

FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDDP20-03005; RICH FRANCIS, THE OLYMPUS GROUP, INC. (APPLICANT) AND VTR COUNTRYWOOD LP (OWNER)

FINDINGS

A. Development Plan (Planned Unit District) Findings

Pursuant to County Ordinance Chapter 84-66 (P-1 Planned Unit District), the approval of this modification to the Final Development Plan approval of County File #CDDP88-03007 is based on the following:

- 1) *The proposed project shall be consistent with the intent and purpose of the P-1 district.*

Project Finding: The property is zoned Planned Unit (P-1), which allows for development and modifications in accordance with the development standards outlined in the Final Development Plans approved for the district. The Final Development Plan, approved under County File #CDDP88-03007, established the assisted living facility known as Atria Park Lafayette. The purpose of the project is to perform retrofitting of the retaining walls of the bridge structure and the culvert within the bridge structure. The bridge has supported the primary access driveway across a ravine and watercourse (tributary of "Murderers Creek") from Pleasant Hill Road since the assisted living facility was constructed in 2003. When County File #CDDP88-03007 was approved to allow the facility, the General Plan land use designation for the parcel was Single-Family Residential-Low Density (SL). Thus, a General Plan Amendment was adopted consecutively with the approval of County File #CDDP88-03007 which changed the parcel's land use designation from SL to Congregate Care (CC) (County File #GPA 1-88-CO). Subsequently, a General Plan Amendment adopted in May of 1991 changed the CC land use designation to two new land use designations for the subject property: Congregate Care (CC) and Open Space (OS) (County File #GPA 1991-2A). Thus, the ravine area and the extent of the project site is designated for OS land uses.

The OS designation includes privately-owned properties upon which future development rights have been deeded to a public or private agency, including, for example, creek areas, significant open space areas within planned unit developments, or steep, unbuildable portions of subdivisions. The common activities taking place in areas designated for Open Space land uses include resource management, maintenance of critical habitats, or private recreation for nearby residents. As a Condition of Approval (COA #12-L) of Development Plan CDDP85-03050, the development rights over much of the ravine area of the subject property are dedicated to Contra Costa County (Grant Deed of Development

Rights, 13693OR414, recorded June 8, 1987). The Grant Deed allows any owner or owners of all or any portion of the subject property wishing to develop any improvement requiring the approval of Grantee (the County and its governmental successor(s)) to submit a written proposal describing the nature, extent, and location of the improvement, and indicates that the Grantee has the right to approve or disapprove any proposed construction, development, or improvement within the areas marked "restricted development area." Approximately 8,095 square feet of the approximately 16,945-square-foot project site is located within the "restricted development area."

While the project is substantially consistent with the General Plan CC land use designation and the Planned Unit Development (P-1) zoning for the subject property, the construction of permanent structures such as a bridge consisting of block-type retaining walls are not expressly identified as development allowed within the General Plan OS land use designation. Given that the project is to retrofit the existing bridge, culvert, and primary access driveway to the Atria Park assisted living facility with no expansion of the bridge footprint or use, and is necessary to maintain the safe ingress and egress of residents, employees, visitors, and health and safety responders, as conditioned, the project is consistent with the purpose of the Planned Unit (P-1) District and the associated Final Development Plan (CDDP88-03007).

- 2) *The proposed project shall be compatible with other uses in the vicinity, both inside and outside the district.*

Project Finding: The project site is located within an area that is predominantly developed with single-family residences and related uses such as churches and schools. The subject property is an approximately 6.4-acre site located east of Taylor Boulevard and north of Pleasant Hill Boulevard located within a predominantly residential area in an unincorporated area of Lafayette in Contra Costa County. Approximately 3.8 acres of the property and the project site are designated for Open Space (OS) land uses, while the remaining 2.6 acres of the property is within a Congregate Care (CC) land use designation. The subject property is zoned as a Planned-Unit District (P-1) and the surrounding properties to the north, northwest, and east are zoned for residential uses (R-10, R-15, and R-20). A primarily residential area of the City of Lafayette lies west and southwest of the subject property.

The subject property has been developed with a congregate care facility, surface parking lots, landscaping, and amenities for residents in the northern portion of the property since construction was completed in the year 2003. The facility is currently operated as Atria Park of Lafayette, providing 24/7 assisted living and

memory care for older adults in a home-like setting. The southern portion of the property adjacent to Pleasant Hill Road and Taylor Boulevard is a wooded ravine and tributary of "Murderers Creek," an intermittent seasonal stream. A bridge structure constructed of block type retaining walls and an arch culvert crosses the ravine for primary access to the assisted living facility from Pleasant Hill Road. The project is to retrofit the existing bridge, culvert, and primary access driveway to the Atria Park assisted living facility with no expansion of the footprint or use and is necessary to maintain the safe ingress and egress of residents, employees, visitors, and health and safety responders. Therefore, as conditioned, the project is compatible with the other uses in the vicinity, both inside and outside the Planned Unit (P-1) district.

B. 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 as follows:

- 1) Reasonable development of the property would require alteration or removal of a code-protected tree, and this development could not be reasonably accommodated on another area of the lot.
- 2) The proposed tree species or the form of the tree does not merit saving (i.e., a tree stunted in growth, poorly formed, etc.).
- 3) Where the arborist or forester report has been required, and the director is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.

C. California Environmental Quality Act (CEQA) Findings

In accordance with Section 15074 of the CEQA Guidelines, the Zoning Administrator has considered the proposed mitigated negative declaration before making its recommendation, and, together with any comments received during the public review process, adopts the Mitigation Monitoring Reporting Program attached to this report, and finds on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment, that the mitigated negative declaration reflects the lead agency's independent judgment and analysis, and that the preparation of an EIR is not required in accordance to Section 15064 of the CEQA and County Guidelines.

CONDITIONS OF APPROVAL**Project Approval**

1. Development **Plan modification approval** is granted to allow the allow a non-substantial modification to County File #CDDP88-03007 for the retrofit of two existing retaining walls ranging from 2 feet to 29 feet (approximately) in height that form a bridge supporting the existing, primary driveway from Pleasant Hill Road to the Atria Park of Lafayette assisted living facility and the retrofit of the existing culvert within the bridge structure on the subject property, and to allow facility traffic to be detoured via Diablo View Road to an existing, gated secondary driveway during construction activities on the bridge.
2. **Tree Permit approval** is granted to allow the removal of two (2) coast live oaks, one (1) valley oak, three (3) coast redwoods, one (1) walnut, two (2) blue gum eucalyptus, and one (1) deodar cedar (trees # 5, 6, 7, 28, 30, 35, 37/12, 43, 62, and 64), with a combined diameter of approximately 215 inches, due to grading and construction activities or poor health and condition, and to allow work within the driplines of three (3) coast live oaks, two (2) blue gum eucalyptus trees, one (1) white alder, and one (1) willow (*Salix*) (Trees # 14, 23/10, 39, 47, 60, 70, and 72), with a combined diameter of approximately 170 inches, for required grading and construction activities, all trees listed are code-protected and located on the subject property.
3. The approvals described above are granted based on and as generally shown on the following documents:
 - Application and materials received by the Department of Conservation and Development, Community Development Division (CDD) on February 21, 2020;
 - Revised Civil and Structural plans received on January 17, 2024;
 - Drilltech Soil Nail and Uretex Injection plans received on January 17, 2024;
 - Revised Arborist Report, prepared by Todd McNeil, McNeil Arboriculture Consultants LLC, dated October 5, 2023, and received on December 1, 2023;
 - Geotechnical Study, prepared by Geotecnia Consulting Geotechnical Engineers, dated June 8, 2018, and received on February 21, 2020;
 - Supplemental Geotechnical Study, prepared by Geotecnia Consulting Geotechnical Engineers, dated April 16, 2019, and received on February 21, 2020;
 - Geotechnical Report – Four Additional Borings, prepared by Geotecnia Consulting Geotechnical Engineers, dated April 24, 2023, and received on October 17, 2023;

- Geotechnical – Recommended Unit Weights and Strength Parameters, letter from Geotecnia Consulting Geotechnical Engineers, dated June 14, 2023, and received on October 17, 2023;
 - Geotechnical – Opinion re. Uretex Polymer Ground Improvement Method, letter from Geotecnia Consulting Geotechnical Engineers, dated June 15, 2023, and received on October 17, 2023; and
 - Draft Traffic Study, 1545 Pleasant Hill Road, Contra Costa County, prepared by TJKM, dated and received on June 20, 2024.
4. Any modifications to the project approved under this permit that is not required by a Condition of Approval herein shall be subject to the review and approval of the CDD.
 5. Unless expressly stated otherwise herein, the Conditions of Approval of County File #CDDP88-03007 shall remain in full force and effect.

Board of Supervisors Approval

6. **Prior to submitting for a building or grading permit, whichever is first**, the applicant shall obtain authorization from the Contra Costa County Board of Supervisors to allow the removal of trees and construction of the bridge and culvert retrofit improvements on parcel APN 169-090-002, where development rights over the natural watercourse traversing the property have been grant deeded to the County pursuant to County File #CDDP85-03050 (13693OR414, recorded June 8, 1987). Approvals granted by the Zoning Administrator are contingent upon this approval of the Board of Supervisors, which must be obtained prior to the execution of this CDDP20-03005 Development Plan modification.

Application Costs

7. The development plan application was subject to an initial deposit of \$5,000.00. 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.

Indemnification

8. 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

9. **At least 30 days prior to CDD stamp-approval of plans for issuance of a building or grading permit or initiation of uses granted under this permit, whichever occurs first,** the applicant shall submit a report on compliance with the conditions of approval of this permit for review and approval of the CDD. The fee for the permit compliance review 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 condition 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.

Bridge Closure/Diablo View Road Access

10. **Prior to CDD stamp-approval of plans for the issuance of building permit,** the applicant shall submit a detailed traffic and detour management plan for the Atria facility during the bridge closure, that provides for the overall coordination of construction-related and operational traffic using Diablo View Road, including, but not limited to, construction staff/contractor employees, large construction trucks, emergency vehicle access, deliveries, garbage pickup, visitors, Atria staff, and residence buses/drivers, to the CDD and the Contra Costa County Fire Protection District (CCCFPD) for review.
11. A pre-construction field inspection of the temporary access to Atria Senior Living with the applicant, the general contractor/onsite manager, and the CCCFPD shall be held **at least two weeks prior to the bridge being closed to traffic.**

12. The rear entrance (at Diablo View Road) to the facility shall be kept open at all times and at no time shall there be any obstructions on the access road, the driveway, or around the Atria buildings that allow access from Diablo View Road to the senior living complex during the bridge closure period, nor shall fire hydrants or Fire Department Connection be blocked or obstructed due to construction or other activities.
13. **At least two weeks in advance of the bridge being closed to traffic**, the applicant shall notify the CDD, the CCCFPD, neighbors within 300 feet of the subject property, and all property owners and occupants of Diablo View Road and of dead-end streets that connect to Diablo View Road of the bridge closure. Notification shall include the anticipated dates and times that the bridge will be closed and the anticipated date that the bridge will be reopened.
14. To the extent possible, at least one lane of travel shall remain open on the bridge structure during construction for emergency access from Pleasant Hill Road.
15. The bridge shall be reopened and the access gate to the facility's driveway from Diablo View Road closed and locked **prior to final inspection of the bridge building permit or when driveway resurfacing is completed, whichever is first.**

Trees

General

16. The ten (10) trees approved for removal shall remain on the property until a grading or building permit has been obtained.
17. **Prior to any ground disturbance, or CDD stamp-approval of plans for the issuance of building or grading permits, whichever occurs first**, the applicant shall submit evidence that all tree protection measures identified in the Revised Arborist Report (October 5, 2023) have been installed.
18. The applicant shall be responsible for all arborist expenses related to the work authorized by this permit.
19. Any required tree alteration, removal, or encroachment within the dripline of a code-protected tree(s) not identified in this permit will require submittal and approval of a separate Tree Permit application.

Restitution for Tree Removal

20. The following measures are intended to provide restitution for the ten (10) code-protected trees (trees # 5, 6, 7, 28, 30, 35, 37/12, 43, 62, and 64), with a combined diameter of approximately 215 inches, that have been approved for removal:

- A. Planting and Irrigation Plan: **Prior to any tree removal, ground disturbance, or CDD stamp-approval of plans for the issuance of building or grading permits, whichever occurs first**, the applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of the Department of Conservation and Development, Community Development Division (CDD). The plan shall provide for the planting of **fifteen (15) trees**, minimum 15-gallons in size, or an equivalent and sufficient number/size of trees as recommended by the licensed arborist or landscape architect. The plan shall comply with the County's Water Efficient Landscape Ordinance and shall include native species or species typically found in riparian habitats to the extent possible to account for the loss of trees within the riparian area of the project site. Verification of such shall accompany the plan.
- B. Required Security to Assure Completion of Plan Improvements: **Prior to any tree removal, ground disturbance, or CDD stamp-approval of plans for the issuance of building or grading permits, whichever occurs first**, the applicant shall submit an estimate prepared by a licensed landscape architect, arborist, or landscape contractor for the materials and labor costs to complete the improvements (accounting for supply, delivery, and installation of trees and irrigation). Upon approval of the estimate by the CDD, the applicant shall submit a security (e.g., cash deposit or bond) to the CDD in the amount of the approved cost estimate *plus* a 20% inflation surcharge to ensure that the approved planting and irrigation plan is implemented.
- C. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs for processing the required security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.00.
- D. Duration of Security: When the replacement trees and irrigation have been installed, the applicant shall submit a letter to the CDD, composed by a licensed landscape architect, landscape contractor, or arborist, verifying that the installation has been done in accordance with the approved planting and irrigation plan. The CDD will retain the security for a **minimum of 12 months and up to 24 months** beyond the date of receipt of this letter.

As a prerequisite of releasing the bond between 12- and 24-months following completion of the installation, the applicant shall arrange for the consulting arborist to inspect the replacement trees and to prepare a report on the trees' health. The report shall be submitted for the review of the CDD and shall include

any additional measures necessary for preserving the health of the trees. These measures shall be implemented by the applicant.

Any replacement tree that dies within the first year of being planted shall be replaced by another tree of the same species and size. If the CDD determines that the applicant has not been diligent in ensuring the health of the replacement trees, then all or part of the security may be used by the County to ensure that the approved restitution plan is successfully implemented.

Contingency Restitution Should Altered Trees Be Damaged or Removed

21. The following measures are intended to provide contingency restitution for the seven (7) code-protected trees (Trees # 14, 23/10, 39, 47, 60, 70, and 72), with a combined diameter of approximately 170 inches, that have been identified for preservation and may be altered due to grading or construction activities:

- A. Security for Possible Damage to Trees Intended for Preservation: **Prior to CDD stamp-approval of plans for the issuance of building or grading permits, whichever occurs first,** to address the possibility that grading or construction activities damage trees that are to be preserved, the applicant shall provide the County with a security (e.g., cash deposit or bond) to allow for replacement of trees to be preserved that are significantly damaged or destroyed by construction activity, pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance.

The security shall be based on:

- 1) Extent of Possible Restitution Improvements – The planting of up to **eleven (11) trees**, minimum 15-gallons in size, including riparian plantings to the extent possible to account for the potential loss of trees within the riparian area of the project site, in the vicinity of the affected tree(s), or an equivalent planting contribution as determined appropriate by the CDD, subject to prior review and approval of the Zoning Administrator CDD.
- 2) Determination of Security Amount – An estimate for the security shall be submitted for CDD review which accounts for all of the following costs:
 - i. Preparation of a tree planting and irrigation plan by a licensed landscape architect, arborist, or landscape contractor for up to eleven (11) trees as described in Section A above in compliance with the County's Water Efficient Landscapes ordinance.
 - ii. The labor and materials for planting the potential number of trees and related irrigation improvements (accounting for supply, delivery,

and installation of tree and irrigation) shown on the approved planting and irrigation plan.

- iii. An additional 20% above the costs described in Sections B.i. and B.ii. above to account for potential inflation.
- 3) Initial Deposit for Processing of Security – The County ordinance requires that the applicant pay fees to cover all staff time and material costs for processing the required security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.00.
 - 4) Duration of Security – The security shall be retained by the County for a minimum of 12 months and up to 24 months beyond the completion of the tree altering improvements (i.e., date of final inspection). As a prerequisite of releasing the security, **between 12 and 24 months after final inspection**, the applicant shall arrange for the consulting arborist to inspect the trees and to prepare and submit to the CDD for review an assessment of the trees' health. The report shall include any additional measures necessary for preserving the health of the trees and the measures shall be implemented by the applicant. In the event that the CDD determines that any trees intended for preservation have been damaged by development activity, and that the applicant has not been diligent in providing reasonable restitution, then the CDD may require that all or part of the security be used to provide for mitigation of the damaged tree(s), including replacement of any trees that have died.

Aesthetics

22. **At least 15 days prior to Community Development Division (CDD) stamp-approval of plans for building permit**, the applicant shall submit a materials and color board to the CDD for review and approval. Materials used for the retaining wall are required to have a non-reflective, natural finish to minimize contrast with the natural landscape features of the site. Those portions of the wall that are metal shall be painted to match the adjacent portions of the wall. **MM AES-1**
23. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete construction of the retrofitted retaining walls as is shown on the approved project plans. Restoration shall include the revegetation of stripped or exposed areas. **At least 15 days prior to Community Development Division (CDD) stamp-approval of plans for building permit**, a revegetation plan for all disturbed areas which incorporates native grasses and shrubs, or which otherwise complies with the County's Water Efficient Landscape Ordinance shall be submitted to the CDD for review and approval. **MM AES-2**

24. **Prior to final inspection**, color photographs showing the implementation of the revegetation plan and restoration of stripped or exposed areas (COA #22) shall be submitted to the CDD.

Biological Resources

Special Status Plants

25. If project construction-related activities take place during blooming periods (January 1 through June 30), preconstruction surveys for special status plants within 100 feet of the project site work areas shall be conducted by a qualified biologist **no more than 14 days prior to the commencement of site grading or construction activities**. If special status plants are found and located in area where potential impacts may occur, the survey report shall identify the plant or plants, the potential impacts that could occur to those plants, and measures (such as avoidance, relocation, etc.) to minimize potential impacts as agreed upon by the California Department of Fish and Wildlife. Once the blooming season for the special status plant(s) has ended, the project can proceed without further regard to the plant site(s). **MM BIO-1**

Nesting Passerine Birds/Raptors

26. Nesting Birds: If project related activities take place during the nesting season (February 1 through September 30), preconstruction habitat assessment and nesting surveys for nesting passerine birds and raptors (birds of prey) shall be conducted by a qualified biologist **no more than five (5) days prior to the commencement of project related activities, including, but not limited to staging, tree removal, site grading, or construction activities, whichever occurs first**. Surveys shall be conducted in all potential habitat located at the project site, including staging and storage areas. The minimum survey radii surrounding the project site footprint shall be 250 feet for passerines and 1,000 feet for raptors. The qualified biologist conducting the surveys shall be familiar with the breeding behaviors and nest structures for birds known to nest in the project vicinity. Surveys shall be conducted during periods of peak activity in the early morning and dusk and shall be of sufficient duration to observe movement patterns. Survey results, including a description of timing, duration and methods used, shall be submitted to CDFW for review and a copy submitted to CDD 48 hours prior to the initiation of any project related activities. **If a lapse in project related activities of seven (7) days or longer occurs, another focused survey will be required before project activities can be reinitiated**. If an active nest is found, the applicant shall consult with CDFW regarding appropriate action to comply with the Fish and Game Code of California. CDFW reserves the right to provide additional provisions designed to protect nesting birds.

Active Nests: The qualified biologist shall observe any identified active nests prior to the start of any project related activities to establish a behavioral baseline of the adults and any nestlings. Once the project commences, all active nests should be continuously monitored by the qualified biologist to detect any signs of disturbance and behavioral changes as a result of the Project. In addition to direct impacts, such as nest destruction, nesting birds might be affected by noise, vibration, odors and movement of workers or equipment. **If signs of disturbance and behavioral changes are observed, the qualified biologist shall cease project activities causing such changes and shall contact CDFW for guidance.**

Active Nest Buffers: If any bird listed under the Migratory Bird Treaty Act is found to be nesting within 250 feet for passerines and 1,000 feet for raptors of the project work site (area of influence), an adequate protective buffer zone shall be established by a qualified biologist to protect the nesting site. The qualified biologist shall determine the necessary buffer, in consultation with CDFW, to protect nesting birds based on existing site conditions, such as project activity and line of sight, and shall increase buffers as needed to provide sufficient protection of nesting birds and their natural behaviors. Buffers shall be approved in writing by CDFW prior to the continuation of project activities. Active nest sites and protective buffer zones shall be designated as "Ecologically Sensitive Areas" where no project related activities or personnel may enter, that are protected (while occupied) during project activities, and be delineated by the establishment of a fence, barrier, or flagging surrounding the nest site. The applicant or representatives of the applicant shall not disturb or destroy the nests or eggs of any bird as per Fish and Game Code § 3503." Once the young have fledged and are flying well enough to avoid project construction zones (typically by August), the project can proceed without further regard to the nest site(s). **MM BIO-2**

Special Status Bats

27. To avoid potential impacts to special status bats, **no more than 14 days prior to the commencement of tree removal, site grading, or construction activities, whichever occurs first**, a visual and acoustic preconstruction survey for roosting bats shall be conducted by a qualified, agency-approved bat biologist within and immediately adjacent to the construction footprint, including the pre-cast cement box culvert. A minimum of one day and one evening shall be included in the visual preconstruction survey. The biologist shall contact CDFW if any occupied day roosts or maternity colonies/nurseries are identified within or immediately adjacent to the construction footprint, as appropriate. The biologist shall submit a memorandum, on a weekly basis or at other appropriate intervals, to CDFW to document compliance with this measure. **MM BIO-3**

28. **During ground-disturbing activities**, if active non-maternity (bat) colony/nursery roosts are found, the Contractor will avoid them, if feasible, for the period of activity. If avoidance of the active day roost is not feasible, the agency approved bat biologist shall prepare a relocation plan and coordinate the construction of an alternative bat roost with CDFW. The agency-approved bat biologist shall implement the Bat Roost Relocation Plan before the commencement of construction activities. The agency-approved bat biologist shall remove roosts with approval from CDFW before bats may be triggered to go into torpor by night-time low temperatures dipping below 50°F (October 15), or after young are flying (September 1), using exclusion and deterrence techniques described below. The timeline to remove roosts is between September 1 and October 15. All efforts to avoid disturbance to maternity roosts shall be made during construction activities. The biologist shall submit a memorandum, on a weekly basis or at other appropriate intervals, to CDFW to document compliance with this measure. **MM BIO-4**
29. During ground-disturbing activities, if non-maternity or non-torpor/hibernating individuals or groups of bats are found within the construction footprint, the agency-approved bat biologist shall work with CDFW and direct the Contractor to safely exclude the bats by either opening the roosting area to change the lighting and air-flow conditions or installing one-way doors or other appropriate methods specified by CDFW. The Contractor shall leave the roost undisturbed by project activities for a minimum of one (1) week after implementing exclusion and/or eviction activities. The Contractor shall not implement exclusion measures to evict bats from established maternity roosts or occupied torpor/hibernation roosts. The biologist shall submit a memorandum, on a weekly basis or at other appropriate intervals, to CDFW to document compliance with this measure. **MM BIO-5**
30. If bats are found to be present, pruning or removal of living trees / large shrubs or snags shall NOT occur during the maternity season between April 1 and September 1 to minimize the disturbance of young that may be present and unable to fly. The pruning or removal of living trees or snags must occur between the hours of 12:00 pm and sunset on days after nights when low temperatures were 50°F or warmer to minimize impacting bats that may be present in deep torpor. Sunset times shall be obtained from <https://www.timeanddate.com/sun/@7174212> and temperatures for prior-work nights shall be obtained from <http://www.wunderground.com/history/>. When it is necessary to perform crown reduction on trees over 12" diameter breast height or remove entire trees or branches over six inches in diameter, there shall be preliminary pruning of small branches less than 2" in diameter performed the day before in order to minimize the probability that bats would choose to roost in those trees the night before the work is performed. The trees/large shrubs or snags that are to be removed shall

then be left on-site for a minimum of 24 hours to allow for any remaining bats to escape prior to breaking down, chipping, or removing the remains of the trees or snags. **MM BIO-6**

Murderers Creek Tributary/Watershed

31. **Prior to issuance of grading or building permits or the removal of trees, whichever occurs first**, the applicant shall submit proof that any permits required by the following agencies for work in the Murderers Creek tributary have been applied for or obtained, or show verification that no permits are required:

- Streambed Alteration Agreement from the Bay Delta Region (3) of CDFW
- 1010 Flood Permit from the Contra Costa County Department of Public Works, Flood Control District.
- CWA Section 404 Permit from the USACE San Francisco District
- CWA Section 401 Water Quality Certification from the San Francisco Regional Water Quality Control Board **MM BIO-7**

32. **Prior to the removal of trees, or the issuance of grading or building permits, whichever occurs first**, the applicant shall provide to the CDD and CDFW proof of compensatory measures including restoring, or protecting in perpetuity, areas within the same watershed that are in-kind stream or riparian habitats as that disturbed by the project temporarily or permanently. Compensatory mitigation shall be, in terms of acreage, calculated at a ratio of 1.1:1 (conserved habitat to impacted habitat) for temporary impacts and at a ratio of 3:1 (conserved habitat to impacted habitat) for permanent impacts, or at appropriate ratios as determined by the qualified biologist through consultation and agreement with CDFW as part of the Streambed Alteration Agreement. These ratios shall be calculated after surveying and verifying the total area of disturbance caused by the project. **MM BIO-8**

33. During site preparation and construction activities, the following shall be implemented for avoidance and minimizations of direct effects to the seasonal stream, including but not limited to, those listed below:

- Construction activities near the seasonal stream and within the box culvert shall only occur during low flow or dry conditions.
- The contractor shall ensure that construction personnel, equipment, and materials avoid entering the stream channel.
- Prior to any ground disturbance, the appropriate best management practices for erosion and sediment control including, but not limited to, a silt construction fence and/or straw bales, shall be installed around the construction site in strategic locations. **MM BIO-9**

Cultural Resources

The following conditions shall be included on all sets of construction drawings:

34. If deposits of prehistoric or historical archaeological materials are encountered during ground disturbance activities, all work within 50 feet of the discovery shall be redirected. A qualified archaeologist certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA), and the Native American Tribe that has requested consultation and/or demonstrated interest in the project shall be contacted to evaluate the significance of the finds and suggest appropriate mitigation(s) if deemed necessary. **MM CUL-1**

35. If the deposits are not eligible, avoidance is not necessary. If the deposits are eligible, they will need to be avoided by impacts, or such impacts must be mitigated. Upon completion of the archaeological assessment, a report should be prepared documenting the methods, results, and recommendations. The report should be submitted to the Northwest Information Center and appropriate Contra Costa County agencies.

Prehistoric materials can include flake-stone tools (e.g., projectile points, knives, choppers) or obsidian, chert, or quartzite tool-making debris; culturally darkened soil (i.e., midden soil often containing heat-affected rock, ash and charcoal, shellfish remains, and cultural materials); and stone milling equipment (e.g., mortars, pestles, handstones). Historical materials can include wood, stone, concrete, or adobe footings, walls and other structural remains; debris-filled wells or privies; and deposits of wood, glass ceramics, and other refuse. **MM CUL-2**

36. Should human remains be uncovered during grading, trenching, or other on-site 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 land owner for treatment and disposition of the ancestor's remains. The land owner shall follow the requirements of Public Resources Code Section 5097.98 for the remains. **MM CUL-3**

Geotechnical/Soils

37. Geotechnical Monitoring – Uretek Polymer. The project geotechnical engineer or their representative shall provide monitoring services during installation of the Uretek polymer. Following application of the polymer, the project engineer shall provide sufficient testing to assess the level of ground improvement that has been achieved and provide supplemental recommendations in a letter/report to the CDD for the road and bridge improvement project that responds to the improved foundation conditions. **MM GEO-1**
38. Expansive Soils. To ensure implementation of the measures proposed by Geotecnia to mitigate the hazard posed by expansive soils, the geotechnical engineer shall provide observation and testing services **during demolition of existing improvements, earthwork, and wall construction**, and to include monitoring of implementing of their recommendations for design of the road section, and approval of any imported granular fill. **MM GEO-2**
39. Corrosive Soils. **Prior to CDD stamp-approval of plans for issuance of a building or grading permit, whichever is first**, the project proponent shall submit the results of corrosion hazard testing to the CDD for peer review by the County geologist. If the preliminary test results indicate a corrosion hazard, the project proponent shall submit a report prepared by a California Licensed Corrosion Engineer. The Corrosion Engineer shall (a) review the preliminary corrosion hazard test data, (b) determine if additional testing is necessary to complete evaluation of the corrosion potential, (c) perform any additional testing deemed necessary, (d) provide any specific long-term corrosion control design recommendations that are recommended, and (e) document the investigation and findings of the Corrosion Engineer in a letter report that is wet signed and stamped. **MM GEO-3**
40. The geologic review fee in the amount of \$3,600 shall accompany the first corrosion hazard testing results submitted to the County for review by the CDD and County Peer Review Geologist.
41. Geotechnical Monitoring – Construction Period. Geotechnical observation and testing services are critical to the success of the project. The project geotechnical engineer shall provide monitoring services **during the construction period** to ensure that geotechnical recommendations that were the basis for issuance of the construction permits are properly interpreted by the project proponent and the contractor and are properly implemented during construction. General Notes on all construction plans shall identify the geotechnical reports prepared by Geotecnia as providing geotechnical standards and criteria to be implemented during project construction. In addition, General Notes on all construction plans shall identify the

features to be inspected by the representative of the geotechnical engineer. If there is a significant difference between the actual field conditions and those that were the basis for the geotechnical design recommendations, supplemental recommendations may be required. Any changes to the approved plans shall require review and written approval by the County BID and CDD staff. **Prior to final inspection** of the bridge and culvert improvement project, the geotechnical engineer shall issue a letter to CDD that provides the geotechnical engineer's professional opinion on the compliance of the as-built project with recommendations presented in their report. **MM GEO-4**

Hydrology and Water Quality

42. **Prior to issuance of grading or building permits or the removal of trees, whichever is first**, the applicant shall apply for and obtain a drainage 1010 permit from the Contra Costa County Flood Control and Water Conservation District. As part of this permit, the applicant shall provide a hydraulic analysis of the culvert extension and include the 10-year and 100-year water surface elevation on plan submittals. A geotechnical report for the culvert extension, including scour analysis, shall also be provided. **MM HYD-1**

Air Quality

43. The following mitigations shall be included on all construction plans and implemented throughout the construction phase of the project:
- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. **MM AIR-1**
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. **MM AIR-2**
 - 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. **MM AIR-3**
 - d. All vehicle speeds on unpaved roads shall be limited to 15 mph. **MM AIR-4**
 - 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. **MM AIR-5**
 - 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 shall be provided for construction workers at all access points. **MM AIR-6**
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. **MM AIR-7**
 - h. The property owner or site contractor shall post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. **MM AIR-8**
 - i. All haul trucks transporting soil, sand, or other loose materials shall be limited to travel on main routes to the best extent possible to avoid residential neighborhoods. The project applicant shall submit a proposed haul route **prior to the issuance of a grading permit. MM AIR-9**

Noise

- 44. **Prior to CDD stamp-approval of plans for issuance of building or grading permits or any ground disturbance, whichever occurs first**, the applicant shall submit a noise assessment by a licensed, qualified acoustician or other certified professional, for review by the CDD. The report shall at minimum identify anticipated construction noise and ground borne vibration levels based on proposed equipment and methods of construction, and provide any necessary mitigation measures (e.g., noise shrouds, curtains, alternative equipment) to reduce the impacts of noise and vibration on nearby sensitive receptors (i.e., nearby residences, facility residents) as much as possible. **MM NOI-1**
- 45. The applicant shall notify neighbors within 300 feet of the subject property **at least one week in advance of grading and construction activities. MM NOI-2**
- 46. The applicant shall designate a construction noise coordinator who will be responsible for implementing the noise control measures and responding to complaints. This person's name and contact information shall be posted clearly on a sign at the project site and shall also be included in the notification to properties within 300 feet of the project site. The construction noise coordinator shall be available during all construction activities and shall maintain a log of complaints, which shall be available for review by County staff upon request. **MM NOI-3**
- 47. The following construction restrictions shall be implemented during project construction and shall be included on all construction plans. **MM NOI-4**

- a. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, including, but not limited to noise. This shall be communicated to 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. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except the hours for transportation to and from the site are limited to 9:00 am to 4:00 pm.
- d. All construction activities shall be limited to the hours of 8:00 am to 5:00 pm, 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 and Federal)
Cesar Chavez Day (State)
Memorial Day (State and Federal)
Independence Day (State and Federal)
Juneteenth National Independence Day (Federal)
Labor Day (State and Federal)
Columbus Day (State and Federal)
Veterans Day (State and Federal)
Thanksgiving Day (State and Federal)
Day after Thanksgiving (State)
Christmas Day (State and Federal)

For details on the dates the State and federal holidays occur, please visit the following websites:

Federal: <http://www.federalreserve.gov/aboutthefed/k8.htm>

State: <http://www.sos.ca.gov/state-holidays/>

General Construction Restrictions

48. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall

respond and take corrective action within 24 hours. The CDD phone number shall also be visible to ensure compliance with applicable regulations.

49. **At least one week prior to grading and construction activities**, the applicant shall submit photographic evidence to the CDD of: the posted and publicly visible sign(s) regarding dust and noise complaints and the notice to be mailed to neighbors within 300 feet of the project site.
50. The site shall be maintained in an orderly fashion. Any debris found outside the site shall immediately be collected and deposited in appropriate receptacles. Following the cessation of construction activity; all construction debris shall be removed from the site.
51. Construction equipment and materials shall be stored onsite.
52. The applicant shall immediately notify the CDD of any damage that occurs to any trees during the construction process. Any tree not approved for destruction or removal that dies or is significantly damaged as a result of construction or grading 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 particular situation.
53. No parking or storage of vehicles, equipment, machinery, or construction materials and no dumping of paints, oils, contaminated water, or any chemicals shall be permitted within the creek area or the drip line of any tree to be preserved.
54. No grading, compaction, stockpiling, trenching, paving, or change in ground elevation shall be permitted within the drip line of any tree intended for preservation unless such activities are indicated on the improvement plans approved by the CDD. If any of the activities listed above occur within the drip line of a tree to be preserved, an arborist may be required to be present. The arborist shall have the authority to require implementation of measures to protect the tree.

PUBLIC WORKS

CONDITIONS OF APPROVAL FOR PERMIT CDDP20-03005

Applicant shall comply with the requirements of Title 8, Title 9, and Title 10 of the Ordinance Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan submitted to the Department of Conservation and Development on December 8, 2020.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT AND PRIOR TO INITIATION OF THE USE PROPOSED UNDER THIS PERMIT.

General Requirements

55. 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 site plan received by the Department of Conservation and Development, Community Development Division, on July 10, 2020.
56. Improvement plans prepared by a registered civil engineer shall be submitted, if necessary, to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this subdivision. Any necessary traffic signing and striping shall be included in the improvement plans for review by the Transportation Engineering Division of the Public Works Department.

Roadway Improvements (Pleasant Hill Road/On-site):

57. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the frontage of Pleasant Hill Road and the on-site private road. Concrete shall be saw cut prior to removal. Existing lines and grade shall be maintained. New curb and gutter shall be doweled into existing improvements.

Access to Adjoining Property:

Proof of Access

58. 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

59. Applicant shall obtain an encroachment permit from the Application and Permit Center, if necessary, for construction of driveways or other improvements within the right-of-way of Pleasant Hill Road.

Road Alignment/Intersection Design/Sight Distance:

Sight Distance

60. Applicant shall provide sight distance at the intersection of the private road and Pleasant Hill Road for a design speed of 50-miles per hour. The applicant shall trim

vegetation, as necessary, to provide sight distance at these driveways. Any new landscaping, signs, fencing, retaining walls, or other obstructions proposed at the driveways shall be setback to ensure that the sight lines are clear.

Street Lights:

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

Pedestrian Facilities:

Pedestrian Access

62. Applicant shall design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.

Maintenance of Facilities:

63. Applicant shall insure that all public and private street lights and landscaping, private roads, and any retaining walls on-site be privately maintained in perpetuity. A maintenance plan of operation for all common areas, private roads and perimeter walls/fences shall be submitted for the Public Works Department review. The County will not accept these properties or facilities for ownership or maintenance.

Drainage Improvements:

Collect and Convey

64. 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:

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

67. A private storm drain easement, conforming to the width specified in Section 914-14.004 of the County Ordinance Code, shall be dedicated over the proposed culvert traversing the site.

Flood Control:

68. Applicant shall apply and obtain a drainage 1010 permit from the Contra Costa County Flood Control and Water Conservation District. As part of this permit, the applicant shall provide a hydraulic analysis of the culvert extension and include the 10-year and 100-year water surface elevation on plan submittals. A geotechnical report for the culvert extension, including scour analysis, shall also be provided.

National Pollutant Discharge Elimination System (NPDES):

69. 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:

- a. Minimize the amount of directly connected impervious surface area.
- b. 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.
- c. Place advisory warnings on all catch basins and storm drains using current storm drain markers.
- d. 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.
- e. Other alternatives comparable to the above as approved by the Public Works Department.

Drainage Area Fee Ordinance:

70. Applicant shall comply with the drainage fee requirements for Drainage Area 46 as adopted by the Board of Supervisors prior to initiation of the use requested with this application. This fee shall be paid prior to issuance of a building permit.

ADVISORY NOTES

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

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

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

B. Additional requirements may be imposed by the following agencies and departments:

- Contra Costa County Building Inspection Division
- Contra Costa County Public Works
- Contra Costa Environmental Health Division
- Contra Costa County Fire Protection District
- East Bay Municipal Utility District
- Central Contra Costa Sanitary District
- California Department of Social Services

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

C. Applicant shall comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the East Contra Costa Regional Fee & Finance Authority/ Regional Transportation Development Impact Mitigation (ECCRFFA/RTDIM) and Bay Point Areas of Benefit.

D. This project may be subject to the requirements of the California Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife, Bay Delta Region (Region 3), 2825 Cordelia Road, Suite 100, Fairfield, CA 94534, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Wildlife Code.

- E. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- F. Further development of the parcel may need to comply with the latest Stormwater Management and Discharge Control Ordinance (§1014) and Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit. This compliance may require a Stormwater Control Plan and an Operations and Maintenance Plan prepared in accordance with the latest edition of the Stormwater C.3 Guidebook. Compliance may also require annexation of the subject property into the Community Facilities District 2007-1 (Stormwater Management Facilities) and entering into a standard Stormwater Management Facilities Operation and Maintenance Agreement with Contra Costa County.