

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CSD21-09531:  
ANDY BYDE, CALIBR VENTURES (APPLICANT) GRAYSON ROAD LLC (OWNER)**

**FINDINGS**

**I. Growth Management Performance Standards**

1. Traffic: Traffic engineers and planners use the concepts of Level of Service (LOS) and Vehicle Miles Traveled (VMT) to qualitatively describe traffic conditions. Additionally, the Contra Costa Transportation Authority (CCTA) Growth Management Plan, the West Contra Costa Transportation Advisory Committee (WCCTAC) Action Plan, and the County of Contra Costa (County) General Plan establish measures of effectiveness and requirements for the analysis and disclosure of circulation impacts associated with new land developments. Potential circulation impacts may be expected, and traffic impact analyses are required for projects that generate more than 100 net new peak-hour trips. A project generating less than 100 peak-hour trips generally will not create or exacerbate any current traffic patterns. Using standard Institute of Transportation Engineers (ITE) trip generation trip rates, the eight additional housing unit project will generate eight AM and eight PM gross peak-hour trips. At this expected rate, the cumulative effect to local roadways is negligible.

Senate Bill (SB) 743 established a change in the metric to be applied for determining traffic impacts associated with development projects. Rather than the delay-based criteria associated with a Level of Service (LOS) analysis, the increase in Vehicle Miles Traveled (VMT) associated with a project is now the basis for determining impacts. Contra Costa County adopted the Transportation Analysis Guidelines, which includes a VMT policy on June 23, 2020.

Pursuant to the County guidelines, projects of 20 residential units or less should be expected to cause a less-than-significant impact under CEQA and do not require a project specific traffic impact analysis. The project proposes eight additional residential units which is under the County guidelines VMT screening criteria threshold. Therefore, the impacts from the project are expected to be inconsequential.

2. Water: The GMP requires new development to demonstrate that adequate water quantity can be provided. The subject property is within the East Bay Municipal Utility District (EBMUD) service area. In an agency comment letter for the project, EBMUD stated that water service for the project could be accommodated. Thus, adequate water quantity is available to the project.
3. Sanitary Sewer: The GMP requires that new development demonstrate that adequate sanitary sewer service is available. The subject property is within the H. Central Contra Costa Sanitary District (CCCSD) service area. In an agency comment letter received from CCCSD, the district stated sanitary sewer service is available for the project and that the proposed project would not be expected to produce an unmanageable added capacity.
4. Fire Protection: The fire protection standards under the GMP require that a fire station be within one and one-half miles of development in urban, suburban and central business

district areas, or requires that automatic fire sprinkler systems be installed to satisfy this standard. The project site is within the Contra Costa Consolidated Fire Protection District jurisdiction, and the project requires the Fire District's review and approval prior to building permits being issued to ensure compliance with all fire codes and regulations. Compliance with all requirements suggests that the project will satisfy the GMP fire protection standards. CCCFPD, has 36 stations serving the County, including two stations within two miles of the project site. The nearest station to the project site is Station 5 at 205 Boyd Road in the City of Pleasant Hill, approximately 1.72 miles from the project site. Thus, sprinklers would be required for the residences on the property.

5. Public Protection: As the project will add to the County's population, the conditions of approval will require that prior to the recording of the parcel map, the owner of the property shall participate in establishing a special tax for the parcel created by this subdivision. The collected tax money will be used to augment existing police services to accommodate for the incremental increase in population as a result of this subdivision project.
6. Parks and Recreation: As the project will add to the County's population, the conditions for approval will require the project proponent to pay applicable Park Impact in-lieu fees for the new residences. These fees, in conjunction with all other Park Dedication fees collected for development within the County, will be used in part to purchase new park land and upgrade existing community parks as determined appropriate by the Board of Supervisors.
7. Flood Control and Drainage: The project is required to meet collect and convey requirements of the County Subdivision Ordinance Title 9, by constructing the necessary drainage improvements, or obtaining necessary exceptions to the code. The applicant must also comply with the County's National Pollutant Discharge Elimination System (NPDES) Permit and Stormwater Management and Discharge Control Ordinance, Title 10, for stormwater treatment. The new drainage improvements will both meet stormwater discharge requirements for stormwater treatment, while also accommodating all rainwater runoff generated by the project, as required by Title 9. Exemptions to allow private maintenance of drainage facilities is appropriate given the necessity of onsite detention.

## II. Tentative Map Findings

1. *Required Finding: 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 proposed project will conform to the applicable General Plan land use designation of SL, Single-Family Low Density, 1.0-2.9 units per acre. The project proposes to utilize a Density Bonus pursuant to the State Density Bonus Law, under Government Code Section 65915. Government Code Sections 65915(j)(1) and 65915(C)(5) state that either granting a density bonus, concession, incentive, or waiver, "Shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval." This language means

that the applicant's requests made pursuant to the Density Bonus Law do not require a General Plan Amendment to accommodate the additional density in the proposed project.

Each of the following factors has also been evaluated and found to be consistent: the extent to which the project is consistent with General Plan policies pertaining to compatibility of land uses; compliance with principles of the Urban Limit Line and Measure C-1990, protection of open spaces; and protection of water quality; and found no evidence of inconsistencies. Additionally, the projected related traffic is not anticipated to negatively affect local traffic patterns or significantly diminish the Level of Service of key intersections in the area or exceed VMT thresholds. The tentative parcel map for this subdivision is consistent with the applicable goals and policies as found in the County 2005-2020 General Plan. Therefore, based on the entire record and as summarized herein, the tentative map is consistent with the County General Plan.

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

Project Finding: As required by the conditions of approval, the project does not pose any significant traffic impacts and must comply with the "collect and convey" requirements and design standards for construction of public roads. Prior to issuance of building permits, the applicant is required to contribute fees for parks and recreation, school districts, child care and police services. Payment of these fees along with compliance with the applicable California Building Code will fulfill all obligations related to construction of the project. Therefore, based on the proposal, no physical circumstances would restrict the developer from completing the project.

### **III. Tree Permit Findings**

*Required Finding: The Zoning Administrator is satisfied that necessary factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied.*

Project Finding: An Arborist Report dated May 6, 2020 prepared by Traverso Tree Service, identified 117 code-protected trees in the project work area. The report recommended removal of 97 trees to accommodate the proposed development and called for the protection of 17 trees with work within their dripline. The Tree Protection and Preservation Ordinance states that the director of the department may attach conditions to ensure compliance with the chapter and code. These conditions may include a requirement to replace any or all trees on a comparable ratio of either size or quantity. To meet this requirement the applicant would be required to submit and implement a landscaping and irrigation plan that includes replacement of the trees that have been removed. Trees planted will be spaced in a manner that promotes their long-term growth habits and will be replaced at a ratio of 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, or the maximum that can be practicably accommodated on the site.

#### **IV. California Environmental Quality Act (CEQA) Findings**

In accordance with the state Guidelines for Implementation of the California Environmental Quality Act (CEQA), an initial study was prepared to determine the potential environmental impacts of the proposed development project. The initial study identified potential impacts in the areas of Air Quality, Biological Resources, Cultural Resources, Geological Resources, and Tribal Cultural Resources. Upon completion of the Initial Study, it was determined that mitigation measures could be incorporated into the project description that would reduce these project impacts to a less than significant level. These mitigation measures have been incorporated into the project as recommended conditions of approval.

The Initial Study, Notice of Public Review, and Notice of Intent to Adopt a Mitigated Negative Declaration were first posted with the County Recorder and circulated for public and agency review on April 22, 2022. In response to extensive comments from the California Department of Fish and Wildlife, the applicant revised the project and updated multiple studies, including the Biological Resources Analysis and associated mitigation measures. The revised MND was then prepared and circulated for public and agency review on March 24, 2023. The final day for providing comments on the adequacy of the Initial Study was April 24, 2023. Two agency comments were received during the comment period: California Department of Fish Wildlife and EBMUD. Additionally, seven comment letters were received from individuals. No additional impacts were identified in these comments and all comments are summarized and responded to in the project staff report.

Notice of the proposed project was sent to Native American tribes, as applicable for consultation with Native American tribes under Public Resources Code Sections 21080.3.1. A Tribal Consultation List from the Native American Heritage Commission, dated October 28, 2015, was used to identify tribes traditionally and culturally affiliated with the project area. No requests for consultation were received.

#### **CONDITIONS OF APPROVAL FOR COUNTY FILE #CDS20-09531**

1. Approval of the Vesting Tentative Map for a 10 Residential-Lot Subdivision; is generally based on the following documents:
  - Application and materials received on January 13, 2020;
  - Revised Project Description Dated March 25, 2022;
  - Revised Vesting Tentative Map for Subdivision CDS20-09531, received January 28, 2022;
  - Architectural Plans received December 15, 2021;
  - Hydrology And Storm Water Detention Report prepared by Debolt Civil Engineering Inc., dated February 22 2022;

- Storm Water Control Plan prepared by Debolt Civil Engineering Inc., dated February 22 2022;
  - Grayson Road Inclusionary Housing Plan submitted September 18, 2023;
  - Grayson Road Density Bonus Proposal submitted September 18, 2023;
  - Geotechnical Report prepared by ENGEO Incorporated dated October 4, 2019;
  - Archeological Survey and Historical Resources Evaluation Report prepared by Archaeological/Historical Consultants, dated February 2007;
  - Arborist Report by Traverso Tree Services, dated May 6, 2020;
  - Biological Resource Analysis Addendum prepared by Johnson Marigot Consulting, LLC., dated December 2022;
2. The concession to allow the installation of the complete frontage improvements be omitted in lieu of a reconstructed asphalt-concrete curb along the edge of pavement of Grayson Road along the project frontage as well as bicycle lane striping, is approved, as shown in the Vesting Tentative Map received on January 28, 2022. The applicant shall construct curb, 5-foot sidewalk, necessary longitudinal and transverse drainage, and necessary transitions along the north side of Grayson Road, beginning at the existing sidewalk terminus opposite the project site and continuing eastward to the west side of Buttner Road at its intersection with Grayson Road, culminating with an ADA-compliant ramp at the intersection. These requirements may be modified as necessary to conform to the City of Pleasant Hill's standards.
  3. The waivers to development standards is Approved, as shown on the Vesting Tentative Parcel Map received January 28, 2022 to allow:
    - a. A reduction in minimum lot size for Lots 1 and 4-10;
    - b. A reduction in the minimum lot width for Lots 1-10 to allow lot average widths as low as 56 feet;
    - c. A reduction in minimum lot depth for Lot 1; and
    - d. Reduced residential setback requirement to allow 14-foot front setbacks to residences (20 feet to garages), and 0-foot setbacks for retaining walls 6 feet or less.
  4. This permit authorizes the development of ten lots on the subject property as generally identified in the CDS20-09531 vesting tentative map and documents referenced above.
  5. A Tree Permit to allow removal of 97 code-protected trees, and work within the dripline of 17 code-protected trees, as shown in the Arborist Report by Traverso Tree Services, dated May 6, 2020, is Approved.

## **Indemnification**

6. Pursuant to Government Code Section 66474.9, the applicant (including the subdivider or any agent thereof) shall defend, indemnify, and hold harmless the County and 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 for in Section 66499.37. The County will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.

## **Application Costs**

7. The Major Subdivision application was subject to an initial deposit of \$7,525.00 that was paid with the application submittal, plus time and material costs if the application review expenses exceed the initial deposit. Any additional fee due must be paid prior to issuance of a building permit, or 60 days of the effective date of this permit, whichever occurs first. The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2013/340, where a fee payment is over 60 days past due, the application shall be charged interest at a rate of ten percent (10%) from the date of approval. The applicant may obtain current costs by contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance.

## **Compliance Report Prior to Filing the Parcel Map**

8. At least 45 days prior to filing of the Parcel Map or issuance of a grading or building permit, whichever occurs first, the applicant shall provide a permit compliance report to the Department of Conservation and Development, Community Development Division (CDD) for review and approval. The report shall identify all conditions of approval that are administered by the CDD. The report shall document the measures taken by the applicant to satisfy all relevant conditions. Copies of the permit conditions may be obtained from the CDD. Unless otherwise indicated, the applicant will be required to demonstrate compliance with the applicable conditions of this report prior to filing the Final Map.

The permit compliance review is subject to staff time and materials charges, with an initial deposit of \$2,000 which shall be paid at the time of submittal of the compliance report.

## **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.

## **CC&Rs**

10. Prior to recording 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.

### **Park Dedication Fees**

11. Prior to CDD stamp-approval of plans for issuance of a building permit for a new residence, the project sponsor shall demonstrate to the satisfaction of Community Development Division (CDD) that all Park Dedication fees have been paid for the subdivision.

### **Child Care Fees**

12. Prior to CDD stamp-approval of plans for issuance of a building permit for a new residence, the project sponsor shall demonstrate to the satisfaction of CDD that all child care facility fees have been paid for the subdivision.

### **Police Services Fees**

13. 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.

### **Water Efficient Landscape Ordinance**

14. The applicant 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, the project proponent shall use drought tolerant vegetation for the development.

### **Aesthetics**

15. Thirty days prior to applying for a building permit for new residence, the applicant shall submit a Lighting Plan for review and approval by the CDD. At a minimum, the plan shall include the following measures:
  - All outdoor lighting, including façade, yard, security, and street lights, shall be oriented down, onto the subject property or road.
  - 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 subject property. **(Mitigation Monitoring (MM) Aesthetics 1)**

## **Air Quality**

16. The following Bay Area Air Quality Management District, Basic Construction Mitigation Measures shall be implemented during the project and shall be included on all construction plans:
- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - All haul trucks transporting soil, sand, or other loose material to and from the site shall be covered.
  - All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]).
  - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications.
  - 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 Quality 1**)

## **Biological Resources**

17. If it is determined that additional native trees can be protected in place while still achieving project objectives (as determined by the project Arborist in coordination with the Construction Manager and the project proponent), the project proponent will determine if additional trees can be saved based upon the potential impacts from the grading to the root structure of the trees by "field-fit" grading activities to the greatest extent practicable to conduct such avoidance.
18. In the spring immediately prior to project implementation, protocol-level rare plant surveys shall be conducted on the project site. Rare plant surveys shall be conducted by a qualified botanist, in accordance with all applicable survey guidelines including those published by the United States Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), and the California Native Plant Society (CNPS). If determined to be necessary by the qualified Botanist, reference site surveys shall be conducted to confirm plant phenology (flowering periods).

If State or federally listed plants are observed on-site during protocol-level rare plant surveys, all compensatory mitigation requirements and additional avoidance and minimization measures identified by CDFW and/or USFWS shall be implemented. If CNPS-Ranked species are observed on-site during protocol-level rare plant surveys, salvage of

seed and/or root stock shall be conducted under the direction a qualified Botanist and in coordination with a qualified plant conservation institution or native nursery. **(MM Biology 1)**

19. All trees removed from the on-site riparian woodland shall be replaced in-kind and on-site to the greatest extent practicable at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non- native trees, to be replaced with native trees. A total of 18 native trees within the riparian woodland community are scheduled for removal – these trees would be replaced with approximately 54 native riparian woodland tree species including valley oak, coast live oak, California buckeye, and black walnut. A replacement tree planting plan shall be approved by the County along with landscape plans prior to issuance of building permits.

All trees removed from the onsite valley oak woodland shall be replaced in-kind and onsite at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, to be replaced with native trees. A total of 32 native and 8 non-native trees within the valley oak woodland community are scheduled for removal – these trees shall be replaced, onsite, with approximately 104 native valley oak woodland tree species such as valley oak, coast live oak, blue oak, California black oak, interior live oak, California buckeye, and/or California bay laurel. Replacement trees shall be planted as 15-gallon trees, except that up to 50 percent of the required replacement trees may be planted as 5-gallon trees if it is determined based on an arborist report that long-term tree health and survival will be improved by starting with a smaller container size. Trees planted shall be spaced in a manner that promotes their long- term growth habits. All installed plant material shall meet the American Nurseryman’s Association Standards. Welded-wire cages shall be constructed around all tree plantings to protect them from deer herbivory. A replacement tree planting plan shall be approved by the County along with landscape plans prior to issuance of building permits. **(MM Biology 2)**

Trees shall be planted prior to requesting a final inspection on the residential building permit for each lot.

Required Security to Assure Completion of Plan Improvements: Prior to removal of trees or prior to CDD stamp-approval of plans for issuance of a building permit (e.g. demolition, grading or building), whichever occurs first, the applicant shall submit a security that is acceptable to the CDD. The bond shall include the amount of the approved cost estimate, plus a 20% inflation surcharge.

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.

Duration of Security: The security for each lot shall be retained by the County for a minimum of 12 months up to 24 months beyond the date of receipt of the security and from the time, the final inspection for the lot was approved. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist to inspect the trees and to prepare a report on the trees’ health. In the event that

CDD determines that the tree(s) intended to be protected has been damaged, and CDD determines that the applicant has not been diligent in providing reasonable restitution, then CDD may require that all part of the security be used to provide for mitigation of the damaged tree(s). 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.

Annual monitoring of the mitigation trees shall be conducted by a qualified biologist during an initial establishment period. During annual monitoring, a minimum of 80% of the mitigation trees shall be alive and healthy (as demonstrated by growth and fruiting, as appropriate). If at any point during annual monitoring, survival and health drop below the minimum health requirement (80% healthy trees), an assessment of cause(s) for this health failure shall be provided by the qualified biologist, and remedial actions shall be implemented. If survival drops below 80%, trees will be replaced in-kind and at the same location, unless a different species or location is prescribed by the qualified biologist as part of remedial recommendations. Annual monitoring will occur up to 10 years, but may cease before then if the above success criteria are met during five consecutive years.

20. Prior to recordation of a final map, a Final Landscaping Plan shall be submitted for the review and approval of CDD. The Final Landscaping Plan shall include the tree restitution required by Mitigation Measure *Biology 2*, and be consistent shall conform to the State's Model Water Efficient Landscape Ordinance or the County's Ordinance, if one is adopted.

Prior to final building inspection, a completed WELO Part II – Certificate of Completion shall be submitted to CDD staff for review and approval.

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.

21. If vegetation removal, ground disturbance, or structure removal are scheduled to commence between February 1 and September 15, a preconstruction nesting bird survey of all suitable nesting habitat on the Project site and within the zone of influence (the area immediately surrounding the Project site that supports suitable nesting habitat that could be impacted by the proposed Project due to visual or auditory disturbance associated with the removal of vegetation and construction activities scheduled to occur during the nesting season) shall be conducted by a qualified biologist within 5 days prior to commencement of vegetation removal or ground disturbance. If no nesting birds are observed during the survey, the vegetation removal and/or ground disturbance may commence as planned. If nesting birds are observed during the survey, a non-disturbance buffer based on species, nest stage, and site conditions shall be established.

This buffer shall remain in place until such a time as the young have been determined (by a qualified Biologist) to have fledged. Nests shall be monitored daily by a qualified Biologist during project-related activities to determine the sufficiency of the buffer and

whether it should be expanded to protect the nest based on disruptions to an individual bird's natural nesting behaviors. If the buffer is determined to be sufficient, monitoring shall be reduced to twice a week until fledging occurs. If any change in bird behavior is detected, active nest buffers will increase as determined by a qualified Biologist. Nesting bird surveys shall be repeated if there is a lapse in project activities of seven days or more.

**(MM Biology 3)**

22. A pre-construction survey for special-status reptile species shall be performed no more than 48 hours prior to ground disturbance or vegetation removal to determine presence/absence of Alameda whipsnake and western pond turtle. Worker Environmental Awareness training discussing the potential for these species shall be conducted by the qualified Biologist or Biological Monitor for all construction personnel working within the project site prior to construction. **(MM Biology 4)**
23. Directed pre-construction surveys for the California red-legged frog (CRLF) shall be performed prior to construction activities. The creek channel and associated riparian woodland may serve as dispersal areas for CRLF. A qualified Biologist shall conduct a pre-construction survey of these habitats for CRLF preceding the commencement of construction activities to verify presence/absence of this species.

In order to mitigate for potential impacts to California red-legged frog (CRLF) and western pond turtle, wildlife exclusion fencing (ERTEC fencing) shall be installed along the grading limit of the project site to prevent dispersal into the grading and work areas of the site from the creek channel and/or the riparian corridor. Fencing should be trenched into the ground but a minimum of 6 inches and a lip should be formed along the top of the fence line. A qualified Biologist or Biological Monitor shall be on-site during initial ground-disturbing activities to inspect the work area and fence lines daily for special-status amphibians and other wildlife. Worker Environmental Awareness training discussing the potential for these species should be conducted by the qualified Biologist or Biological Monitor for all construction personnel working within the project site. If any CRLF or other listed amphibians are found during construction activities, the United States Fish and Wildlife Service (USFWS) should be consulted to approve capture and relocation by a qualified Biologist. **(MM Biology 5)**

24. A Storm Water Pollution Prevention Plan (SWPPP) and a Storm Water Management Plan (SWMP) shall be designed to ensure that best management practices (BMPs) are implemented so there are no impacts to water quality in Grayson Creek resulting from project construction or postconstruction storm water run-off. **(MM Biology 6)**
25. Vegetation planted within on-site undeveloped areas shall be comprised of native valley oak woodland species to the greatest extent practicable. Landscape plans shall prioritize native vegetation and shall be approved by the County prior to issuance of building permits. **(MM Biology 7)**
26. For all project activities planned in or adjacent to potential bat roosting habitat, such as structures and/or involving woody vegetation modification or removal of any and all trees,

a qualified Biologist shall conduct daytime and evening acoustic surveys in addition to extensive visual surveys of potential habitat for special-status bats at least 7 days prior to initiation of project activities. If bats are found on-site, a qualified Biologist shall identify the species, estimated quantity present, roost type, and roost status, but shall avoid disturbing bats during surveys. A qualified Biologist shall also create a Bat Mitigation and Monitoring Plan if special- status bat species are detected prior to the start of project activities. The Bat Mitigation and Monitoring Plan shall include: (1) an assessment of all project impacts to special-status bats, including noise disturbance during construction; (2) effective avoidance and minimization measures to protect special-status bats; (3) and compensatory mitigation for permanent impacts to special-status bats or their nesting/roosting habitat. If structures, trees, or other refugia equivalents are slated for limbing, removal, or modification, the Bat Mitigation and Monitoring Plan shall include the following measures:

- a. To ensure that special-status bats have left potential roosting refugia, work shall occur over the course of two days. On the first day, smaller limbs or items from the identified trees or structures shall be brushed back or modified in the late afternoon. This disturbance should cause any potential roosting bats to seek other roosts during their nighttime foraging. The remainder of the refugia item can then be further limbed or removed as needed on the second day as late in the afternoon as feasible. If bats are found injured, or if bat mortality occurs during the course of tree work, a qualified Biologist shall record the species impacted, and the number of individuals documented.
- b. Tree limbing, modification, removal, or work on structural refugia shall not be performed under any of the following conditions: during any precipitation events, when ambient temperatures are below 4.5 degrees Celsius, when windspeeds exceed 11 miles per hour, and/or any other condition which may lead to bats seeking refuge.
- c. If special-status bats are found utilizing a tree, structure, or equivalent for roosting, the Bat Mitigation and Monitoring Plan shall include permanent artificial roosting habitat installation that shall be adjacent to, and sufficient for, the species observed and associated ecology thereof. Effective buffer zones for the installation and monitoring of the artificial roosts shall be determined and established by a qualified Biologist. Artificial roosts shall follow the 2018 Acceptable Management Practices for Bat Species Inhabiting Transportation Infrastructure.

**(MM Biology 8)**

27. During project implementation, the applicant shall implement the following Tree Preservation Guidelines, as detailed in the Revised Arborist Report Dated May 6, 2020 prepared by Traverso Tree Service, specially

Pre- Grading Phase

- a. Mulch from tree removals may be spread out under the driplines of trees that will be retained, keeping at least 12" away from the trunks.
- b. Prior to construction or grading, contractor shall install protection fencing to construct a temporary Tree Protection Zone (TPZ) around each tree or grove of trees to be saved.

- c. TPZ fencing shall encompass the driplines and be approved by the project arborist.
- d. TPZ fencing shall remain in an upright sturdy manner from the start of grading until the completion of construction. Fencing shall not be adjusted or removed without consulting the project arborist.

#### Grading and Construction Phase

- a. The project arborist shall be on-site during excavation/grading within driplines, especially trees: #'s 102, 137, 138, 154, 157, 159, 160, 160b, 162, 163, 173, 173c, 182, 183, 185, 186, 189.
- b. Should roots > 2" be encountered, arborist shall cleanly prune roots with a handsaw or sawzall, and immediately re-cover. Irrigate as necessary.
- c. If needed, canopy pruning shall be performed by personnel certified by the International Society of Arboriculture (ISA). All pruning shall adhere to ISA and American National Standards Institute (ANSI) Standards and Best Management Practices.
- d. Project arborist to set guidelines prior to pruning.
- e. Should Tree Protection Zone (TPZ) encroachment be necessary, the contractor shall contact the project arborist for consultation and recommendations.
- f. Contractor shall keep TPZs free of all construction-related materials, debris, fill soil, equipment, etc. The only acceptable material is mulch spread out beneath the trees.
- g. Should any damage to the trees occur, the contractor shall promptly notify the project Arborist to appropriately mitigate the damage.

#### Landscaping Phase

- a. The Tree Protection Zone (TPZ) fencing shall remain in place with the same restrictions until landscape contractor notifies and meets with the project arborist.
- b. Avoid all fill work, grade changes, and trenching within driplines unless it is performed by hand, and approved by the project arborist.
- c. Pipes shall be threaded under or through large roots without damaging them.
- d. Contractor shall avoid trenching and grade changes within driplines.
- e. All planting and irrigation shall be kept a minimum of 10' away from native oaks. All irrigation within the driplines shall be targeted at specific plants, such as drip emitters or bubblers. No overhead irrigation shall occur within the driplines of native oaks.
- f. All planting within oak driplines shall be compatible with oaks, consisting of plant material that requires little to no water after two years' establishment. A list of oak compatible plants can be found in a publication from the California Oak Foundation, available at: <http://californiaoaks.org/wpcontent/uploads/2016/04/CompatiblePlantsUnderAroundOaks.pdf>

#### **Cultural Resources**

- 28. 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 grading plans submitted to the City 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 City 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 Cultural Resources 1)**

29. 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 Cultural Resources 1)**

**Geotechnical Report**

30. Prior to issuance of grading permits, 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 Geology 1)**

31. The project 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. **(MM Geology 2)**

## **Noise**

32. To reduce potential construction noise impacts, the following multi-part mitigation measure shall be implemented for the proposed project:
  - 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, etc.) 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.

**(MM Noise 1)**

## **Construction Restrictions and Requirements**

33. Prior to the issuance of building permits for the project, the project developer or contractor

shall mail a notice to each adjacent residential property providing them with the planned hours of operation and who to contact if there are noise concerns.

34. The applicant shall comply with the following restrictions and requirements, which shall be stated on the face of the construction drawings:

A. Unless approved otherwise via prior authorization from the Zoning Administrator for special circumstances, construction activities are limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on the calendar dates that the following state and federal holidays are observed:

New Year's Day (State and Federal)  
Birthday of Martin Luther King, Jr. (State and Federal)  
Washington's Birthday (Federal)  
Lincoln's Birthday (State)  
Presidents' Day (State and Federal)  
Cesar Chavez Day (State)  
Memorial Day (State and Federal)  
Juneteenth National Independence Day (Federal)  
Independence Day (State and 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 actual date the state and federal holidays occur, please visit the following websites:

Federal holidays: <http://www.opm.gov/fedhol>

California holidays: [http://www.edd.ca.gov/payroll\\_taxes/State\\_Holidays.htm](http://www.edd.ca.gov/payroll_taxes/State_Holidays.htm)

B. Transport of heavy equipment and trucks is limited to weekdays between the hours of 9:00 A.M. and 4:00 P.M., and is prohibited on weekends and the aforementioned state and federal holidays.

C. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties. This shall be communicated to project-related contractors.

D. Construction equipment and materials shall be stored onsite to the maximum extent practicable.

E. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.

- F. Any debris found outside the site shall immediately be collected and deposited in appropriate receptacles.
- G. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers that are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.

### **Contingency Restitution Should Altered Trees Be Damaged**

35. Trees to be Preserved but Altered – Pursuant to the conclusions of the arborist report, proposed improvements within the root zone of trees noted on the site plan to be preserved have been determined to be feasible and still allow for preservation provided that the recommendations of the arborist are followed. 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 these trees, the applicant shall provide the County with a security (e.g. bond, cash deposit) to be submitted prior to CDD stamp-approval of plans for issuance of a building permit (e.g. demolition, grading or building), whichever occurs first, to allow for replacement of trees 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 **17, 15-gallon trees, which shall include California native species**, in the vicinity of the affected trees, 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:
    - i. Preparation of landscape/irrigation plan by a licensed landscape architect or arborist, which shall comply with the State’s Model Water Efficient Landscape Ordinance or the County Ordinance, if one is adopted;
    - ii. Labor and materials estimate for planting the potential number of trees and related irrigation improvements that may be required, prepared by a licensed landscape contractor; and
    - iii. 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 for each lot shall be retained by the County for a minimum of 12 months up to 24 months beyond the date of receipt of the security and from the time, the final inspection for the lot was approved. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist to inspect the trees and to prepare a report on the trees’ health. In the event that CDD determines that the tree 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.

### **Debris Recovery**

36. At least 15 days prior to the issuance of a grading permit or building permit the developer shall submit Construction Waste Management Plan, which identifies approved methods to comply with CalGreen requirement to recycle and/or salvage for reuse construction and demolition waste materials generated at the jobsite.

Prior to Final Inspection, developer shall submit Final Report containing information and supporting documentation of the above-mentioned requirement.

### **Street Names**

37. 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.

### **Will Serve Letters**

38. 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.
39. 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.

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

### **Inclusionary Housing Ordinance**

40. 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.

## **For-Sale Inclusionary Housing In-Lieu Fee**

41. 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 an Inclusionary Housing Plan dated March 25, 2022, and proposes constructing one for-sale moderate income inclusionary unit (affordable to households making up to 120% Area Median Income) on Lot 1 of the property. The unit on Lot 1 is an approximately 3,097 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)

## **Density Bonus Request**

42. The Applicant submitted a revised project description which included a density bonus request dated March 25, 2022. The Applicant proposed constructing one moderate-income unit, constituting 13 percent of the total for-sale units in the development.

### Density Bonus – Concession/Incentive

Pursuant to Government Code 65915, the Applicant may request one project concession or incentive for providing 13 percent (one unit) for moderate-income units of the total units within the for-sale housing development. The applicant requested the concession to not have to complete frontage improvements.

The County accepted the Applicant's request to not complete frontage improvements. To fully improve the property frontage would result in significant costs that could preclude the construction of the development at its proposed density including the moderate unit. The applicant shall construct curb, 5-foot sidewalk, necessary longitudinal and transverse drainage, and necessary transitions along the north side of Grayson Road, beginning at the existing sidewalk terminus opposite the project site and continuing eastward to the west side of Buttner Road at its intersection with Grayson Road, culminating with an ADA-compliant ramp at the intersection. These requirements may be modified as necessary to conform to the City of Pleasant Hill's standards.

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 15,000 square feet, proposed lot sizes ranges from 7,347 to 22,460 square feet.
- Lot Width – where the County Ordinance Code requires a minimum parcel size of 100 feet, the proposed average lot widths range from 56.43 to 99.01 feet.
- Lot Depth – where the County Ordinance Code requires a minimum of 120 feet in depth, the proposed lot depths range from 87.45 to 331 feet. The lot depths for all proposed lots, except Lot 1 comply with the minimum requirements as proposed.
- 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 setbacks is 0 feet on all lots.

**Inclusionary Housing and Density Bonus Developer Agreement**

43. Prior to the 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 affordable 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.

**General**

44. 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 for Contra Costa County as adjusted for family size as defined in Section 50093 of the California Health and Safety Code. 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. The 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.

**Terms of Affordability**

45. 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.

- a. **Affordable Sales Price** – means a sales price at which a moderate-income household can qualify for the purchase of target units, taking into account available financing, number of bedrooms and therefore, assumed household size, reasonable down payment, and affordable housing costs as defined in Health & Safety Code Section 50052.5. The affordable sales price for moderate income households must not exceed a price affordable to a persons and families whose income is at or below one hundred ten percent AMI.

### **Development Standards**

46. 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.

### **Marketing and Homebuyer Selection**

47. 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.

48. The developer shall refer all qualified homebuyers to a HUD Homebuyer Counselor prior to the sale of the inclusionary unit.

### **For-Sale Inclusionary/Density Bonus Unit Restrictions**

49. 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.

**Prequalification of Homebuyers and Compliance Review**

50. 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.

51. 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 SUBDIVISION CDS20-09531**

**Applicant shall comply with the requirements of Title 8, Title 9, and Title 10 of the Ordinance Code. Any exception(s) must be stipulated in these Conditions of Approval. Conditions of Approval are based on the tentative map submitted to the Department of Conservation and Development on January 28, 2022.**

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

**General Requirements**

52. 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 January 28, 2022.

53. 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 stripping shall be included in the improvement plans for review by the Transportation Engineering Division of the Public Works Department and the City of Pleasant Hill as applicable.

### **Roadway Improvements (Grayson Road)**

54. The Applicant shall construct frontage improvements along Grayson Road in accordance with the recommendations of the City of Pleasant Hill. The applicant will need to demonstrate that the City of Pleasant Hill approves of the frontage improvements proposed under this project. The applicant shall construct curb, 5-foot sidewalk, necessary longitudinal and transverse drainage, and necessary transitions along the north side of Grayson Road, beginning at the existing sidewalk terminus opposite the project site and continuing eastward to the west side of Buttner Road at its intersection with Grayson Road, culminating with an ADA-compliant ramp at the intersection. These requirements may be modified as necessary to conform to the City of Pleasant Hill's standards.

### **Access to Adjoining Property**

55. The Applicant shall furnish proof to the Public Works Department of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.
56. The Applicant shall obtain an encroachment permit from the City of Pleasant Hill for construction within the limits of the City of Pleasant Hill.
57. The Applicant shall only be permitted access at the locations shown on the approved site/development plan.

### **Abutters Rights**

58. Applicant shall relinquish abutter's rights of access along Grayson Road with the exception of the proposed private road intersection.

### **Road Alignment/Intersection Design/Sight Distance:**

59. Applicant shall provide sight distance at the private road intersection with Grayson Road for a design speed of 35 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.

### **Private Road**

60. Per the Vesting Tentative Map, Applicant shall construct an on-site roadway system to current County private road standards with a minimum pavement width of 28 feet, with 4.5-foot sidewalk (measured from the face of curb) within a minimum 33-foot access easement.
61. The Applicant shall construct the on-site roadways and the internal road network (serving the residential development) to current County private road standards. Although the proposed on-site roadways are shown as private, the pavement structural section shall conform to County public road standards.
62. Per the Vesting Tentative Map, applicant shall construct a paved turnaround at the end of the proposed private road subject to the review of the Fire District.

### **Street Lights:**

63. 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.

### **Bicycle - Pedestrian Facilities:**

64. The Applicant shall design all public and private pedestrian facilities in accordance with Title 24 (for Accessibility) and the Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps. Adequate right-of-way shall be dedicated at the curb returns to accommodate the returns and curb ramps; accommodate a minimum 4-foot landing on top of any curb ramp proposed.

### **Parking**

65. 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.

### **Utilities/Undergrounding**

66. The Applicant shall underground all new and existing utility distribution facilities, including those along the frontage of Grayson Road. Applicant shall provide joint trench composite plans for the underground electrical, gas, telephone, cable television and communication conduits and cables including the size, location and details of all trenches, locations of building utility service stubs and meters and placements or arrangements of junction

structures as a part of the Improvement Plan submittals for the project. The composite drawings and/or utility improvement plans shall be signed by a licensed civil engineer.

**Drainage Improvements:**

67. 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.
68. The nearest public drainage facility is an existing storm drain located on Grayson Road. Applicant shall verify its adequacy prior to discharging run off.

**Miscellaneous Drainage Requirements:**

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

**Floodplain Management:**

71. A portion of the project property lies within a Special Flood Hazard Area (100 year flood boundary) as designated on the Federal Emergency Management Agency's Flood Insurance Rate Maps. The applicant shall be aware of and comply with the requirements of the National Flood Insurance Program (Federal) and the County Floodplain Management Ordinance as they pertain to development and future construction of any structures on this property.

**Creek Banks and Creek Structure Setbacks:**

72. The Property owner shall relinquish "development rights" over that portion of the site that is within the structure setback area of Grayson Creek. The structure setback area shall be determined by using the criteria outlined in Chapter 914 14, "Rights of Way and Setbacks," of the Subdivision Ordinance. "Development rights" shall be conveyed to the County by grant deed.
73. The property owner shall be aware that the creek banks on the site are potentially unstable. The property owner shall execute a recordable agreement with the County which states that the developer and the property owner and the future property owner(s) will hold harmless Contra Costa County and the Contra Costa County Flood Control and Water

Conservation District in the event of damage to the on-site and off-site improvements as a result of creek- bank failure or erosion.

**National Pollutant Discharge Elimination System (NPDES):**

74. 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 basins) 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.
- 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.
- Other alternatives comparable to the above as approved by Public Works.

**Stormwater Management and Discharge Control Ordinance**

75. 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.

76. 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).

77. 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.

78. 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.

79. 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.
80. 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:**

81. The Applicant shall comply with the drainage fee requirements for Drainage Area 62 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 90<sup>th</sup> 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. Applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Central Contra Costa Areas of Benefit, as adopted by the Board of Supervisors. Payment is required prior to issuance of a building permit.
- C. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Wildlife Code.
- D. 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.

- E. 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.
- F. This project is subject to the development fees in effect under County Ordinance as December 17, 2020, 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 specified in the conditions of approval.
- G. Additional requirements may be imposed by the following agencies and departments:
- Public Works Department
  - Building Inspection Division
  - Contra Costa Consolidated Fire Protection District
  - Health Services Department
  - Central Contra Costa Sanitary District
  - East Bay Municipal Utility District

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