

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP24-03051;
ALLIANT COMMUNITIES, LLC (APPLICANT), AMBROSE RECREATION AND PARK
DISTRICT/ DAVID and VIRGINIA JACOBSON (OWNERS)**

FINDINGS

A. Development Plan (Planned Unit District) Findings

In approving a development plan in a P-1 District, findings are required that the proposed project is consistent with the intent and purpose of the P-1 District and is compatible with other uses in the vicinity, both inside and outside the district.

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

Project Finding: The project site is within the Bay Point P-1 District. As stated in the General Plan Land Use Element, the development of mixed-use projects is encouraged along this stretch of Willow Pass Road, with the intent of encouraging the development of a neighborhood commercial district serving residents in the area. The revised project is substantially similar to the previously approved development plan for the site, involving the same land use and an identical number of dwelling units. The overall project is consistent with the intent for the Willow Pass Road mixed-use corridor, as summarized within the Stronger Communities Element of the General Plan. Therefore, the project is consistent with the intent and purpose of the P-1 district in which it is located.

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 a transitional area of Bay Point, where light industrial uses have been established north of Willow Pass Road, and predominantly residential development exists to the south. When constructed, the development will include all the fundamental elements needed to safely operate a complex of this size such as public water and sanitary services, fire protection services, a storm drainage system, solid waste collection, and basic utilities (i.e. gas, electricity, cable). In addition, the complex will include amenities such as convenient access to retail/commercial space, on-site vehicle and bicycle parking, and electric vehicle charging; which make for a "complete" multi-family development. The development has been designed in a manner that takes the

surrounding land uses into consideration, while also effectively utilizing the entire project site. Therefore, the project is compatible with other uses in the vicinity, both inside and outside of the district.

B. Exception Findings:

The applicant has requested exceptions to the offsite collect and convey requirements and the public entity maintenance requirement for detention basins specified in Division 914 of the County Ordinance Code. Pursuant to Chapter 92-6 of the County Code, the Advisory Agency (Zoning Administrator) may authorize exceptions to the requirements and regulations of County Ordinance Code Division 914. Accordingly, the following are the findings for granting the requested exceptions.

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

Project Finding: The project site is located in drainage areas DA 48B, which is subject to infrastructure constraints downstream of the project. Requiring the project to replace downstream infrastructure to address existing constraints will require substantial off-site improvements which will threaten the viability of the affordable housing project. In lieu of off-site improvements, the project drainage plan involves a high-capacity detention basin constructed beneath the parking lot of the mixed-use development, with pumping apparatus to expel stormwaters therefrom into the existing storm drain infrastructure adjacent to the project site. The private maintenance of the detention basin and pumping apparatus will be the responsibility of the property owner as opposed to public maintenance generally required by Division 914 of the County Ordinance Code as that again will threaten the viability of the affordable housing project.

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

Project Finding: The project involves a multi-family residential/commercial mixed-use development, which is a permitted land use within the zoning district and general plan designation in which the property is located. Due to infrastructure constraints within the existing storm drain system downstream of the project site, compliance with off-site collect and convey requirements would involve improvements to existing storm drain infrastructure which would be cost prohibitive to a project of this type and scale. Similarly, public maintenance of the onsite detention basin and pumping apparatus will threaten the viability of the

affordable housing project. The exception is necessary to develop the property at an appropriate density, consistent with its zoning, general plan designation, and in a manner consistent with the County's Regional Housing Needs Allocation (RHNA).

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

Project Finding: The project drainage plan has been designed to detain stormwater onsite and meter release into the existing storm drain systems within DA48b. The hydrologic analysis submitted with the project drainage plan includes pre- and post- project flow analysis indicating that the metered release of stormwaters originating on or traversing the project site will be discharged into existing storm drain infrastructure in a manner substantially similar to existing conditions in terms of volume and flow rate. The project would not discharge concentrated stormwater onto adjacent property. Additionally, the plan will include backup pumps and an off-grid power source to ensure that the system will continue to function properly in the event of a power outage. The obligations for private maintenance of the private detention basin will be specified in the Stormwater Maintenance and Operation Agreement, subject to review and approval by the Department of Public Works, Engineering Services Division. The project is conditioned to require verification of final design plans to ensure that post-project flow rates are at or below pre-project levels as represented in preliminary hydrological analysis. In the event that the on-site detention is found to be inadequate by Engineering Services Division, the project will be required to improve the existing storm drain system to address downstream capacity constraints. In consideration of the above, the granting of the exceptions for the drainage plan would maintain the existing drainage pattern and would not be materially detrimental to the public welfare or injurious to other property in the vicinity.

C. Regional Housing Needs Allocation (RHNA) Findings (CA Gov. Code §65863)

Pursuant to Government Code Section 65863(b), the project may be approved at the proposed density based on the following findings:

1. *The reduction is consistent with the General Plan, including the housing element.*

Project Finding: The project site has been identified as having capacity for up to 76 units (combined) affordable to households of Low-Income, and Very Low-Income

General Plan Housing Element. The project includes 100 units for Low-Income households and 24 units affordable to moderate income households, including a State Density Bonus to authorize a residential density exceeding that which would otherwise be permitted on the property by 24%. In terms of unit count, the 124 units is consistent with the target density for the site, as projected in the Housing Element. However, the project would not provide very-low income units on the subject property as projected in the County's RHNA site inventory – thereby reducing density for that specific affordability level. Nevertheless, the overall unit count exceeds the projected total for this property by 48 units through the use of State Density Bonus Law. The project does not conflict with permitted land uses within the General Plan Land Use designation in which the site is located, and does not conflict with General Plan policies. Though the project would result in a lower density of very-low income affordable units on site, the additional lower-income units provided are consistent with the overarching goals of the Housing Element to increase the affordable housing stock and in Contra Costa County. Thus, the project is considered substantially consistent with the General Plan and with the housing element.

2. *The remaining sites identified in the housing element are adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584. The finding shall include a quantification of the remaining unmet need for the jurisdiction's share of the regional housing need at each income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level.*

This project is located on two Assessor's Parcel Numbers (APNs: 093-081-027 and 093-081-028) which are both listed in the County's approved and adopted 6th Cycle Housing Element's sites inventory with a combined housing capacity of 30 units of low (80% AMI) and very low (50% AMI) income units on APN 093-081-028; 1 above moderate (above 120% AMI) unit and a combined amount of 46 low (80% AMI) and very low (50% AMI) units on APN 093-081-027. The aggregate RHNA units for the two parcels is 1 above moderate unit and 76 units of low and very low-income units. The development includes 100 units at lower income (80% AMI) affordability and 24 units at moderate income (120% AMI) affordability. The project will include affordable units, but at different levels of affordability from that listed in the sites inventory. The current surplus unit capacity for low and very low-income units in the County's sites inventory is 1,186 units and the number of surplus unit capacity of above-moderate units in the County's sites inventory is 618 units. The construction of this project will provide 100 percent affordable units, will contribute

to meeting the County's RHNA for this cycle's housing element, and will not result in a net loss of units in the County's sites inventory capacity.

D. Environmental Findings

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

- A draft Mitigated Negative Declaration/Initial Study (MND), State Clearinghouse Number SCH 2023090474, was prepared for Land Use Permit/Development Plan CDLP22-02029 on September 20, 2023. The public review period for the draft MND started on September 20, 2023 and ended on October 20, 2023. No comments were received during the public review period for the draft MND. The Zoning Administrator adopted the MND prepared for the project with the approval of CDLP22-02029 on March 4, 2024.
- An Addendum to the previously adopted MND was prepared by CDD staff for the revised project finding that the revised project to be substantially consistent with the nature, scale and location of the prior approval. revision will not result in new significant environmental effect not previously considered, nor would it increase the severity of previously identified significant effects. No change has occurred with respect to the circumstances surrounding the project that would cause new or substantially more severe significant environmental effects than those identified in the adopted MND. No new information has become available showing that the project would cause new or substantially more severe significant environmental effects which have not already been analyzed in the adopted MND.
- On the basis of the whole record before it, including the draft MND, the Zoning Administrator finds that:
 - The revised Development Plan will not result in new significant environmental effect not previously considered, nor would it increase the severity of previously identified significant effects under the adopted MND (SCH# 2023090474);
 - No change has occurred with respect to the circumstances surrounding the project that would cause new or substantially more severe significant environmental effects than those identified in the adopted MND (SCH# 2023090474); and

- No new information has become available showing that the project would cause new or substantially more severe significant environmental effects which have not already been analyzed in the adopted MND (SCH# 2023090474).

CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP24-03051

Project Approval

Development Plan Modification

1. The Development Plan application is APPROVED for the construction of a multi-family residential/commercial mixed use development, including:
 - A four-story, 55-foot-tall, 116,720-square-foot building with 124 affordable housing rental units;
 - 1,488 square feet of commercial tenant space on the ground floor of the building fronting Willow Pass Road;
 - 6,000 square feet of landscaped courtyard areas; and
 - Associated infrastructure and utility improvements.
2. The Development Plan approval described above is based on:
 - Project application received by the Department of Conservation and Development, Community Development Division (CDD) on November 25, 2024;
 - "Willow Pass Apartments" architectural plans dated received on February 12, 2025;
 - Revised Density Bonus Proposal dated received on May 14, 2025;
 - Initial Study / Mitigated Negative Declaration Adopted for County File #CDLP22-02029;
 - Preliminary Stormwater Control Plan prepared by KPFF Consulting Engineers, dated January 31, 2025.
3. Any change from the approved plans shall require review and approval by the CDD and may require the filing of an application to modify this Development Plan.

Building Permits

4. No construction is approved with this permit. Any construction at the project site will require issuance of building permits from the Department of Conservation and Development, Building Inspection Division, prior to commencement of work.

Application Costs

5. This application was subject to an initial deposit of \$7,000. The application is 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

6. 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

7. At least 30 days prior to CDD stamp-approval of plans for issuance of a building or

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

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

Affordable Housing – Inclusionary Housing

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

8. This is a mixed use project that 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(a) of the County Ordinance Code, a residential development of five or more rental units shall require at least fifteen percent of the units to be developed and rented as affordable units. At least twenty percent of the inclusionary units shall be rented at an affordable price to very low-income households.

The applicant, owner, and/or developer (Applicant) is required to construct 15 inclusionary units (100 total base units x 0.15 of total = 15 units) for the project. The Applicant has submitted a revised narrative as an inclusionary housing plan (IHP) supplement, an inclusionary housing plan checklist, a revised density bonus narrative, and density bonus checklist, dated received May 14, 2025. The inclusionary housing plan proposes an alternative method of compliance with the IHO requirements by proposing all 124 affordable units in the density bonus request to also be inclusionary units and provide a greater number of affordable units to the County's housing market to be considered as a greater benefit than strictly complying with the IHO requirements.

Density Bonus Request

The Applicant submitted an updated density bonus narrative dated received May 14, 2025, which proposes a State Density Bonus housing development that includes 1,488 square feet of commercial space and 124 affordable rental housing units. The project for the density bonus request is as described under Government Code Section 65915(b)(1)(G), where 100 percent of all units in the project, including total units and density bonus units in the housing development, but exclusive of a manager's unit or units, are for lower income households, except that up to 20 percent of the housing units in the development, including total units and density bonus units, may be for moderate-income households. This project is proposing 100 lower income (80% AMI) units as the base units, and 24 moderate income (120% AMI) units, including a 24 percent density bonus above the base density, four concessions, rents subject to Government Code Section 65915(c)(1)(B)(ii), and density bonus calculated subject to 65915(f)(3)(d)(i). All housing units in the project will be both an inclusionary unit and targeted density bonus unit.

Density Bonus – Concessions/Incentives

Pursuant to Government Code 65915(d)(2)(D), the Applicant may request up to five concessions or incentives for providing the housing development described under Government Code 65915(b)(1)(G). The applicant has requested four concessions as follows:

- **County Height Limit.** A request to increase the building height and number of stories limitation to 55 feet and four stories, where 50 feet and three stories is permitted under the zoning and land use designation;
- **Inclusionary Housing Ordinance.** A request to modify the unit affordability requirements under the County's Inclusionary Housing Ordinance to allow lower income and moderate-income units, instead of very low income and lower income units as required by the County Ordinance for a rental housing project;
- **Inclusionary Housing Ordinance.** A request to allow the calculation of affordable rents for the lower income units to be consistent with the rents calculation of Government Code Section 65915(c)(1)(B)(ii) for lower income and moderate-income units. The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of

the Health and Safety Code. The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for lower income households, as those rents and incomes are determined by the California Tax Credit Allocation Committee, and

The County accepted the Applicant's concession requests to increase the maximum building height, proposal for an alternative inclusionary housing ordinance unit affordability mix in the rental housing project, proposal for an alternative inclusionary housing ordinance rent calculation methodology for all inclusionary units to align with the State Density Bonus law as referenced above.

The Applicant has reserved its right to request additional incentives, concessions, and waivers. However, if the Applicant wishes to change their project and propose any additional incentives, concessions, or waivers pursuant to State Density Bonus law after an entitlement is approved, the Applicant may be subject to a new application review for a new entitlement, as determined by the Department of Conservation and Development (DCD). For any revised project proposals, the County may adjust the amount of density bonus, concessions, incentives, or parking ratios, as appropriate to the new project proposed.

9. **At least 90 days before the recordation of the 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**, the Applicant shall initiate the preparation of an Inclusionary Housing and Density Bonus Developer 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 65915 to ensure that the property will be deed restricted for 124 units to be affordable and rented to 100 lower income (80% AMI) households, and 24 moderate income (120% AMI) households. This 90-day period allows for the preparation, County approval, execution, 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 Packet and Density Bonus Plan Checklist Packet available. The Inclusionary Housing Plan exhibit for the Agreement may need to be rewritten by the Applicant to summarize more succinctly the approved alternative method of compliance with the inclusionary ordinance requirements, which excludes references

to case law and other information not related to the IHP, if deemed necessary by staff. The Agreement must be submitted to the Board of Supervisors before execution by all parties and recordation.

Prior to the execution of the Agreement, the Applicant shall file a condition of approval compliance review application to the Department of Conservation and Development for review and approval of a floor plan exhibit of the project identifying the locations of the inclusionary housing units and affordability pursuant to the Inclusionary Housing Ordinance development standards. This floor plan exhibit, the Inclusionary Housing Plan, and Density Bonus Plan will be exhibits to the Agreement.

Affordable rents shall be determined and confirmed annually by the County. It shall be adjusted for household size. Only a portion of the units will be subject to the alternative affordable rent calculation as previously referenced above.

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

General

10. 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 County will provide to the Applicant income certification forms to be completed by the renters. The income levels of all applicants for affordable units in the project shall be certified prior to initial occupancy and recertified annually thereafter and records shall be maintained by the Applicant/owner over the entire term of the period of affordability.

- c. All units, except any manager units, in the project shall be available for rent on a continuous basis to members of the general public who are income eligible. The Applicant/owner shall not give preference to any particular class or group of persons in renting the units, except to the extent that the units are required to be rented to lower income households. There shall be no discrimination against or segregation if any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age (except for lawful senior housing), ancestry or disability, in the rent of any unit in the Project nor shall the Applicant/owner or any person claiming under or through the Applicant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of renters of any unit or in connection with employment of persons for the construction of the project.
- d. In addition to any other marketing efforts, all units shall be marketed through local non-profit, social services, faith-based, and other organizations that have potential renters as clients or constituents. The Applicant/owner shall translate marketing materials into Spanish and Chinese. A copy of the translated marketing materials and marketing plan shall be submitted to the Department of Conservation and Development, for review and approval, with a condition of approval compliance review application and at least 60 days prior to the marketing of the inclusionary units and density bonus units and on an annual basis with the annual report.

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

- e. 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.

11. The inclusionary units 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 units are subject to the standards of Section 822-4.412 of the County Ordinance.
 - b. The inclusionary units 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 units meet this requirement.
 - c. 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.
 - d. Inclusionary units must be dispersed throughout the residential development and have access to all on-site amenities that are available to market rate units.

Annual Reporting and Compliance Review

12. **Prior to the initial occupancy of each inclusionary unit**, the Applicant/owner shall submit the Department of Conservation and Development, for review and approval, forms and documentation that demonstrates the tenants of the inclusionary units are qualified as lower income households. A hold shall be placed on the final inspection of the building permit until the documentation has been deemed adequate by the Department of Conservation and Development.
13. **After the initial occupancy of the inclusionary units**, the Applicant/owner shall submit an annual compliance review report to the Department of Conservation and Development for all inclusionary units. The report must include the name, unit, number, household size, and income of each person occupying inclusionary units,

identify the number of bedrooms and monthly rent or cost (including utility allowance) of each inclusionary unit. Tenants in rental housing developments shall provide consent to the owners to allow these disclosures. **The annual compliance review report is due April 1.**

14. The applicant is responsible for keeping the Department of Conservation and Development informed of the contact information of the owner or designee who is responsible for maintenance and compliance with this permit and how they may be contacted (i.e., mailing and email addresses, and telephone number) at all times.
 - a. **Prior to the recordation of the Parcel Map or CDD stamp-approval of plans for issuance of building permits**, the Applicant shall provide the name of the local contact representing the owner of the property 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 the conditions pertaining to inclusionary housing and density bonus requirements may result in the commencement of procedures to revoke the permit.

Transportation

15. Any proposed frontage improvements along Willow Pass Road shall not conflict with the existing Class II bicycle facility or a future Class IV low-stress bicycle facility.
16. Consistent with the County's Off-Street Parking Ordinance, the project shall provide both short-term and long-term bicycle parking facilities.
17. The project is required to provide fully operational electric vehicle charging spaces (EVCS), consistent with County requirements for EVCS for both multi-family residential and non-residential uses.
18. Consistent with the County's Transportation Demand Management (TDM) Ordinance, a TDM program must be submitted to the CDD for review/approval by Transportation Planning Division staff prior to the issuance of building permits for the project. As a part of the TDM ordinance requirement, the applicant shall consult with Tri Delta

Transit on the need to provide infrastructure to connect the project with Tri Delta Transit services. Evidence of compliance with this requirement may include correspondence from the Tri Delta Transit agency regarding the potential need for installing bus turnouts, shelters, or bus stops at the project site.

Child Care

19. Prior to the issuance of building or grading permits, whichever occurs first, the applicant shall pay a per unit fee toward childcare facility needs in the area, as established by the Board of Supervisors. The current childcare fee is \$100 per unit with two or more bedrooms (studio and one bedroom units are not subject to the fee). However, the actual fee collected will be that which is applicable at the time of building permit issuance.

Landscaping

20. Prior to the issuance of building permits, the applicant shall provide landscaping and irrigations plans for all landscaped areas of the project which demonstrate compliance with the County Landscape Ordinance and the California Model Efficient Landscape Ordinances. The landscaping and irrigation plans shall be subject to review and approval by CDD staff.

Park Impact/Park Dedication Fees

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

MITIGATION MEASURES FROM THE MITIGATION MONITORING PROGRAM APPLIED AS CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP24-03051

Biological Resources

23. Burrowing Owls (Mitigation Measure BIO-1): Prior to the onset of project ground disturbances, including grading, vegetation removal, and/or mobilization of

equipment, a qualified biologist shall conduct a pair of pre-construction surveys for burrowing owls within the site and within any potentially suitable location within 250 feet of the site where access is feasible. The first survey shall occur approximately 14 days prior to project initiation, and the second survey shall occur within approximately 48 hours of the start of project activities. If the site and immediate site vicinity are determined by the certified biologist to have no potentially suitable habitat for burrowing owls (i.e., suitable burrows or suitable debris piles that burrowing owls could use for habitat) during the first survey, then no follow-up survey shall be required. If the Project does not commence within 30 days following this survey, a repeat survey shall be needed to ensure site conditions have not changed with regard to burrowing owl habitat.

If burrowing owls are identified utilizing burrows within or near the site, a 250-foot buffer shall be established around the active burrows and the burrows shall be periodically monitored by the qualified biologist. No construction activities, including entrance by project personnel, can occur within the buffer until the biologist has confirmed that the burrows are no longer occupied. Once the biologist has confirmed that the burrowing owls have safely self-relocated (including that young of the nest—if any—have fledged), the buffer can be removed, and planned project activities within the buffer can commence.

24. Migratory Bird Nests (Mitigation Measure BIO-2): If initial site disturbance activities, including tree removal, grading, and mobilization of project equipment and materials, are to commence during the breeding season (February 1 to August 31), a certified biologist shall conduct pre-construction surveys for nesting migratory birds onsite and within 250 feet of the construction footprint, including laydown areas and ingress and egress, where accessible. The survey shall occur within 14 days of the onset of ground disturbances if such disturbances are to commence during the nesting bird season. If site impacts will be phased such that impacts to some areas will occur more than 14 days after impacts to other areas, additional surveys shall be conducted such that all areas of the site are surveyed within 14 days of the direct implementation of impacts within those areas.

If an active bird nest is detected during these surveys, an appropriate construction-free buffer shall be established. Actual size of the buffer, which will be determined by the project biologist, would depend on the nesting species, topographical relationship of the nest to the project disturbance area, and the type of activity that would occur in the vicinity of the nest. The buffer shall be monitored periodically by the biologist

to ensure compliance, and the buffer shall not be removed until the biologist has confirmed that nesting is complete and young of the nest have fledged.

Cultural Resources

25. Previously Undiscovered Historic and Prehistoric Resources During Construction (Mitigation Measure CUL-1): The following mitigation measures shall be implemented during project related ground disturbance, and shall be included on all construction plans:

- a. All construction personnel, including operators of equipment involved in grading, or trenching activities will be advised of the need to immediately stop work if they observe any indications of the presence of an unanticipated cultural resource discovery (e.g. wood, stone, foundations, and other structural remains; debris-filled wells or privies; deposits of wood, glass, ceramics). If deposits of prehistoric or historical archaeological materials are encountered during ground disturbance activities, all work within 50 feet of the discovery shall be redirected and a qualified archaeologist, certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA), shall be contacted to evaluate the finds and, if necessary, develop appropriate treatment measures in consultation with the County and other appropriate agencies. If the cultural resource is also a tribal cultural resource (TCR) the representative (or consulting) tribe(s) will also require notification and opportunity to consult on the findings.

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

- b. 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 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.

Hydrology

26. Stormwater Flow (Mitigation Measure HYDRO-1): The implementation of a drainage plan to match post-construction flow rates with pre-construction flow rates through the use of an on-site stormwater detention system will ensure that the project does not increase the volume of stormwater outfall from the project into existing storm drainage infrastructure relative to present conditions. Prior to the issuance of a building or grading permit (whichever occurs first), the applicant shall submit a final drainage plan with hydrology and hydraulic calculations for the review and approval of the County Department of Public Works, Engineering Services Division.
27. Onsite Stormwater Detention System (Mitigation Measure HYDRO-2): In the event that the on-site stormwater detention system described in *Mitigation Measure HYDRO-1* does not sufficiently mitigate downstream flows, the applicant shall be required to improve the downstream DA 48B to accept post construction flows. Prior to the issuance of a building or grading permit (whichever occurs first), the applicant shall submit a final drainage plan with hydrology and hydraulic calculations for the review and approval of the County Department of Public Works, Engineering Services Division.

Noise

28. Construction Hours (Mitigation Measure NOI-1a): All construction activities, including delivery of construction materials, shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:

New Year's Day (State and Federal)

Birthday of Martin Luther King, Jr. (State and Federal)

Washington's Birthday (Federal)

Lincoln's Birthday (State)

President's Day (State)

Cesar Chavez Day (State)

Memorial Day (State and Federal)

Juneteenth National Independence Holiday (Federal)

Independence Day (State and Federal)

Labor Day (State and Federal)

Columbus Day (Federal)

Veterans Day (State and Federal)

Thanksgiving Day (State and Federal)

Day after Thanksgiving (State)

Christmas Day (State and Federal)

29. Heavy Equipment (Mitigation Measure NOI-1b): Transportation of heavy equipment (e.g., graders, cranes, excavators, etc.) and trucks to and from the site shall be limited to weekdays between the hours of 9:00 AM and 4:00 PM and prohibited on Federal and State holidays. This restriction does not apply to typical material and equipment delivery or grading activities.

30. Internal Combustion Engines and Stationary Equipment (Mitigation Measure NOI-1c): 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.

31. Notification of Neighbors (Mitigation Measure NOI-1d): The applicant shall notify neighbors within 300 feet of the subject property at least one week in advance of grading and construction activities.

32. Construction Noise Coordinator (Mitigation Measure NOI-1e): 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.

33. Preconstruction Meeting and Reporting (Mitigation Measure NOI-1f): Prior to the issuance of building permits, a preconstruction meeting shall be held with the job inspectors, designated construction noise coordinator, and the general contractor/onsite manager in attendance. The purpose of the meeting is to confirm that all noise mitigation measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed and in place prior to beginning grading or construction activities. The applicant shall provide written confirmation to CDD staff verifying the time and date that the meeting took place and identifying those in attendance.

Tribal Cultural Resources

34. Treatment of Tribal Cultural Resources (Mitigation Measure TCR-1): If a pre-contact cultural resource is discovered during Project implementation, ground disturbing activities shall be suspended 60 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. A research design shall be developed by the archaeologist that shall include a plan to evaluate the resource for significance under CEQA criteria. Following the completion of evaluation efforts, all parties shall confer regarding the archaeological significance of the resource, its potential as a Tribal Cultural Resource (TCR), and avoidance (or other appropriate treatment) of the discovered resource.

Should any significant resource and/or TCR not be a candidate for avoidance or preservation in place, and the removal of the resource(s) is necessary to mitigate impacts, the research design shall include a comprehensive discussion of sampling strategies, resource processing, analysis, and reporting protocols/obligations. Removal of any cultural resource(s) shall be conducted with the presence of a Tribal monitor representing the Tribe. All plans for analysis shall be reviewed and approved by the applicant and Tribe prior to implementation, and all removed material shall be temporarily curated on-site. All draft records/reports containing the significance and treatment findings and data recovery results shall be prepared by the archaeologist and submitted to the Lead Agency and Tribe for their review and comment. After approval from all parties, the final reports and site/isolate records are to be submitted to the local CHRIS Information Center, the Lead Agency, and Tribe.

35. Inadvertent Discoveries of Human Remains/Funerary Objects (Mitigation Measure TCR-2): In the event that any human remains are discovered within the Project area, ground disturbing activities shall be suspended 100 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. The on-site lead/foreman shall then immediately notify the Tribe, the applicant/developer, and the Lead Agency. The Lead Agency and the applicant/developer shall then immediately contact the County Coroner regarding the discovery. If the Coroner recognizes the human remains to be those of a Native American or has reason to believe that they are those of a Native American, the Coroner shall ensure that notification is provided to the NAHC within twenty-four (24) hours of the determination, as required by California Health and Safety Code § 7050.5 (c). The NAHC-identified Most Likely Descendant (MLD), shall be allowed, under California Public Resources Code § 5097.98 (a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and funerary objects shall be treated and disposed of with appropriate dignity.

The MLD, Lead Agency, and landowner agree to discuss in good faith what constitutes "appropriate dignity" as that term is used in the applicable statutes. The MLD shall complete its inspection and make recommendations within forty-eight (48) hours of the site visit, as required by California Public Resources Code § 5097.98. Reburial of human remains and/or funerary objects (those artifacts associated with any human remains or funerary rites) shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The MLD in consultation with the landowner, shall make the final discretionary determination regarding the appropriate disposition and treatment of human remains and funerary objects. All parties are aware that the MLD may wish to rebury the human remains and associated funerary objects on or near the site of their discovery, in an area that shall not be subject to future subsurface disturbances.

The applicant/developer/landowner shall accommodate on-site reburial in a location mutually agreed upon by the Parties. It is understood by all Parties that unless otherwise required by law, the site of any reburial of Native American human remains or cultural artifacts shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The coroner, parties, and Lead Agencies would be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code § 6254 (r).

The applicant shall comply with the following conditions of approval prior to issuance of a building permit and prior to initiation of the use authorized under this permit.

General Requirements

36. The applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance. Any exception(s) must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan submitted to the Community Development Division, of the Department of Conservation and Development, on May 3, 2022.
37. For Public Works review for compliance relative to this Land Use Permit, a Compliance Review Fee deposit shall be submitted directly to the Public Works Department in accordance with the County's adopted Fee Schedule for such services. This fee is separate from similar fees required by the Department of Conservation and Development and is a deposit to offset staff costs relative to review and processing of these conditions of approval and other Public Works related services ancillary to the issuance of building permits and completion of this project.
38. 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.
39. The two parcels shall be merged into a single lot through a lot line adjustment or alternative process as prescribed by the Department of Conservation and Development.

Roadway Improvements (Clearland Drive/Willow Pass Road)

40. The applicant shall construct frontage improvements along the project frontages of Willow Pass Road and Clearland Drive. Some improvements exist, but the sidewalks need to be widened to the commercial standard width of 10 feet. Streetlights are also required along both frontages.

41. The applicant shall reconstruct the median islands (including landscaping and irrigation, if necessary) and any other necessary safety improvements along the frontage of Clearland Drive to accommodate ingress and egress to the project, subject to approval of the Public Works Department.
42. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontages of Clearland Drive and Willow Pass Road. Concrete shall be saw cut prior to removal. Existing lines and grade shall be maintained. New curbs and gutters shall be doveled into existing improvements.
43. The applicant shall construct a street type connection with 20-foot radii curb returns in lieu of standard driveway depressions at proposed access driveways.
44. Driveway ingress and egress to Willow Pass Road shall be restricted to emergency access only. Appropriate gates and signage shall be installed.
45. The applicant shall locate any vehicular entrance gates a minimum of 20 feet from the edge of pavement to allow vehicles to queue without obstructing through traffic. Sufficient area shall be provided outside any gate to allow a vehicle to turn around and re-enter Clearland Drive and Willow Pass Road in a forward direction.

Access to Adjoining Property

Proof of Access

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

Encroachment Permit

47. The 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 Clearland Drive or Willow Pass Road.

Site Access

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

Road Alignment / Intersection / Sight Distance

49. The applicant shall provide sight distance at the on-site driveway and the fronting streets to accommodate the appropriate design speeds, 40 MPH for Willow Pass Road, and 30 MPH for Clearland Drive. 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.

Landscaping

50. The applicant shall submit four sets of landscape and automatic irrigation plans and cost estimates, prepared by a licensed landscape architect, to the Public Works Department for review and to the Zoning Administrator for review and approval, prior to issuance of building permits. Applicant shall pay appropriate fees in accordance with County Ordinance.

Utilities/Undergrounding

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

Drainage Improvements

Collect and Convey

52. The applicant shall collect and convey all storm water 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 storm waters to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code.

Exception Section 914-2.004 (Subject to Advisory Agency findings and approval):

The applicant is granted an exception from the offsite collect and convey requirement of the Ordinance Code by the advisory agency as provided for in 92-6.002 of said code provided:

- The stormwater runoff from the site is reduced to, or below pre-project flow rates as a result from the construction of on-site detention infrastructure incorporating a pump system. Said pump system shall include back-up pumps and a secondary off-grid power source such as a natural gas or propane fueled generator, or battery power with sufficient capacity to power the pumps for at least 24 hours.
- Verify sufficient overland release without damage to on-site or neighboring buildings in the event of pump failure or storm events in the 1-10 % annual probability (10–100 year) range.
- Concentrated stormwater is not discharged onto adjacent property.

Exception Section 914-12.010 (Subject to Advisory Agency findings and approval):

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

Miscellaneous Drainage Requirements

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

National Pollutant Discharge Elimination System (NPDES)

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

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

- Minimize the amount of directly-connected impervious surface area.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention basins) as reviewed and approved by Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES permits.
- 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.
- Other alternatives comparable to the above as approved by the Public Works Department.

Storm Water Management and Discharge Control Ordinance

56. The applicant shall submit a FINAL Storm Water Control Plan (SWCP) and a Storm water 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 Storm water Management and Discharge Control Ordinance (§1014) prior to the issuance of a building permit. All time and materials costs for review and preparation of the SWCP and the O+M Plan shall be borne by the applicant.

57. Improvement Plans shall be reviewed to verify consistency with the Final SWCP and compliance with Provision C.3 of the County's NPDES Permit and the County's Storm water Management and Discharge Control Ordinance (§1014).
58. Storm water management facilities shall be subject to inspection by Public Works Department staff; all time and materials costs for inspection of storm water management facilities shall be borne by the applicant.
59. Prior to the issuance of a building permit, the property owner(s) shall enter into a standard Storm water Management Facility Operation and Maintenance Agreement with Contra Costa County, in which the property owner(s) shall accept responsibility for, and related to, operation and maintenance of the storm water facilities, and grant access to relevant public agencies for inspection of storm water management facilities.
60. Prior to the issuance of building permits, the property owner(s) shall annex the subject property into Community Facilities District (CFD) No. 2007-1 (Storm water Management Facilities), which funds responsibilities of Contra Costa County under its NPDES Permit to oversee the ongoing operation and maintenance of storm water facilities by property owners.
61. 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

62. The applicant shall comply with the drainage fee requirements for Drainage Areas 48B and 48D as adopted by the Board of Supervisors prior to the initiation of the use requested with this application. This fee shall be paid prior to issuance of a building permit and initiation of proposed use.

ADVISORY NOTES

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

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

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

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

- B. The applicant shall submit grading and building plans to the Building Inspection Division and comply with Division requirements. It is advisable to check with the Division prior to requesting a grading or building permit or otherwise proceeding with the project.
- C. The applicant is responsible for contacting the Health Services Department Environmental Health Division regarding its requirements and permits.
- D. The applicant must submit building plans to the Contra Costa County Fire Protection District and comply with its requirements. The applicant is advised that plans submitted for a building permit must receive prior approval and be stamped by the Fire Protection District.
- E. The applicant is required to submit plans to the Delta Diablo Sanitary District for approval. Plans submitted for a building permit must receive prior approval and be stamped by the Sanitary District.

- F. The applicant must comply with the requirements of the Golden State Water District.
- G. The applicant is responsible for contacting the Contra Costa Mosquito and Vector Control District regarding its requirements and permits.
- H. The applicant will be required to 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), ECTIA, and Bay Point Areas of Benefit as adopted by the Board of Supervisors. Payment is required prior to issuance of a building permit.