

FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDDP22-03021; NUMAIR ALI (APPLICANT) & SHAKIL AND ANITA ALI (OWNERS)

I. FINDINGS

A. Growth Management Performance Standards

1. Traffic: The Growth Management Element Policy 2.3 requires any development project that generates more than 100 peak-hour trips to submit a traffic impact analysis. The project was reviewed by the Transportation Planning Section of the Department of Conservation and Development and determined to generate 6 AM peak hour trips and 8 PM peak hour trips. Therefore, the project would yield less than 100 peak-hour trips and as such, would not affect the existing traffic patterns in the El Sobrante area.
2. Water: The Growth Management Program (GMP) requires new development to demonstrate that adequate water quantity can be provided. The subject property currently receives water service from the East Bay Municipal Utility District, and the district has stated that water service is available for the project as the entire site is within the water districts service area. Prior to occupation of the multi-family units, the applicant will be required to submit plans for review and approval from the Utility District.
3. Sanitary Sewer: The GMP requires new development to demonstrate that adequate sanitary sewer service is available. The project site currently receives sanitary sewer service from West County Wastewater. The district provided a letter stating that there is wastewater service available for development.
4. Fire Protection: The fire protection standards under the GMP require that a fire station be within one and one-half miles of development in urban, suburban, and central business district, or requires that an automatic fire sprinkler system be installed to satisfy this standard. The project is served by the Contra Costa County Fire Protection District and is 0.4 miles driving north from Contra Costa County Fire Station #69. The project is required to comply with the applicable provisions of the California Fire Code, the California Residential Code, and Contra Costa County Ordinances that pertain to emergency access, fire suppression systems, and fire detection/warning systems. Prior to submittal for building permits, the construction drawings would have to be reviewed and approved by the Contra Costa County Fire Protection District.
5. Public Protection: Public protection standards under the GMP require that a Sheriff Facility standard of 155 square feet of station area and support facilities per 1,000 in population shall be maintained within the unincorporated area of the County. Based on the United States Census Bureau's estimate of 2.89 persons per household for the 2020 Census for El Sobrante, the project would potentially increase the population by an

estimated 23 people. Since the project would result in a relatively small change in population, the project would not impact the County's ability to maintain a Sheriff facility standard of 155 square feet of station area and support facilities per 1,000 members of the population. Thus, the project would not significantly affect the provision of public protection services to the El Sobrante area.

6. Parks and Recreation: As the project will add to the County's population, the applicant will be required to comply with two Conditions of Approval that requires the project proponent to pay applicable Park Impact and Park Dedication in-lieu fees for the new units. These fees, in conjunction with all other Park Dedication fees collected for development within the County, will be used in part to purchase new park land and upgrade existing community parks as determined appropriate by the Board of Supervisors.
7. Flood Control and Drainage: A portion of the property resides within the Special Flood Hazard Area (100-year flood boundary). The County Public Works Department provided conditions of approval that require the applicant to obtain a Letter of Map Amendment and to comply with the County Floodplain Management Ordinance. Division 914 of the County Code Ordinance Code requires that all storm water entering and/or originating on this property to be collected and conveyed. The applicant will construct two bio-retention basins on the site and submitted an exception request from the "collect and convey" requirements. The County Public Works department reviewed the exception request and provided comments stating that there is no objection to granting the exception from the collect and convey requirements. Therefore, with the implementation of the two bio-retention basins, the project will comply with all County drainage requirements.

B. Development Plan Findings

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

Project Finding: The site is within the Downtown El Sobrante Planned Unit Development P-1 Zoning District. Within the P-1, the project parcel is designated under the M-11 Appian Way General Mixed Use Zoning District listed in the P-1. The intent and purpose of the M-11 Appian Way General Mixed Use Zoning District is to allow for multiple family residential district development designed to provide as much compatibility as possible with the mixed uses of Appian Way. The project is a multiple-family townhouse project that will provide new residential units which is permitted use in conjunction with a Development Plan. The project complies with the development standards and provides

adequate car parking on-site. 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 uses, the project is appropriate for the site and area in which it is located.

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

Project Finding: The project is within the M-11 Appian Way General Mixed Use Zoning District. Within this area of Appian Way in El Sobrante, there are many uses including commercial, retail, single-family residential and multiple-family residential uses. The project will introduce eight new residential townhouses to an area where mixed use is the dominant use along Appian Way. The project which is two buildings is designed to comply with all setback requirements and will provide adequate parking. Moreover, the design of the townhouses will mimic other multi-family housing designs including a recently approved subdivision located north of the project site which also contains the three-story aspect with the garage on the bottom level and an existing apartment complex immediately south with the design of elongated building design. The project meets all required setbacks and floor area ratio in the zoning district. Lastly, the exterior design which will be stucco and brick veneer with earth tone colors, will be designed to compliment the surrounding natural palette of the area.

C. Findings for Granting an Exception Per Section 92-6.002:

Request for an exception from Title 9 Offsite Collect and Convey Diversion requirements (Section 914-2.0040)

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

Project Finding: The site currently slopes slightly towards Appian Creek which is located in the northwestern portion of the property. The project will have two bio-retention basins with storm drain lines to convey drainage towards Appian Creek in the back of the property. Unfortunately, Appian Creek which abuts the subject property, is not adequate due to an inadequate culvert at Garden Lane. Requiring the applicant to fix the inadequate culvert at Garden Lane that will be prohibitively expensive and will have access and right of way constraints that would be prohibitive for a relatively small project. Therefore, there are unusual circumstances or conditions affecting the current property that require an exception from the collect and convey requirements.

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

Project Finding: Due to existing downstream drainage constraints that cannot be reasonable remedied, the exception from the “collect and convey” requirements allow the project to utilize solely the two bio-retention basins that are on the site. Improving the culvert at Garden Lane is not currently possible as it would be prohibitively expensive and have access and right-of-way constraints that would be prohibitive for the project. This means that the project is not feasible unless the exception is granted. Additionally, the applicant submitted a Hydrology and Hydraulics report that demonstrated to the County Public Works Department that the bioretention basins included with this project demonstrate residual capacity to mitigate the additional runoff volume resulting from the increased impervious surface created from the project.

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 Finding: The on-site detention measures (bio-retention basins) will be verified by the County Public Works Department to ensure that they are sufficient to accommodate the runoff from the new impervious surface created by the project. All stormwater will be directed to the two bio-retention basins which will reduce the additional runoff rate from the site to pre-project conditions. Therefore, the exception will not be materially detrimental to the public welfare or injurious to other properties in the area where the subject property is located.

D. Tree Protection and Preservation Findings:

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

- 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.
- 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.

In order to demo the existing buildings on site, grade the site and install the

associated improvements including the construction of the townhouses, the project will require removal of five trees and the removal of four dead tree stumps. Reasonable development of the site requires the removal of the trees as the placement of the buildings are reasonable located due to physical constraints of the property which includes setback requirements, steep topography at the rear and a water feature at the rear. Additionally, an arborist report prepared by Aaron Sunshine, ISA Certified Arborist WE-12959A, determined that the "most appropriate action is the professional removal of all trees."

California Environmental Quality Act (CEQA) Finding

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 20-day public review period for the MND started on November 10, 2025 and ended on December 1, 2025. Three comment letters 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.

II. CONDITIONS OF APPROVAL FOR COUNTY FILE #CDDP22-03021:

Project Approval

1. **Development Plan** for an eight-unit townhomes 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 May 6, 2022.
 - Revised project plans received on April 22, 2025.
 - Arborist report prepared by Aaron Sunshine, ISA Certified Arborist WE-12959A, received on October 31, 2025
 - Geotechnical report prepared by GEOTECHNIA, received on April 22, 2025.
 - Biological Report prepared by BIOMAAS INC, received on September 15, 2025.
 - Archaeological Survey Report prepared by Daniel Shoup, received on May 16, 2024.
2. Approval of a Tree Permit to allow the removal of five code protected trees (tree #1, 2, 5, 7 and 8).
3. Approval is granted to allow for the following exception that meet the requirements of Section 92-6.002 of the County Ordinance Code:
 - A. Exception to Division 914, Collect and Convey Requirements.
4. Approval is granted to allow for the following deviation that meets the requirements of the County Ordinance Code:
 - A. Deviation to the El Sobrante P-1 development standards to allow a 33'-6 ½" height where the maximum building height allowed is 27'.
5. Any change from the approved plans shall require review and approval by CDD and may require the filing of an application to modify the Development Plan.

Application Fees

6. This Development Plan Permit application is subject to an initial application deposit of \$5,000.00, which was paid with the application submittal, plus time and materials costs if the application review expenses exceed the initial deposit. **Any additional fee due must be paid prior to issuance of a building permit, or 60 days of the effective date of this permit, whichever occurs first.** The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 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.

Indemnification

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

Compliance Report

8. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, or tree removal, whichever occurs first**, the applicant shall submit a 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. 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.

Waste Disposal

9. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, whichever occurs first**, the applicant shall identify on the plan sheet the location of the garbage/recycling/organics collection units. The project shall include adequate container (carts or bins) enclosures and accessibility for collection vehicles to collect all three waste streams pursuant to County Code Chapters 418-6 Mandatory Subscription and 418-20 Organic Waste Disposal Reduction.

Signage

10. No signage is approved with this permit. Any proposed signage is subject to a review and approval by the Department of Conservation and Development under a Sign Permit application and shall comply with the Sign Ordinance Chapter 88-6.

Inclusionary Housing Ordinance

11. A residential development of five or more rental units is subject to the County's Inclusionary Housing Ordinance. Pursuant to Section 822-4.402(a) of the County Ordinance Code, in a residential development of five through one hundred twenty-five rental units, at least fifteen percent of the rental units shall be developed and rented as inclusionary units under the terms and conditions of Section 822-4.410(a) of the County Ordinance Code. At least twenty percent of the inclusionary units shall be rented at an affordable rent to lower-income households. An in-lieu fee may be paid pursuant to Section 822-4.404 of the County Ordinance Code as an alternative to providing some or all of the required inclusionary units.

Required Inclusionary Housing Unit Calculation:

- 8 units x 15% = 1.2 inclusionary units required.
- 1.2 x 20% = 0.24 units shall be rented at an affordable rent to very low-income households.
- 1.2 – 0.2 = 0.96 units shall be rented at an affordable rent to lower-income households.

The applicant, owner, and/or developer (Applicant) is required to construct 1.2 inclusionary units for the project. The Applicant has submitted an Inclusionary Housing Plan received on August 30, 2024, which proposed the construction of one inclusionary unit within the multi-family housing development. One unit shall be available to and occupied by a very low-income household (50% Area Median Income). The fractional unit of 0.2 would be satisfied with the payment of a partial in-lieu fee.

Inclusionary Housing Agreement

12. **At least 90 days prior to the Community Development Division's (CDD) approval of a building, demolition, or grading permit application, whichever occurs first**, and with the filing of a condition of approval compliance review, the Applicant shall initiate the County's preparation and execution of an Inclusionary Housing Agreement (Agreement), form to be provided by the County, with the County pursuant to County Ordinance Chapter 822-4 Inclusionary Housing, County Ordinance and Government Code 65915 to ensure that one (1) of the approved units is affordable to and occupied by a very low-income household. The Agreement shall be submitted to the Board of Supervisors for approval on behalf of the County. Following the execution of the Agreement, the completed Agreement will be filed and recorded on the subject property.

The one on-site inclusionary unit identified will include:

- 1 Two-bedroom unit for Very Low-Income (50% AMI)

Maximum affordable rents shall be determined annually by the County and adjusted for family size appropriate for the unit.

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

Definitions

Terms and definitions used in these conditions of approval may be found in the above-referenced County Ordinance Codes and Government Code.

- A. Affordable rent – means rent, including a reasonable utility allowance determined by the Department of Conservation and Development (DCD) Director or designee, that does not exceed the following calculations pursuant to Health & Safety Code Section 50053:

For Lower-Income Households: the product of thirty percent times sixty percent of the area median income adjusted for family size appropriate for the unit.

For Very Low-Income Households: the product of thirty percent times fifty percent of the area median income adjusted for family size appropriate for the unit.

- B. Inclusionary Unit – means a rental unit that must be rented at an affordable rent to the households specified in Section 822-4.402.
- C. Lower-Income Households – means a household whose income does not exceed the lower income limits applicable to Contra Costa County, adjusted for household size, as published, and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50079.5.
- D. Very Low-Income Households – means a household whose income does not exceed the very low-income limits applicable to Contra Costa County adjusted for household size, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50105.

Inclusionary Housing Partial In-Lieu Fee

13. **Prior to CDD-stamp approval of plans for the issuance a building, demolition, or grading permit for the housing development, whichever occurs first**, the Applicant shall pay the County the partial in-lieu fee for the remaining fractional 0.2 inclusionary unit. The current in-lieu fee calculation, based on the 8 base units, is \$32,267.40. However, the actual fee collected will be that which is applicable prior to CDD approval of the grading permit, building permit, or demolition permit, whichever occurs first.

This in-lieu fee is non-refundable and non-transferable.

General

14. The following are general terms for the Inclusionary Housing Ordinance.
- A. The Applicant hereby represents, warrants, and covenants that it will cause the Agreement to be recorded in the real property records of Contra Costa County, California, and in such other places as the County may reasonably request. The Applicant shall pay all fees and charges incurred in connection with any such recording. The recording of the Agreement shall occur after the acceptance of the document by the County and prior to CDD's approval of a building permit or grading permit.

- B. The County will provide the Applicant a form for income certification to be completed by the renters. The income levels of all very low-income household and lower-income household applicants for units in the project shall be certified by DCD prior to initial occupancy and annually thereafter, and records shall be maintained by the Applicant over the entire term of the period of affordability.
- C. The one (1) inclusionary 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 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 a very low-income household and lower-income households. There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age (except for lawful senior housing), ancestry, or disability, in the rent of any unit in the Project nor shall the Applicant or any person claiming under or through the Applicant, establish or permit any such practice or practices of discrimination or segregation 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, the lower-income units and very low-income units shall be marketed through local non-profits, social services, faith-based organizations, and other organizations with potential renters as clients or constituents. The Applicant shall translate marketing materials into Spanish and Chinese. A copy of the translated marketing materials, tenant selection plan, and marketing plan shall be submitted to DCD at least three months prior to the marketing of the inclusionary units for the review and approval of DCD and on an annual basis with the annual report.

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

- E. Upon violation of any of the provisions of the Agreement by the Applicant, the County may give written notice to the Applicant specifying the nature of the violation. If the violation is not corrected to the satisfaction of the County within a reasonable period of time, 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 this 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.

Development Standards

15. The inclusionary units are subject to the standards of Section 822-4.412 of the County Ordinance.
16. All inclusionary units must be constructed and occupied prior to or concurrently with the market rate units within the same residential development.

Location (Inclusionary Units)

17. 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

18. **Prior to the initial occupancy of each inclusionary unit**, the Applicant shall submit to the Department of Conservation and Development, a condition of approval compliance review application and fee along with the following information for review and approval of qualified tenants: forms and documentation that demonstrates the tenants of the inclusionary units have been certified as a qualified lower income household or very low-income households. **A hold shall be placed on the final inspection of the building permit** until all documentation has been deemed adequate by the Department of Conservation and Development.
19. **After the initial occupancy of the inclusionary units, the Applicant shall submit to the Department of Conservation and Development, a condition of approval compliance review application and fee along with an annual compliance review report for all inclusionary units and density bonus 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, and the affordability restriction of the 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.**
20. The Applicant is responsible for keeping the Department of Conservation and Development informed of the contact information of the owner or local 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 CDD-stamp approval of plans for the issuance a building, demolition, or grading permit, whichever occurs first, and with the filing of a condition of approval compliance review**, the Applicant shall provide the name of the owner or local designee representing the owner of the property for permit compliance and their contact information including phone number, e-mail address, and mailing address.
- 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 project name, project address, name of the new party who has been assigned permit compliance responsibility and their contact information. Failure to satisfy this condition may result in the commencement of procedures to revoke the permit.

Park Impact Fee

- 21. **Prior to CDD stamp approval of plans for the issuance a building permit** for the multiple-family residential building, the applicant shall pay the applicable park impact fee as established by the Board of Supervisors.

Park Dedication Fee

- 22. **Prior to CDD-stamp approval of plans for the issuance a building permit** for the multiple-family residential building, the applicant shall pay the applicable park dedication fee as established by the Board of Supervisors.

Child Care Fee

- 23. **Prior to CDD-stamp approval of plans for the issuance a building permit** for the multiple-family residential building, the applicant shall pay a per unit fee toward childcare facility needs in the area as established by the Board of Supervisors.

Lighting

- 24. **Prior to CDD-stamp approval of plans for the issuance of a building permit** for the multiple-family residential building, a lighting plan shall be submitted to the (CDD) for review and approval. The lighting plan shall provide the specifications of the proposed light post as shown on the approved plans. All outdoor lighting shall be directed down

and screened away from adjacent properties and public/private right-of-way to prevent glare or excessive light spillover.

Restitution for Tree Removal

25. Required Restitution for Approved Tree Removal: The following measures are intended to provide restitution for the removal of five code-protected trees:

- A. Tree Restitution Planting and Irrigation Plan: Prior to the removal of trees or CDD stamp-approval of plans for issuance of building permits (e.g. demolition, grading or building), whichever occurs first, the applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of CDD. The plan shall provide for the planting of eight 24-inch boxed trees or larger. The plan shall comply with the County's Water Efficient Landscapes Ordinance. The plan shall be accompanied by an estimate prepared by a licensed landscape architect or arborist of the materials and labor costs to complete the improvements on the plan. The plan shall be implemented prior to final building inspection of the building.
- B. Required Security to Assure Completion of Plan Improvements: Prior to removal of trees or CDD stamp-approval of plans for issuance of building permits (e.g. demolition, grading or building, whichever occurs first, the applicant shall submit a security (e.g. bond, cash deposit) that is acceptable to the CDD. The bond shall include the amount of the approved cost estimate described in section 25A above, *plus* a 20% inflation surcharge.
- C. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs of staff for processing the landscape improvement security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.
- D. Duration of Security: The security shall be retained by the County for a minimum of 12 months up to 24 months beyond the date of receipt of the security and from the time the final inspection for the apartment building was approved. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist to inspect the trees and to prepare a report on the trees' health. In the event that CDD determines that the tree(s) intended to be protected has been damaged, and CDD determines that the applicant has not been diligent in providing reasonable restitution, then CDD may require that all part of the security be used to provide for mitigation of the damaged tree(s).

- E. Integration with Final Landscape Plan: The tree restitution planting and irrigation plans described in subsection (a) above may be incorporated as part of the Final Landscape Plan required pursuant to Condition #27 below. However, the planting plan shall identify the replacement trees required to replace removed protected trees, which are intended to satisfy this condition. In addition, the provided estimate shall only cover materials and labor associated with the implementation of the required tree restitution, and not for the full landscape plan.

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

Landscaping

27. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, or tree removal, whichever occurs first**, a final Landscape Plan shall be submitted to the (CDD) for review and approval. The landscaping plan shall conform to the County's Water Efficient Landscapes Ordinance. **Prior to requesting a final inspection**, the approved landscaping shall be installed and evidence of the installation (e.g., photos) shall be provided for the review and approval of CDD.

28. The walkway identified on the site plan located at the rear of building 2 shall be extended around the perimeter of the property to the extent feasible to enhance on-site facilities for residents. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, whichever occurs first**, the final Landscape Plan shall be updated to reflect the walkway extensions and shall be submitted for review and approval of CDD.

Electric Vehicle (EV) Ordinance

29. In accordance with the County's Electric Vehicle (EV) Ordinance, the project is required to provide ten percent of the total parking spaces at the site shall be EV charging spaces (3). Half of the EV charging spaces (minimum 1 space) shall install fully operational (minimum Level 2 or higher) EV charging stations. The remaining EV charging spaces shall be capable of supporting future electric vehicle charging infrastructure.
30. 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

31. A minimum of 4 bicycle spaces shall be provided for the site.

Debris Recovery

32. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, whichever occurs first,** the developer shall submit a Construction Waste Management Plan, which identifies approved methods to comply with CalGreen requirement to recycle and/or salvage for reuse a minimum of 65%, or current CalGreen mandate, of construction and demolition (C&D) waste materials generated at jobsite.
33. **Prior to requesting a final inspection for the multiple -family residential building,** the developer shall submit a Construction Waste Management Final Report containing information and supporting documentation that demonstrates compliance with CalGreen requirements to recycle and/or salvage for reuse a minimum of 65%, or current CalGreen mandate, of C&D waste materials generated at jobsite.

Construction Restrictions and Requirements

The following construction restrictions shall be implemented during project construction and shall be included on all construction plans. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, whichever occurs first,** the applicant shall provide evidence that the construction restrictions and requirements are include on the face of the construction plans.

34. 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. The applicant shall notify neighbors within 300 feet of the subject property at least one week in advance of demolition, grading, and construction activities.
35. The project site shall be maintained in an orderly fashion at all times. All random debris and trash shall be disposed of in a timely manner.
36. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number to call in complaints shall also be visible to ensure compliance with applicable regulations.
37. 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.

38. The construction contractor shall ensure that unnecessary idling of internal combustion engines (i.e., idling in excess of 5 minutes) is prohibited.
39. The construction contractor shall utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
40. The construction contractor shall ensure that the construction staging areas shall be located to create the greatest feasible distance between the staging area and noise-sensitive receptors nearest the project site.
41. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except the hours are limited to 9:00 am to 4:00 pm.

Lighting

42. 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. All exterior lighting shall be turned off during the daytime hours. **(MM AES-1)**

Air Quality

43. 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.
- (MM AIR-1)**

Biological Resources

- 44. A protective buffer of 30 to 50 feet from Appian Creek will be established by the project applicant. Silt fence or similar Best Management Practices (BMPS) shall be established to prevent construction related debris and runoff from entering the creek during construction. **(MM BIO-1)**
- 45. At least 5 days prior to vegetation removal, tree removal during the nesting season, (February 1 through August 31) a pre-construction survey shall be conducted by a qualified biologist who is familiar with the nesting behavior of a variety of species and can establish protective buffers around the nest based upon the type of construction activity. Nest buffers should be adhered to by all construction related personnel and can only be removed by the biologist after the nest is no longer active. **(MM BIO-2)**
- 46. At least 5 days prior to beginning ground disturbance and/or construction, a qualified wildlife Biologist shall conduct surveys for special-status bats during the appropriate time of day to maximize detectability to determine whether bat species are roosting near the work area. If the Biologist determines bats are present, the Biologist shall exclude the bats from suitable spaces by installing one-way exclusion devices. After the bats vacate the space, the Biologist shall close off the space to prevent recolonization. **(MM BIO-3)**
- 47. Vegetation removal, if necessary, should be kept to a minimum. If riparian vegetation removal is required, a CDFW Streambed Alteration Agreement, and RWQCB 401 Water Quality Certification if required prior to removal. **(MM BIO-4)**

Cultural Resources

- 48. The project area has a high sensitivity for buried Native American archaeological deposits, and is located within 1000 feet of four shell midden sites (CA-CCO-126, CA-

CCO-151, CA-CCO-155, and CA-CCO-505), three of which are known to contain burials. To ensure that the project does not cause substantial adverse impacts to historical resources as defined at 14 CCR §15064.5, the following shall be implemented prior to any ground disturbing activity:

- A. Prior to any ground-disturbing activity, construction crews should receive a cultural resources training from a qualified archaeologist. The training should review the types of cultural resources that might be found, the legal obligations of the contractors, and steps to follow if archaeological materials or human remains are identified.
- B. Prior to issuance of a building permit, a qualified archaeologist should design a subsurface testing program to assess the presence or absence of buried archaeological sites in the project area. Mechanical trenching of a representative sample of the project area to the level of potential ground disturbance or four feet, whichever is greater, should be completed in order to evaluate the presence and depth of possible cultural soils. Mechanical trenching may be supplemented by hand augering or other sampling strategies as needed. All mechanical excavations should be monitored by a qualified archaeologist and representative of the Native American community. If cultural resources are identified, it may be necessary to collect additional data to evaluate the significance of the resource.
- C. Should subsurface testing not prove feasible, ground-disturbing activity on the project area should be monitored by a qualified archaeologist and representative of the Native American community until sufficient information has been gathered to demonstrate the presence or absence of archaeological resources within the area that will be disturbed by the proposed project.
- D. If human remains are found during monitoring, the monitor will stop all activity within a 100- foot radius, and the Contra Costa County Coroner will be informed. If the remains appear to be Native American, the Native American Heritage Commission will be notified and invited to identify a Most Likely Descendant, who will make recommendations regarding reburial of the human remains, per §15064.5(e) of the CEQA Guidelines. **(MM CUL-1)**

Geology and Soils

49. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, whichever occurs first**, the applicant shall prepare a geotechnical report to address liquefaction hazards. The evaluation of the liquefaction hazard shall be based on analysis of the Cone Penetration Test (CPT) data. The SHZ report should include a)

Project description, b) Review of published geologic mapping and seismicity of the El Sobrante area, c) Provide justification for all assumptions used as inputs to the computer analysis of liquefaction potential based on analysis of CPT data. The methodology used by the project geotechnical engineers to evaluate liquefaction shall be consistent with guidelines adopted by the California Geological Survey for liquefaction analysis. If the CPT analysis confirms the presence of potentially liquefiable sands in the subsurface, the amount of anticipated total settlement and differential settlement across a building site shall be provided. **(MM GEO-1)**

50. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, whichever occurs first**, the applicant shall evaluate the potential hazard posed by corrosive soils and provide mitigation for any substantial hazard posed by corrosive soils. **(MM GEO-2)**
51. **Prior to CDD-stamp approval of plans for the issuance of a building or grading permit, whichever occurs first**, the applicant shall submit a geotechnical update of the 2024 Geotecnia report. The purpose of the update is to provide an opportunity for the geotechnical engineer to review and modify recommendations as warranted, based on the design level plans. **(MM GEO-3)**
52. The applicant/contractor shall require adequate geotechnical monitoring to verify the design-level recommendations of Geotecnia are fully/correctly implemented in the field and documented in a final report from the geotechnical engineer. That report shall include monitoring dates on site, identify the location/nature of the features observed, provide any test results, and provide the engineer's professional opinion of compliance of the as-graded, as-built project with geotechnical recommendations. **(MM GEO-4)**
53. All required reports shall be subject to peer review by the County Peer Review Geologist and shall be subject to review and approval by the Department of Conservation and Development. **(MM GEO-5)**

Noise

54. **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 7:30 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/federal-holidays/)

California Holidays: <https://www.calhr.ca.gov/employees/pages/state-holidays.aspx>

- B. 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.
- 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. The applicant shall notify neighbors within 300 feet of the subject property at least one week in advance of grading and construction activities
- E. 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.

- F. **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. **(MM NOI-1)**

PUBLIC WORKS CONDITIONS OF APPROVAL FOR PERMIT CDDP22-03021

Applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan submitted to the Department of Conservation and Development dated on November 19, 2024.

UNLESS OTHERWISE NOTED, COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT.

General Requirements:

55. 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 related to reviewing 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.
56. Improvement plans prepared by a registered civil engineer shall be submitted, if necessary, to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this permit. 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 (Appian Way Frontage):

57. The Applicant shall construct curb, 8-foot sidewalk, necessary longitudinal and transverse drainage, street lighting, and pavement widening and transitions along the frontage of Appian Way. Applicant shall construct face of curb 8 feet from the ultimate right-of-way line.

Access to Adjoining Property:

Proof of Access

58. 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

59. The Applicant shall obtain an encroachment permit from Public Works, if necessary for construction of driveways or other improvements within the right-of-way of Appian Way.

Abutter's Rights

60. The Applicant shall relinquish abutter's rights of access along Appian Way with the exception of the proposed private driveway intersection.

Road Alignment/Intersection Design/Sight Distance:

61. The Applicant shall provide sight distance at the intersection of the private driveway with Appian 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.

On-Site Vehicle Circulation:

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

63. The Applicant shall construct a paved turnaround at the end of the proposed private drive.

64. Internal access and turnaround are subject to approval by the Fire District and Public Works.

Road Dedications:

65. The Property owner(s) shall convey to the County, by Offer of Dedication, the right-of-way necessary for the planned future half-width of 40 feet along the frontage of Appian Way.

Bicycle – Pedestrian Facilities:

Pedestrian Access

66. The Applicant shall design all public and private pedestrian facilities for accessibility in accordance with Title 24 and the Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.

Parking:

67. Parking shall be prohibited along the internal driveway and turnaround with the exception of designated parking stalls opposite Units 1, 2 and 3. "No Parking" signs and/or pavement markings shall be installed along these portions of the roads subject to the review and approval of the Fire District and Public Works Department.

68. "No Parking" signs shall be installed along Appian Way subject to the review of the Public Works Department and the review and approval of the Board of Supervisors.

Utilities/Undergrounding:

69. The Applicant shall underground all new utility distribution facilities, including those along the frontage of Appian Way. 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

70. The Applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the stormwater to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code.

Exception (Subject to Advisory Agency findings and approval)

Due to existing downstream drainage constraints that cannot be reasonably remedied, Applicant shall be permitted an exception from the collect and convey requirements of the County Ordinance Code provided that on-site detention measures are employed to mitigate the additional runoff rate from the site to pre-project conditions.

Miscellaneous Drainage Requirements:

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

Floodplain Management:

73. The project is located in a Special Flood Hazard Area (100 year flood boundary) as designated on the Federal Emergency Management Agency's Flood Insurance Rate Maps. The applicant shall be aware of and comply with the requirements of the National Flood Insurance Program (Federal) and the County Floodplain Management Ordinance as they pertain to development and future construction of any structures on this property.
74. **Prior to issuance of a building permit** for the westerly building (Units 6, 7, and 8) , the applicant shall obtain a Letter of Map Amendment (LOMA) that removes the building footprint for that building area from the Special Flood Hazard Area. If the conditions are such that it does not qualify for a LOMA, a Conditional Letter of Map Revision based on Fill (CLOMR-F) will be required. In the latter case, a final Letter of Map Revision based on Fill will be required prior to occupancy.

Creek Banks and Creek Structure Setbacks:

75. Property owner shall relinquish "development rights" over that portion of the site that is within the structure setback area of Appian Creek. The structure setback area shall be determined by using the criteria outlined in Chapter 914 14, "Rights of Way and Setbacks," of the Subdivision Ordinance. "Development rights" shall be conveyed to the County by grant deed.

Hold Harmless

76. The property owner shall be aware that the creek banks on the site are potentially unstable. The property owner shall execute a recordable agreement with the County which states that the developer and the property owner and the future property owner(s) will hold harmless Contra Costa County and the Contra Costa County Flood Control and Water Conservation District in the event of damage to the on-site and off-site improvements as a result of creek-bank failure or erosion.

National Pollutant Discharge Elimination System (NPDES):

77. 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.
- 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.

Stormwater Management and Discharge Control Ordinance:

78. 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 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.
79. 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).
80. 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.
81. Prior to the initiation of the proposed use, 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.
82. Prior to issuance of a building permit, 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.
83. 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.

Area of Benefit Fee Ordinance:

84. The Applicant shall comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the WCCTAC Transit/Pedestrian/Bridges/Roads, and El Sobrante Road Areas of Benefits as adopted by the Board of Supervisors.

Drainage Area Fee Ordinance:

85. The Applicant shall comply with the drainage fee requirements for Drainage Area 73 as adopted by the Board of Supervisors. This fee shall be paid prior to issuance of a building permit.
86. The applicant shall construct creek capacity improvements as called for in the "San Pablo Creek Watershed Study" and as directed by the Public Works Department or Flood Control and Water Conservation District.

OR

87. Applicant shall contribute \$0.25 per square foot of additional impervious surface area to the San Pablo Creek watershed mitigation fund, to be used for creek capacity improvements within the San Pablo Creek Drainage Area.

ADVISORY NOTES

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

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

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

- B. This project may be subject to 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
 - East Bay Municipal Utility District
 - West County Wastewater District

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

- C. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
- D. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.