Review: The Applicant is responsible for marketing and prequalifying potential homebuyers for income qualification. The Applicant shall submit for DCD's review and prequalification prior to the initial sale of the inclusionary/density bonus unit, and the Applicant shall submit to the Department of Conservation and Development for review and approval, all forms, and documentation demonstrating that the buyer of the unit is

qualified as a moderate-income household. A hold shall be placed on the final inspection/ occupancy of all building permits associated with the construction of the residences in the project until documentation has been deemed adequate by the Department of Conservation and Development.

To initiate this prequalification review, the applicant must file a COA Compliance Review Application if there is no open compliance review application for this project.

- 60. Prequalification of Homebuyers and Compliance Review:** The Applicant is responsible for keeping the Department of Conservation and Development informed of the contact information of the owner or designee responsible for maintenance and compliance with this permit and how they may be contacted (i.e., mailing addresses, email addresses, and telephone numbers) at all times.
- a. Prior to the recordation of the Final Map, Parcel Map, or CDD stamp-approval of plans for issuance of building permits or grading permits for any portion of the residential development, whichever comes first, and with filing a condition of approval compliance review, the Applicant shall provide the name of the contact representing the property owner for permit compliance and their contact information.
 - b. Should the contact subsequently change (e.g., new designee or owner), within 30 days of the change, the Applicant shall issue a letter to the Department of Conservation and Development with the name of the new party who has been assigned permit compliance responsibility and their contact information. Failure to satisfy this condition may result in the commencement of procedures to revoke the permit.

PUBLIC WORKS CONDITIONS OF APPROVAL FOR COUNTY FILE #CDSD21-09581

Applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan/(vesting) tentative map submitted to the Department of Conservation and Development on September 2, 2021.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO FILING OF THE FINAL MAP.

General Requirements

- 61.** 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 27, 2022.
- 62.** Applicant shall submit improvement plans prepared by a registered civil engineer to the Public Works Department and pay appropriate fees in accordance with the County Ordinance and these conditions of approval. The below conditions of approval are subject to the review and approval of the Public Works Department.

Roadway Improvements (Walnut Boulevard)

- 63.** Applicant shall construct curb, 5-foot sidewalk, necessary longitudinal and transverse drainage, street lighting, and pavement widening and transitions along the frontage of Walnut Boulevard. Applicant shall construct face of curb 10 feet from the widened right of way line.
- 64.** Applicant shall construct a street type connection with 20-foot radii curb returns in lieu of standard driveway depressions at intersection of Walnut Boulevard and Private Street A.

Road Dedications

- 65.** Property owner(s) shall convey to the County, by Offer of Dedication, 7 feet of right-of-way for the planned future width of 64 feet along the Walnut Boulevard frontage.

Access to Adjoining Property

- 66.** Proof of Access: 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

- 67.** Applicant shall obtain an encroachment permit from the Public Works Department, if necessary, for construction of driveways or other improvements within the right-of-way of Walnut Boulevard.
- 68.** Applicant shall obtain an encroachment or other applicable permits from the City of Walnut Creek, if necessary, for construction of off-site utilities or improvements within the corporate limits of the City of Walnut Creek.

Abutter's Rights

- 69.** Applicant shall relinquish abutter's rights of access along Walnut Boulevard frontage with the exception of the proposed private road intersection.

Sight Distance

- 70.** Applicant shall provide sight distance at the private road intersection with Walnut Blvd. for a design speed of 30 miles per hour.

Private Roads

- 71.** Applicant shall construct an on-site roadway system to current County private road standards with a travel width of 28 feet, and a 5-foot sidewalk monolithic to the curb. These improvements shall be located within a minimum 35-foot private access and utility easement. Additional easement width may be necessary to accommodate utility boxes, vaults, etc.

Parking

- 72.** Parking shall be prohibited on one side of on-site roadways where the curb-to-curb width is less than 36 feet and on both sides of on-site roadways where the curb-to-curb width is less than 28 feet. "No Parking" signs shall be installed along these portions of the roads subject to the review and approval of the Public Works Department.

Countywide Street Lights Financing

- 73.** Property owner(s) shall annex to the Community 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.

Utilities/Undergrounding

- 74.** Applicant shall underground all new and existing utility distribution facilities, including those along the frontage of Walnut Boulevard 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.

Exceptions (Subject to Advisory Agency findings and approval)

Applicant is granted an exception from the utility undergrounding requirement of the Ordinance Code by the advisory agency as provided for in 92-6.002 of said Code. This exception is specific to the Walnut Boulevard frontage and does not preclude relocation of exiting overhead utilities in conflict with required street improvements. because of the several parcels involved and the nature of the area.

Maintenance of Facilities

- 75.** The maintenance obligation of all common and open space areas, private roadways, any private streetlights, public and private landscaped areas, perimeter walls/fences,

and on-site drainage facilities shall be included in the covenants, conditions, and restrictions (CC&Rs). The language shall be submitted for the review and approval of the Zoning Administrator and Public Works Department at least 60 days prior to filing of the Final Map.

Drainage Improvements

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

Exceptions (Subject to Advisory Agency findings and approval)

Applicant is granted an exception from the utility undergrounding requirement of the Ordinance Code by the advisory agency as provided for in 92-6.002 of said Code.

- 77. Detention Basin:** The proposed joint use of the drainage basin for both stormwater management, and peak runoff rate reduction will be allowed provided the stormwater management aspects of the basin are not included in the storage volume accounting relative to detention basin routing.

Exceptions (Subject to Advisory Agency findings and approval)

Applicant is granted an exception from the public entity maintenance requirement of the Ordinance Code by the advisory agency as provided for in 92-6.002 of said Code. The maintenance obligation relative to the detention/stormwater management basin will be satisfied in the CC&Rs and Stormwater Maintenance Operation and Maintenance Agreement and Plan.

Miscellaneous Drainage Requirements

- 78.** Applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.

79. Applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
80. A private storm drain easement, conforming to the width specified in Section 914-14.004 of the County Ordinance Code, shall be dedicated over any proposed storm drain line that serves or traverses more than one lot or parcel.

National Pollutant Discharge Elimination System (NPDES)

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

Compliance shall include developing long-term best management practices (BMPs) for the reduction or elimination of stormwater pollutants. The project design shall incorporate wherever feasible, the following long-term BMPs in accordance with the Contra Costa Clean Water Program for the site's stormwater drainage:

- Minimize the amount of directly connected impervious surface area.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention area) as reviewed and approved by Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES permit.
- 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.
- Distribute public information items regarding the Clean Water Program and lot specific IMPs to buyers.
- Shared trash bins shall be sealed to prevent leakage, OR, shall be located within a covered enclosure.
- Other alternatives comparable to the above as approved by Public Works.

Stormwater Management and Discharge Control Ordinance

- 82.** The applicant shall submit a final Storm Water Control Plan (SWCP) and a Stormwater Control Operation and Maintenance Plan (O+M Plan) to the Public Works Department, which shall be reviewed for compliance with the County's National Pollutant Discharge Elimination System (NPDES) Permit and shall be deemed consistent with the County's Stormwater Management and Discharge Control Ordinance (§1014) prior to filing of the Final Map. All time and materials costs for review and preparation of the SWCP and the O+M Plan shall be borne by the applicant.
- 83.** Improvement plans shall be reviewed to verify consistency with the final SWCP and compliance with Provision C.3 of the County's NPDES Permit and the County's Stormwater Management and Discharge Control Ordinance (§1014).
- 84.** Stormwater management facilities shall be subject to inspection by the Public Works Department; all time and materials costs for inspection of stormwater management facilities shall be borne by the applicant.
- 85.** 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.
- 86.** Prior to filing of 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.
- 87.** Any proposed water quality features that are designed to retain water for longer than 72 hours shall be subject to the review of the Contra Costa Mosquito & Vector Control District.

Drainage Area Fee Ordinance

- 88.** Applicant shall comply with the drainage fee requirements for Drainage Area 8 as adopted by the Board of Supervisors prior to initiation of the use requested with this application. This fee shall be paid prior to filing of the Final Map.

ADVISORY NOTES

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

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

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

- B. This project is subject to the development fees in effect under County Ordinance as July 27, 2022, 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 approval.
- C. Applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Martinez Area of Benefit as adopted by the Board of Supervisors. Payment is required prior to issuance of a building permit.

D. Although the Stormwater Control Plan has been determined to be preliminarily complete, it remains subject to future revision, as necessary, during preparation of improvement plans in order to bring it into full compliance with C.3 stormwater requirements. Failure to update the SWCP to match any revisions made in the improvement plans may result in a substantial change to the County approval, and the project may be subject to additional public hearings. Revisions to California Environmental Quality Act (CEQA) documents may also be required. This may significantly increase the time and applicant's costs associated with approval of the application.

E. The applicant shall comply with the requirements of the following agencies:

- Contra Costa County Public Works Department
- Department of Fish and Wildlife
- Army Corps of Engineers
- Contra Costa County, Department of Conservation and Development, Building and Grading Inspection Divisions
- Contra Costa County Fire Protection District
- Central Contra Costa Sanitary District
- East Bay Municipal Utility District