

**PROJECT FINDINGS FOR COUNTY FILES #CSD22-09628 AND CDDP22-03036, LCA ARCHITECTS INC. (APPLICANT), AHMADIEH AND ZARIN MOHAMMAD (OWNERS)**

**A. Government Code Section 65863(b) (No Net Loss)**

Section 65863(b)(1) No city, county, or city and county shall, by administrative, quasi-judicial, legislative, or other action, reduce, or require or permit the reduction of, the residential density for any parcel to, or allow development of any parcel at, a lower residential density, as defined in paragraphs (1) and (2) of subdivision (g), unless the city, county, or city and county makes written findings supported by substantial evidence of both of the following:

1. The reduction is consistent with the adopted general plan, including the housing element.

Project Finding: The subject property (APN: 380-220-044) has a General Plan land use designation of Multiple-Family Residential-High Density (MH). The MH designation allows 22 – 29.9 units per net acre. The proposed project would subdivide the property into 33 residential lots on a net acreage of 1.25 or a density of 26.3 dwelling units per net acre, consistent with the density allowed by the general plan. Thus, there is no reduction in the residential density allowed by the SH General Plan land use designation.

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.

Project Finding: The Regional Housing Needs Allocation (RHNA) was prepared by Association of Bay Area Governments (ABAG) for the period of January 1, 2014 through October 31, 2022. As part of this process, ABAG requires each jurisdiction to plan for a certain number of housing units for this period. This requirement is satisfied by identifying adequate sites that could accommodate housing that is affordable to very low, low, moderate, and above moderate-income households. ABAG has determined that the unincorporated County's share of regional housing needs is a total of 1,367 new housing units, which includes the construction of 243 moderate-income housing units. Based on the

2022 Annual Element Progress Report, the County has constructed an aggregate of 2,662 units across all income levels with 2,075 above-moderate units, 272 moderate-income units, 216 low income units, and 99 very-low income units. The remaining RHNA to be constructed for the County's share of the 5<sup>th</sup> Cycle of the Housing Element RHNA are 2 low income units and 275 very low income units.

The subject property is part of a larger development proposal to subdivide two existing parcels into 33 condo/townhome units. One of the existing lots Assessor's Parcel Number 380-220-044 is listed on the Housing Element's Sites Inventory for 22 low units, which includes both low and very low RHNA units. The housing development as a whole is proposing 33 condos/townhomes across two parcels, with 16 of the 33 units on the parcel on the Housing Sites Inventory.

Although the project does not provide any low income units, there are other parcels listed in the County's sites inventory where there remains a potential for the construction of low income units, including the Orbisonia Heights project in Bay Point with 325 low income units designated, which provides capacity for the aggregate of 315 units of low and very low income units that remains in the RHNA. Therefore, there is capacity of sites identified in the housing element to accommodate the remaining low income units in the RHNA.

3. Section 65863(b)(2) If a city, county, or city and county, by administrative, quasi-judicial, legislative, or other action, allows development of any parcel with fewer units by income category than identified in the jurisdiction's housing element for that parcel, the city, county, or city and county shall make a written finding supported by substantial evidence as to whether or not 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.

Project Finding: The Regional Housing Needs Allocation (RHNA) was prepared by ABAG for the period of January 1, 2014 through October 31, 2022. As part of

this process, ABAG requires each jurisdiction to plan for a certain number of housing units for this period. This requirement is satisfied by identifying adequate sites that could accommodate housing that is affordable to very low, low, moderate, and above moderate-income households. ABAG has determined that the unincorporated County's share of regional housing needs is a total of 1,367 new housing units, which includes the construction of 532 moderate-income housing units, 243 moderate-income units, 218 low units, and 374 very low units. Based on the 2022 Annual Element Progress Report, the County has constructed an aggregate of 2,662 units across all income levels with 2,075 above-moderate units, 272 moderate-income units, 216 low income units, and 99 very low income units. The remaining RHNA to be constructed for the County's share of the 5th Cycle of the Housing Element RHNA are 2 low income units and 275 very low income units.

The subject property is part of a larger subdivision to subdivide two existing parcels into 33 parcels for the construction of 33 condo/townhomes. One of the existing lots is listed in the Housing Element Sites Inventory with a capacity for 22 low units.

The total number of units in this housing element development is 33 units, which will be sold at market rate. Although the project does not provide any low units, there are other parcels listing in the County's sites inventory where there remains a potential for the construction of low units, including the Orbisonia Heights project in Bay Point with 325 low units designated, which provides capacity for the aggregate of 315 units of low and very low income units that remains in the RHNA. Therefore, there is capacity of sites identified in the housing element to accommodate low units.

**B. General Plan Growth Management Element Findings**

1. Traffic: Implementation Measure 4-c under the Growth Management Program (GMP) of the County's General Plan requires a traffic impact analysis be conducted for any project that is estimated to generate 100 or more AM or PM peak-hour trips. The project consists of subdividing an approximately 1.57-acre property into 33 residential parcels. A VMT analysis was prepared by Abrams Associates which indicated that the project would generate 30 AM and PM peak

hour trips. Therefore, because the total peak hour trips is below 100, a further traffic study is not necessary.

The project site is located along Pacheco Boulevard at Windhover Way, both of which are County maintained roads. Both roadways are at their planned width so no additional dedication of right-of-way will be required. Installation of concrete curb ramps, curb, gutter, and sidewalks have already been installed by the County in 2015 but may need to be modified to accommodate the onsite improvements.

The subdivision will gain access via two private roads off Pacheco Boulevard and Windhover Way. One private road ranging from 21 feet and 26 feet wide will provide internal vehicular circulation for residents and guests. Access at the Pacheco Boulevard driveway will be restricted to right turn ingress and egress only to avoid any turning movement or line-of-sight conflicts. Overall, the project would not cause unacceptable traffic related impacts in the immediate vicinity or area.

2. Water: The GMP requires new development to demonstrate that adequate water quantity can be provided. The project site currently receives water service from the Contra Costa Water District (CCWD). The project was forwarded to the CCWD who provided a letter indicating that the project is within their sphere of influence and specific requirements that must be part of the final project design. The project will be submitted to CCWD for their review and approval prior to initiation of construction activities. Compliance with applicable CCWD requirements suggests the project will not cause the need for new infrastructure within the district to be constructed. The District will ensure that the project has water service.
3. Sanitary Sewer: The GMP requires that new development demonstrate that adequate sanitary sewer service is available. The project site is currently served by Mt. View Sanitation District (MVSD). The project was forwarded to the MVSD who provided a letter indicating that the project is within their sphere of influence and specific requirements that must be part of the final project design. In the comment letter, MVSD indicated that the applicant shall submit a sewer permit application along with sewer improvement plans to the District for review and approval. Prior to the submittal of building permits, MVSD will review final development plans for conformance with their development standards. By

meeting the development standards of MVSD, the proposed project is expected to be accommodated by existing MVSD facilities without expansion of the wastewater treatment system.

4. Fire Protection: Fire protection and emergency medical response services for the project vicinity are provided by the Contra Costa County Fire Protection District. Fire protection to the project site would be provided by Station No. 12, which is located approximately 1.3 miles west from the site. The project is required to comply with the applicable provisions of the California Fire Code, the California Building Code, and applicable Contra Costa County Ordinances that pertain to emergency access, fire suppression systems, and fire detection/warning systems. Prior to the issuance of building permits, the construction drawings would be reviewed and approved by the fire district. The project was forwarded to the Contra Costa County Fire Protection District for review. During the review process, the applicant submitted plans directly to the Fire Protection District who responded on August 11, 2023, stating that all of their items were addressed. Prior to the approval of the final map and issuance of any building permits, the applicant will be required to demonstrate that all of the proposed development is in compliance with the ordinances and regulations of the Fire District and obtain approval by the Contra Costa County Fire Protection District prior to the commencement of construction permits.
5. Public Protection: The County General Plan Policy 7-57 indicates a Sheriff facility standard of 155 square feet of Sheriff station space per 1,000 persons of population. The project would increase the population of unincorporated Contra Costa County by approximately 66 persons, which is less than the facility standard and is a non-substantial increase. The addition of 33 townhomes to the project area would not significantly affect the provision of police services to the area. Furthermore, the Condition of Approval (COA) #12 requires the formation of a police services district to provide funding to maintain and augment police services.
6. Parks and Recreation: As the project will add to the County's population, COA #9 and 10 requires the project proponent to pay applicable Park fees per unit. The Park Impact fee collected will be used for acquisition of parkland and development of parks and recreational facilities. The Park Dedication requirement

allows the developer of land for residential use to dedicate land, pay an in-lieu fee, or a combination of both for neighborhood and community park or recreational purposes.

7. Flood Control and Drainage: The project is not located within a Federal Emergency Management Agency-designated Special Flood Hazard (100-year) Zone, and thus flooding at the site is not a potential hazard.

The site generally slopes towards south to north. Municipal drainage infrastructure is located along the Windhover Way right-of-way which includes a series of storm drain lines. The applicant will be required to comply with the Subdivision Ordinance that requires any runoff created by the project to be conveyed to adequate downstream facilities. The County Public Works Department has reviewed the preliminary Storm Water Control Plan for the project and deemed it preliminarily complete. Once final plans have been developed, it may be necessary to install detention basins on site to compensate for any downstream infrastructure that is not adequate to handle the projected additional runoff. An exception request for smaller, privately maintained basins has been reviewed and is granted by the County Public Works Department to allow for small detention basins with private maintenance and funding. In either case, the final drainage plans will accommodate for the project and to comply with Code requirements.

**C. Tentative Map Findings (County Code Section 94-2.806)**

1. Required Finding: The advisory 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 project site has a General Plan land use designation of Multiple-Family Residential-High Density (MH), which allows 22.0 – 29.9 multiple-family units per net acre. The proposed project would subdivide the 1.57-acre site into 33 residential lots. The net acreage of the parcel is approximately 1.25 acres. Based on the net acreage the maximum allowed density of the site is (1.25 acres x 29.9 units which equals 37 units maximum) and the minimum allowed density of the site is (1.25 acres x 22 units which equals 28 units minimum). The project proposes 33 units which fits within the density range. Additionally, the project will

yield 26.3 dwelling units per acre which is consistent with the 22.0-20.9 units per net acre. Therefore, the proposed project is consistent with the MH land use designation. Overall, the project is consistent with the applicable policies for the MH land use designation, as well as transportation and housing policies of the General Plan. The project is within the Urban Limit Line and the project is an infill development, as the lower portions are surrounded by existing development and have access to necessary utility connections. Overall, the project is consistent with the applicable policies for the MH land use designation.

2. Required Finding: The advisory agency shall not approve a tentative map unless it shall find that the proposed subdivision fulfills construction requirements.

Project Finding: The project will comply with the collect and convey regulations, storm drainage facilities, and design standards for private roads. Additionally, compliance with the California Building Code and all applicable County Ordinances is required for grading of the property and construction of residential buildings.

#### D. **Development Plan Findings**

1. Required Finding: The proposed project is consistent with the purpose of the zoning district:

Project Finding: The site is within a M-29 Multiple Family Residential District (M-29) zoning district. The intent and purpose of the M-29 district is to allow for multiple family residential district development designed to provide as much compatibility as possible with nearby single-family residential zoning. The Vesting Tentative Map identifies 33 new residential lots on the 1.57-acre site considered to be an in-fill location surrounded primarily by residential uses. Each lot will range from 840 – 1,601 square feet in area. The units will be part of four multi-unit buildings. The project design is partly based on the required units per net acre as determined by the County General Plan designation of MH and it being a County Housing Inventory Site. Nevertheless, the project provides 83 on-site parking which is more than what is required for residents and guests. A comprehensive landscaping plan has been determined to be preliminarily complete which provides 0.30 acres of coverage. Therefore, given that the project

provides multi-family residential housing which is the intent of the zoning district in which it is located and is surrounded by compatible residential developments, the project is appropriate for the site and area in which it is located.

2. Required Finding: The proposed project is architecturally compatible with other uses in the vicinity, both inside and outside the zoning district.

Project Finding: Given the density of housing development in the area (townhomes, duplexes, single-family residences and apartment style buildings), the design does not conflict with the surroundings in building mass or height. The project which proposes 4 separate buildings is designed to break up the massing by spacing the buildings apart from one another. Building three which is the closest to the R-6 zoning parcels is designed with a 26'1" setback to allow for transition and a greater buffer area to adjoining single family residential neighborhood. This setback far exceeds the R-6 side yard setback of 5'. The facade of the building will consist of cement fiber lap siding in a mountain cedar color mixed with smooth stucco. The colors of the building will be designed to compliment the surrounding natural palette of the area.

**E. Variance Findings (County Code Section 26-2.2006)**

1. Required Finding: That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.

Project Finding: The applicant seeks approval to modify County File #'s CDS06-09100 and CDDP06-03014 (approved in 2007) to update the 32 Townhome project's architecture and building technology. The project approval includes 33 parcels and a similar site layout/variances. The following variances are included as part of project development:

- 1) Building One – 20'10" setback for Pacheco Blvd. (25' req.), 15'5" setback for Windhover Way (25' req.), 35' height (30' max allowed).
- 2) Building Two – 35' height (30' max allowed).



- 3) Building Three – 17'6" side yard (20' side req.), 35' height (20' max allowed when within 50' of a residential district), 35' height (30' max allowed for remainder of building), 10'11" separation between buildings 3 and 4 (20' req. min.).
- 4) Building Four – 17'6" side yard (20' req.) 35' height (30' max allowed).
- 5) Lot Coverage – 35% max allowed, 54.8% proposed.
- 6) Driveway Aisle Width – 24' (25' req.).
- 7) Tandem Parking requirement – 81% of units with tandem (Max 15% of the units req).

The requested variances are consistent with previous entitlements for this site. Beyond the site's history, each variance is balanced with providing reasonable front yards, rear yards, overall height, access requirements and adequate parking. Furthermore, the project's design is partly based on the required units per net acre as determined by the County General Plan designation of MH and it being a County Housing Inventory Site. The requested variances are not a grant of special privilege inconsistent with the limitations on other properties in that the project does not result in an increase of units beyond that which is indicated within the M-29 District. The height of the buildings would not be inconsistent with some of the surrounding properties as the subject parcels are abutting and near other M-29, M-17, and Retail Business zoning districts, thereby creating the potential for other structures to be constructed without a substantial height difference when compared to the proposed project. Additionally, the height limit for the adjacent R-6 districts is 35 feet which this project would match. Side yard variances, lot coverage variance, driveway aisle width variance and tandem parking variance is required to allow for the project to meet the density requirement of a multifamily use while also providing all the amenities typical (parking area, landscaping, paving, etc). Without approval of these variances, the project would be unable to provide the basic amenities needed for the townhouses while also reducing the impact on the surrounding neighborhood. Increased tandem parking onsite reduces the number of cars parking on the street and allows residents an opportunity to park two cars safely.

Therefore, as each variance substantially provides the respective requirement, the proposal is appropriate for the site and area in which it is located.

2. Required Finding: That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.

Project Finding: The elongated shape of the two combined parcels and having two frontages (Pacheco Blvd to the South and Windhover Way to the East), provides a special circumstance applicable to the property thereby, limiting the layout of the buildings as proposed. Strict application of the zoning regulations would limit the project design creating an undesirable product and would also prevent the project from meeting the required density requirements. The double street frontage limits the usable area of the site as it imposes a double front setback requirement. The proposal is to develop 33 townhomes on a 1.57 acre site. Given that the project must include adequate access, internal vehicle circulation, off-street parking and landscaping, the resulting developable space is severely constrained. As such, the developer has balanced the footprint of townhome buildings with reasonable setbacks, increased tandem parking and three-story designs to accommodate the lack of acreage. Thus, due to the limited space available, strict implementation of the current zoning standards would deprive the subject property of rights enjoyed by other properties in the vicinity and identical land use district.

3. Required Finding: That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.

Project Finding: The General Plan land use designation for the site is Multiple-Family Residential-High Density, which anticipates 22.0-29.9 multiple-family units per net acre. The project includes subdivision of the 1.25-net acre site into 33 residential lots which is consistent with the density allowed by the general plan (yield 26.3 dwelling units per net acre). Additionally, as the site is listed as a County Housing Inventory Site, the project is required to provide its share of

housing in order to meet the County's share of regional housing needs as determined by the Association of Bay Area Governments (ABAG). This need for housing opportunities of all types creates a unique opportunity for this infill housing development to help the County meet its share of regional housing needs. The variances allows the project to be designed to maximize the usable space by wallowing for additional on-site parking, open space area and safe internal access. Therefore, it has been determined that the project design substantially complies with the intent and purpose of the Multiple-Family Residential-High District in which it is located.

**F. Tree Permit Findings (County Code Section 816-6.8010)**

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

1. Reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot.
2. Where the arborist or forester report has been required, and the director is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.

Project Findings: In order to demo the existing buildings on site, grade the site and install the associated improvements required for the townhouses, the project will require removal of 15 trees (13 of which are code protected). Removal of all shrubs and grasses will also occur. Nevertheless, the applicant has provided a preliminary landscaping plan indicating that a mix of trees, shrubs and ground cover will be installed as part of the project. The landscaping plan shows adequate vegetation at the property frontage and internally. Development of this project cannot be reasonably accommodated on other parts of the property due to the size of the project site. 100% of the project site will be cleared as part of the grading phase of the project. An arborist report was provided to ensure that any off-site construction impacts are addressed. All arborist recommendations

will be included as conditions of approval. Therefore, the tree removal request is appropriate for the project.

**G. Findings for Granting an Exception to the Subdivision Ordinance (Title 9) Requirements**

In accordance with Section 92-6.002 of said Code, the following findings are required by the advisory agency to consider in granting an exception from Title 9 – Detention basin requirements (Section 914-12.)

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

Project Findings: Division 914 of the County Ordinance Code requires that all storm water entering and/or originating on this property to be collected and conveyed, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having a definable bed and banks or to an existing adequate public storm drainage system which conveys the storm water to an adequate natural watercourse. The existing site drains from the south to north. The drainage analysis of the site currently shows that the existing treatment basins have sufficient capacity to meter the stormwater runoff and satisfy any drainage requirements. However, in the event detention is necessary to meet the overall drainage requirements of the Code, an exception request for smaller, privately maintained basins has been added to this project preemptively so that option is available as the project proceeds through final design.

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

Project Findings: The project will comply with all drainage requirements with the requested exception in that the exception request is necessary to allow the applicant to install small detention basins with private maintenance and funding if necessary. The granting of this exception is necessary for the development of the project because it allows the project to comply with Division 914 of the County Ordinance in that the smaller detention basins will allow the project to meet the overall drainage requirements of the Code.

3. Required Finding: 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 Findings: Chapter 914-12 – “DETENTION BASINS” of the Ordinance Code requires basins to have a minimum capacity of 15-acre feet and be publicly maintained. In the event detention is necessary to meet the overall drainage requirements of the Code, an exception request for smaller, privately maintained basins has been added to this project preemptively so that option is available as the project proceeds through final design. Adherence to all Public Work’s recommended conditions of approval will ensure compliance with federal pollutant discharge and County storm water management regulations. Therefore, the project will not be detrimental to the immediate surroundings or area in general.

#### H. California Environmental Quality Act (CEQA) Findings:

1. In accordance with CEQA Guidelines, Section 15071 and Section 15072, a Mitigated Negative Declaration/Initial Study (MND) was prepared and published for the project. The 30-day public review period for the MND started on June 17, 2024 and ended on July 17, 2024. Three public comments were received during the public review period for the MND. The comments received did not specifically challenge the adequacy of the environmental document. Neither the comments nor the staff response to the comments resulted in any changes to the MND, and the impacts, mitigation measures and findings of the MND are unchanged.

On the basis of the whole record before it, including the MND, and in accordance with Section 15074, the County Zoning Administrator finds that:

- There is no substantial evidence that the project with the proposed mitigation measures will have a significant effect on the environment;
- The MND reflects the County’s independent judgement and analysis;
- The MND is adequate and complete; and
- The MND has been prepared in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA guidelines.

Pursuant to CEQA Section 15097, a Mitigation Monitoring Program has been prepared, based on the identified impacts and mitigation measures in the MND. The Mitigation Monitoring Program is intended to ensure that the mitigation measures identified in the MND are implemented. All mitigation measures are included in the Conditions of Approval for the project.

**CONDITIONS OF APPROVAL FOR COUNTY FILE #'s CSD22-09628 AND CDDP22-03036, AHMADIEH AND ZARIN MOHAMMAD (OWNER) AND LCA ARCHITECTS INC. (APPLICANT)**

Project Approval

1. The Vesting Tentative Map, Development Plan, Variance and Tree Permit for a 33-lot Subdivision Project is APPROVED, as generally shown and based on the following documents:
  - Application and materials submitted to the Department of Conservation and Development, Community Development Division (CDD) on September 8, 2022.
  - Additional application documents received on April 6, 2023, which included the following:
    - Hydrology Report prepared by David Evans and Associates, dated March 2, 2023.
    - Sight Distance Analysis prepared by Abrams Associates, dated April 4, 2023.
    - VMT Analysis prepared by Abrams Associates, dated March 23, 2023.
  - Revised Plans received on April 7, 2023.

Application Fees

2. The applications submitted were subject to an initial deposit of \$10,000 for subdivision, and \$3,000 for the development plan. The applications are subject to time and material costs if the application review expenses exceed the initial deposit. Any additional fee due must be paid prior to an application for a grading or building permit, or 60 days of the effective date of this permit, whichever occurs first. The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due, the Department of Conservation and Development may seek a court judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant

may obtain current costs by contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance in the event that additional fees are due.

### Indemnification

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

### Compliance Report

4. At least 45 days prior to recordation of the Final Map, issuance of a grading or building permit, or tree removal, whichever occurs first, the applicant shall 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 \$1,500, which shall be paid at the time of submittal of the compliance report.

5. This Final Development Plan Permit includes approval of the design for the 33-residential units. Any changes to the approved plans stated above must be submitted for review and approval of CDD, and may require the submittal of an application, if deemed necessary.



### Project Phasing / Filing of Multiple Subdivision Maps

6. The filing of multiple Final Maps or multiple Parcel Maps must conform with Sections 66456.1 & 66463.1 of the Subdivision Map Act and is subject to the review and approval of the Community Development Division and the Public Works Department. Contra Costa County has the authority to impose reasonable conditions relating to the filing of multiple Final Maps or multiple Parcel Maps, and the conditions of approval for this subdivision permit shall apply to each subdivision phase. If multiple subdivision maps will be filed, the conditions of approval for this permit must be satisfied for each phase prior to recordation of individual maps, and a separate compliance review application will be required for each subdivision phase to determine the status of the conditions of approval for that phase.

### Homeowner's Association (HOA)

7. A homeowner's association shall be formed for the ownership and maintenance of all common areas, including private streets, bioretention basins and common open space and landscaping. The applicant or project sponsor shall provide CDD evidence that a homeowner's association has been formed.

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

8. Prior to recordation of the Final Map, Covenants, Conditions and Restrictions (CC&R's) shall be submitted for review by the CDD. This document shall provide for establishment, ownership and maintenance of private roads on and common areas, fencing, and establishment of signs. The CC&Rs shall require occupants to maintain garage spaces in a manner, which makes them available for off-street parking. The CC&Rs shall specify that future residential development may be subject to the review and approval of CDD.

### Park Impact Fee

9. Prior to CDD stamp-approval of plans for issuance of a building permit for a new residence, the applicant shall pay the applicable park impact fee as established by the Board of Supervisors.

### Park Dedication Fee

10. Prior to CDD stamp-approval of plans for issuance of a building permit for a new residence, the applicant shall pay the applicable park dedication fee as established by the Board of Supervisors.

### Child Care

11. Prior to CDD stamp-approval of plans for issuance of a building permit for a new residence, the applicant shall pay a fee of \$400.00 toward childcare facility needs in the area, as established by the Board of Supervisors.

### Police Services District

12. 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.

### Transportation Demand Management (TDM) Program

13. The applicant shall implement a project-specific Final Transportation Demand Management (TDM) Program with the goal of encouraging residents of the development to use alternate modes of transportation. Prior to CDD stamp-approval of plans for issuance of a building permit for a new residence, the applicant shall submit a conceptual TDM program, which complies with the standards of the County TDM Ordinance. The conceptual TDM Program shall be subject to review and approval of the CDD.

### Signage

14. At least 30 days prior to submittal of a building permit for signage, a detailed sign program shall be submitted for the review and approval of CDD.

### Landscaping

15. Tree removal shall occur only with an approved grading or building permit.
16. Final Landscaping Plan: At least 30 days prior to CDD stamp-approval of plans for issuance of a grading permit or building permit for a residential unit, whichever occurs first, a final landscape and irrigation plan shall be submitted to the CDD for review and approval. The landscaping plan shall conform to the County Water Efficient Landscapes Ordinance.

Prior to requesting a final inspection for the first residential unit, the approved landscaping shall be installed and evidence of the installation (e.g., photos) shall be provided for the review and approval of CDD.

17. The applicant shall ensure that all retaining walls shall be three feet in height or less for the perimeter walls.

### Off-Street Parking

18. The applicant or project sponsor shall make a good faith effort to reduce parking of residents on Windhover Way by requiring residents to sign a form stating that all residents shall park in their respective garages as much as possible.

### Arborist Recommendations

19. The off-site tree preservation guidelines and recommendations listed in the Arborist Report, prepared by Loving and Campos Architects, John Leffingwell, Certified Arborist WE-3966A shall be implemented. The arborist recommendations shall be on the construction documents submitted during building permit application (i.e. grading permit, demolition permit, building permit).

### Lighting

20. Proposed exterior lighting shall be directed downward and away from adjacent properties and public/private right-of-way to prevent glare or excessive light spillover. **(MM AES-1)**
21. The applicant shall locate all proposed lighting on the final landscaping plan. The applicant may be required to submit a lighting study at the request of DCD to ensure all on-site lighting does not spillover onto adjacent properties.

### Air Quality

22. The following Bay Area Air Quality Management District, Basic Construction mitigation measures shall be implemented during project construction and shall be stated on the face of all construction plans:
- A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- H. The applicant shall post a publicly visible sign with the developer/project manager's name and telephone number 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. **(Mitigation Measure AIR-1)**

### Cultural Resources

23. If during the course of construction activities there is accidental discovery, the following steps shall be taken and included on the face all construction plans:

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 contacted to evaluate the finds and, if necessary, develop appropriate treatment measures in consultation with the appropriate County and other agencies.

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 NWIC and appropriate Contra Costa County agencies. **(MM CUL-1)**

24. If during the course of construction activities there is accidental discovery or recognition of any human remains, the following steps shall be taken and included on the face of all construction plans:

If human remains are encountered, work within 50 feet of the discovery shall be redirected and the County Coroner notified immediately. At the same time,

an archaeologist shall be contacted to assess the situation. If the human remains are of a Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the property and provide recommendations for the proper treatment of the remains and associated grave goods. The MLD will work with the Applicant and a qualified archaeologist to determine the proper treatment of the human remains and any associated funerary objects. Construction activities will not resume until either the human remains are exhumed, or the remains are avoided via project construction design change.

Upon completion of the assessment by an archaeologist, the archaeologist should prepare a report documenting the methods and results and provide recommendations for the treatment of the human remains and any associated cultural materials, as appropriate and in coordination with the recommendations of the MLD. The report should be submitted to the Northwest Information Center and appropriate Contra Costa agencies. **(MM CUL-3)**

### Geology and Soils

25. Should any significant fossils (e.g., 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 GEO-1)**

### Noise

26. The following noise reduction measures shall be implemented during project construction and shall be included on all construction plans.

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

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

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

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

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

- B. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.
- C. 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.

D. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours shall be limited to weekdays between the hours of 9:00 A.M. and 4:00 P.M. and prohibited on State and Federal holidays. **(MM NOISE-1)**

27. A pre-construction meeting shall be held to confirm that all noise mitigation measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed prior to the start of construction.

28. The applicant shall notify neighbors within 300 feet of the subject property at least one week in advance of demolition, grading, and construction activities.

#### Debris Recovery

29. At least 15 days prior to the issuance of a grading permit or building permit, the developer shall demonstrate compliance with the Debris Recovery CalGreen program.

#### Street Names

30. Prior to the recordation of the Final Map, proposed street names 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.

#### Electric Vehicle

31. In accordance with the County's Electric Vehicle (EV) Ordinance, the applicant is required to install a listed raceway to accommodate a dedicated 208/240-volt branch circuit for each residential unit.

#### Bicycle Parking

32. A total of six (6) short-term bicycle parking spaces shall be provided for the project.

#### Inclusionary Housing Ordinance

33. The project includes the construction of 33 for-sale units and is subject to County Ordinance Code, Chapter 822-4, Inclusionary Housing Ordinance. Terms and definitions regarding the Inclusionary Housing Ordinance are pursuant to this chapter.



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

As an alternative to the requirement to construct inclusionary housing, the applicant has proposed the payment of a For-Sale Housing Fee per the Inclusionary Housing Plan signed by the applicant on April 6, 2023. This alternative to collect an in-lieu fee, as established in by the Board of Supervisors, has been accepted per Section 822-404.

Prior to the issuance of any building permits for the development, including grading permits, the applicant shall pay to the County the full amount of the Inclusionary Housing Ordinance For-Sale Housing In-Lieu fees. The current calculation of the in-lieu fee is \$217,801.98. The final calculation of the in-lieu fee will be calculated upon payment. This in-lieu fee is non-refundable and non-transferable.

In-lieu Fee Calculation: \$6,600.06/unit x 33 for-sale units = \$217,801.98.

34. Should the applicant choose not to pay the in-lieu fee in full prior to filing a building permit, then the applicant must construct the required number of inclusionary units on-site, off-site, or a combination of both on-site and off-site.

### **PUBLIC WORKS**

#### **CONDITIONS OF APPROVAL FOR SUBDIVISION CDSD22-09628 and CDDP22-03036**

**The applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the tentative map submitted to the Department of Conservation and Development on April 7, 2023.**

**UNLESS OTHERWISE SPECIFIED, COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO FILING OF THE FINAL MAP.**

#### **General Requirements:**

35. 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

tentative map received by the Department of Conservation and Development, Community Development Division, on April 7, 2023.

36. Improvement plans prepared by a registered civil engineer shall be submitted, if necessary, to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this subdivision. Any necessary traffic signing, and striping shall be included in the improvement plans for review by the Transportation Engineering Division of the Public Works Department.

**Roadway Improvements (Pacheco Boulevard):**

37. Driveway/private road access will be physically limited to right turn ingress and egress to Pacheco Boulevard. This may include channelization of the driveway or installation of a median or other improvements on Pacheco Boulevard, subject to the review and approval of Public Works.
38. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Pacheco Boulevard. Concrete shall be saw cut prior to removal. Existing lines and grade shall be maintained. New curb and gutter shall be doveled into existing improvements.

**Roadway Improvements (Windhover Way):**

39. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Pacheco Boulevard. Concrete shall be saw cut prior to removal. Existing lines and grade shall be maintained. New curb and gutter shall be doveled into existing improvements.

**Sight Distance:**

40. The Applicant shall provide sight distance at the intersection of the private roads/driveways with Pacheco Boulevard and Windhover Way in accordance with Chapter 82-18 "Sight Obstructions at Intersections" of the County Ordinance Code. The applicant shall trim vegetation, as necessary, to provide sight distance at this intersection, and any new signage, landscaping, fencing, retaining walls, or other obstructions proposed at this intersection shall be setback to ensure that the sight line is clear of any obstructions. Design speed standard relative to Pacheco Boulevard is 40 MPH, Windhover Way is 30 MPH.

**Private Roads:**

41. The Applicant shall construct an on-site private road to current County private road standards with a minimum traveled width of 20 feet.

**Utilities/Undergrounding:**

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

**Access to Adjoining Property:**

Proof of Access

43. 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

44. 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 Pacheco Boulevard and Windhover Way.

Site Access

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

**Landscaping:**

46. All landscaping to be maintained by the property owner(s) shall be submitted to the CDD for review and approval.

**Parking:**

47. On-street parking on Pacheco Boulevard and Windhover Way in conflict with the sight distance requirements as noted will be prohibited. "No Parking" signs shall be

installed along these portions of the roads subject to the review and approval of the Public Works Department.

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

#### Pedestrian Access

48. The Applicant shall design all public and private pedestrian facilities for accessibility in accordance with Title 24, and Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.
49. Curb ramps and driveways shall be designed and constructed in accordance with current County standards. A detectable warning surface (e.g., truncated domes) shall be installed on all 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.

### **Maintenance of Facilities:**

50. The maintenance obligation of all common and open space areas, private roadways, any private street lights, public and private landscaped areas, perimeter walls/fences, and on-site drainage facilities shall be included in the covenants, conditions, and restrictions (CC&Rs). The language shall be submitted for the review and approval of the Department of Conservation and Development, Community Development Division and Public Works Department at least 60 days prior to filing of the Final Map. The County will not accept these properties or facilities for ownership or maintenance.

### **Drainage Improvements:**

#### Collect and Convey

51. The 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.

**Miscellaneous Drainage Requirements:**

52. The Applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards. Joint use of stormwater management facilities for attenuation of design storm runoff rates will only be allowed if:

- The storage volume to reduce flood waters is independent from the volume needed to meet the design criteria required for stormwater treatment.
- Applicant is granted an exception from the County Ordinance Code by the Advisory Agency to allow small detention basins with private maintenance and funding.

53. The Applicant shall prevent storm drainage from draining across the sidewalks(s) and driveway(s) in a concentrated manner.

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

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

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

- Minimize the amount of directly connected impervious surface area.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention area) as reviewed and approved by Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES permit.
- Place advisory warnings on all catch basins and storm drains using current storm drain markers.

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

**Stormwater Management and Discharge Control Ordinance:**

55. 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.
56. 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).
57. 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.
58. 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.
59. 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.
60. 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:**

61. The Applicant shall comply with the drainage fee requirements for Drainage Area 57 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 ATTACHED TO THE CONDITIONS OF APPROVAL, BUT ARE NOT CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED IN ORDER TO INFORM THE APPLICANT OF ADDITIONAL REGULATIONS, ORDINANCES, AND REQUIREMENTS THAT MAY BE APPLICABLE TO THE PROPOSED 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 90-day period after the project is approved.

The ninety (90) day period, in which you may protest the amount of any fee or the 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 Department of Conservation and Development within 90 days of the approval date of this permit.

- B. Applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Martinez Area of Benefit as adopted by the Board of Supervisors. Payment is required prior to issuance of building permit.
- C. Although the Stormwater Control Plan has been determined to be preliminarily complete, it remains subject to future revision, as necessary, during preparation of improvement plans to bring it into full compliance with C.3 stormwater requirements. Failure to update the SWCP to match any revisions made in the improvement plans may result in a substantial change to the County approval, and the project may be subject to additional public



hearings. Revisions to California Environmental Quality Act (CEQA) documents may also be required. This may significantly increase the time and applicant's costs associated with approval of the application.

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

- Department of Conservation and Development, Building Inspection Division
- Contra Costa County Public Works Department
- Contra Costa County Fire Protection District
- Contra Costa County Health Services Department
- Mt View Sanitary District
- Contra Costa Water District