

**REVISED FINDINGS AND CONDITIONS OF APPROVAL – COUNTY FILE #RZ12-3221
& DP12-3017; HERAND DER SARKISSIAN (APPLICANT) & HEIDI AND CHRISTINA
KOHLER (OWNERS)**

A. Growth Management Performance Standards

1. Traffic: Policy 4-c under the Growth Management Program (GMP) 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 construction of a 13-unit apartment complex would have insignificant impact on the traffic in the area, and would not create 100 additional peak hour traffic trips to and from the site. Therefore, a traffic impact analysis is not required.
2. Water: The subject property is currently serviced by Contra Costa Water District (CCWD). No significant increase in the demand for water supplies is expected from the construction of a 13-unit apartment complex. The applicant is required to comply with CCWD's requirements.
3. Sanitary Sewer: The subject property is currently serviced by Central Contra Costa Sanitary District. No significant increase in the demand for sanitary sewer service is expected from the construction of a 13-unit apartment complex. No comments on the project were received from the District; however, the applicant is required to comply with the District's requirements.
4. Fire Protection: The subject property is currently serviced by the Contra Costa County Fire Protection District. The District has provided comments on the project requiring access driveway to have all-weather driving surface and capable of supporting loading of 37 tons, installation of access signs, emergency apparatus access, fire sprinklers and adequate and reliable water supply. The applicant is required to comply with the District's requirements. The project will not substantially increase the demand for fire protection services.
5. Public Protection: The 13-unit apartment complex will not significantly increase population in the area, and therefore, would not increase the demand for police service facilities.
6. Parks & Recreation: The 13-unit apartment complex will not significantly increase population in the area, and therefore, would not increase the demand for parks or recreational facilities. Payment of Park Impact fees

would be required prior to submittal of building permits. The fees would be used to purchase land and develop parks within this area of the County.

7. Flood Control & Drainage: The project is not located within a flood-prone area as determined by the Federal Emergency Management Agency (FEMA). The subject property is located within Drainage Area 22, an "unformed" drainage area. The nearest public drainage facility is an existing 84-inch diameter storm drain in Coggins Lane, west of the property. The applicant is required to verify its adequacy prior to discharging run-off. Off-site storm drain improvements extending as far north as Las Juntas Way may be necessary to install facilities within public right-of-way and avoid conflicts within existing utilities.

B. Rezoning

1. Required Finding: The change proposed will substantially comply with the general plan.

Project Finding: The proposed 13-unit apartment complex is a permitted use in the Multiple-Family Residential-Very High Density (MV) General Plan land use designation. This General Plan land use designation provides for higher density multiple-family development (30 - 44.9 units per net acre). The property is 0.53 acres (0.42 acres – net) and the density of the property would yield a range of 12-18 units. The proposal to establish an apartment complex of 13 units is within this density range. As proposed, the project is consistent with the County General Plan, especially the goal to reduce greenhouse gas emissions by establishing housing within an area that provides multimodal access.

2. Required Finding: The uses authorized or proposed in the land use district are compatible within the district and to uses authorized in adjacent district.

Project Finding: The proposed 13-unit apartment complex is a use consistent with the MV General Plan land use designation. The surrounding area primarily consists of apartments within P-1 Zoning District or Multiple-Family Zoning District. Additionally, the property is adjacent to the Contra Costa Centre, a transit village that includes commercial uses and residential units. The project is an example of a Transit Oriented Development (TOD). Although the subject property is not

located within the boundaries of the Pleasant Hill BART Station Area Specific Plan, the project is immediately adjacent and meets the intent of the Specific Plan providing housing near various transit modes. Overall, the project is in harmony with the surrounding area and the uses established in the area.

3. Required Finding: Community need has been demonstrated for the use proposed, but this does not require demonstration of future financial success.

Project Finding: The subject property has an existing residence that is proposed to be demolished. The proposed 13-unit apartment complex provides a modest number of housing units that utilizes an infill property near transit that will assist in meeting the housing development targets identified in the Housing Element of the County's General Plan. Further, the project is consistent with the surrounding area consisting of high-density development near transit.

C. Findings for Approval of a P-1 Zoning and Final Development Plan

1. Required Finding: The applicant intends to start construction within two and one-half years from the effective date of the zoning change and plan approval.

Project Finding: The applicant has indicated that they intend to commence construction within 2 ½ years off the effective date of the zoning change and plan approval.

2. Required Finding: The proposed planned unit development is consistent with the County General Plan.

Project Finding: The proposed 13-unit apartment complex is a permitted use in the Multiple-Family Residential-Very High Density (MV) General Plan land use designation. This General Plan land use designation provides for higher density multiple-family development (30 - 44.9 units per net acre). The property is 0.53 acres (0.42 acres – net) and the density of the property would yield a range of 12-18 units. The proposal to establish an apartment complex of 13 units is within this density range.

The County's General Plan also provides goals and policies that promote and encourage projects, such as this 13-unit project that provides housing

close to transit. Goal 6 of the County's Housing Element identifies the need to provide adequate sites with the appropriate land use and zoning designations to accommodate the County's share of regional housing. The proposed project will be providing 13 rental units on a property that is underutilized and adjacent to other apartments. Policy 3-2 of the County's Housing Element encourages and provides incentives for the production of housing within close proximity to public transportation and services. The project is consistent with this policy, since it is 200 feet from the Pleasant Hill BART Station and near bus transit. Policy 7-3 of the County's Housing Element encourages P-1 zoning in areas with concentrations of variances sought. The project includes the rezoning of the property to P-1, which is consistent with the General Plan Land Use designation of Multiple-Family Residential-Very High Density. The variance to the lot area for P-1 (where a minimum of five acres is required) is also consistent with properties along Treat Boulevard that are less than five acres and have been rezoned to P-1.

The following Transportation Policies of the County's Transportation Element also supports the project. Policy 5-13 encourages the use of pedestrian and bicycle facilities. The Iron Horse Regional Trail is located adjacent to the property and a pedestrian bridge is also located south of the property. The applicant will also provide bicycle spaces located at the rear of the property. Policy 5-24 encourages the use of alternative forms of transportation, such as transit, bike, and pedestrian modes. The Pleasant Hill BART Station and the bus transit are located within close proximity to the property and are accessible for the housing provided. As proposed, the project is consistent with the County's General Plan, especially the goal to reduce greenhouse gas emissions by establishing housing within an area that provides multimodal access.

3. Required Finding: In the case of residential development, it will constitute a residential environment of sustained desirability and stability, and will be in harmony with the character of the surrounding neighborhood and community.

Project Finding: *The surrounding area consists of a variety of designs of multiple-family buildings constructed from the late 1970s to more recent construction in the mid-2000s. The eclectic designs of the multiple-family buildings consist of exterior materials such as stucco, cedar shingle siding, and horizontal wood siding. The proposed 13-unit apartment complex is*

an infill project that will provide high density multiple-family residences close to transit, consistent and in harmony with the surrounding area.

4. Required Finding: The development of a harmonious integrated plan justifies exceptions from the normal application of this code.

Project Finding: The subject property is half an acre in size on a property currently zoned Single-Family Residential, R-15. The MV General Plan land use designation permits multiple-family residences, such as townhomes, condominiums, or apartments. However, the current zoning is not consistent with MV and does not permit multiple-family residences. Therefore, the proposed project includes a rezoning of the property to a Planned Unit District, P-1 to allow the construction of the apartments. The surrounding area consists of other properties zoned P-1 and that has multiple-family buildings.

D. Variance Findings

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

Project Finding for Lot Area: The proposed project requires two variances. The first variance is to allow the rezoning of a 0.53-acre property from R-15, single-Family Residential Zoning to Planned Unit District, P-1. Under the P-1 Zoning District, a minimum of five acres is required. The applicant has solicited to the adjacent property owners that are currently zoned R-15 the idea of collectively rezoning the remaining properties to P-1. There was no agreement with the proposal. The remaining R-15 properties are primarily surrounded by P-1 zoning (where some properties are substandard in size) and several properties zoned Multiple-Family Residential District, M-17. The current R-15 zoning is not consistent with the MV General Plan. As found on Table 3-5 of the County's Land Use Element, the proposal to rezone the property to P-1 will be consistent with the MV General Plan land use designation.

Additionally, Table 6-41 of the County's Housing Element identifies the removal of the five acre minimum lot requirement for the P-1 zoning. This would allow the development of small infill properties near transit centers. Approval of the variance request would not be a grant of special privilege,

as several properties along Treat Blvd (south of Del Hombre) are zoned P-1 and have smaller or comparable lot size. Other properties in the County that are less than the required five acres have been rezoned to P-1. More recently, the Board of Supervisors approved the rezoning of a 1.12-acre property located off Tice Valley in Walnut Creek to P-1.

Project Finding for Guest Parking: The second variance request is to the number of guest parking spaces (four guest parking spaces are required). The initial proposal requested a variance to allow three guest parking spaces on Del Hombre Lane. At the County Planning Commission public hearing in October 2014, the Commissioners indicated a concern for the lack of parking and lack of parking in compliance with the American with Disabilities Act (ADA). The Commission made a decision to recommend denial of the project. The applicant revised the project to eliminate one unit to provide two guest parking spaces on-site and one guest parking space on Del Hombre Lane to address the lack of on-site guest parking. The variance request has been revised to allow three guest parking spaces – two on-site and one on Del Hombre Lane (where four spaces are required). The revision also provides one ADA parking space on-site.

The proposed project is an example of a Transit Oriented Development "TOD." The property is located near the Pleasant Hill Bay Area Rapid Transit (BART) Station and bus transit. The Department's Transportation Section has also recommended that the three guest parking spaces initially proposed on Del Hombre Lane should be eliminated because of the close proximity to transit. Public Works Department also recommended that only one guest parking space on Del Hombre Lane should be granted because of the inadequate sight distance of for the parking space located between the proposed driveway and 12-foot access easement. Approval of the variance request would not grant a special privilege because of the property's close proximity to BART, which provides another mode of transportation other than vehicle use.

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 for Lot Area: The proposal to rezone the property to P-1

on a 0.53-acre property would allow the construction of an apartment complex, providing higher density multiple-family development closer to transit. The proposed project is consistent with the surrounding development in the area. Properties less than five acres have been rezoned to P-1 since 1978, including the recent approval to rezone the property less than five acres to P-1. The County's Housing Element identifies the removal of the minimum five acre requirement to encourage development of infill properties close to transit. Thus, implementing the current zoning standards would deprive the subject property of rights enjoyed by other properties developed as multiple-family development.

Project Finding for Guest Parking: *The property is located near the Pleasant Hill BART Station and bus transit. Applying the zoning standards that require four guest parking spaces is inconsistent with the intent of Transit Oriented Development and the variance request is supported by the Department's Transportation Section and the County's Public Works Department. The use of BART, transit or bicycles is encouraged in TOD projects. Additionally, Senate Bill (SB) 375 and the County's Housing Element encourage development as such, that are near transit centers. Given the location of the subject property and the efforts made by the applicant to reduce the number of units and provide on-site guest parking including the designation of one space as ADA compliant, Staff finds that the variances are justified. As such, denial of the variance would deprive the property owners of the ability to develop their property in a manner consistent with other properties in the area.*

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

Project Finding for Lot Area: *The proposal to rezone a property for residential use less than five acres will meet the intent of the P-1 Zoning District and the goal of the County's Housing Element to encourage small infill properties near transit centers. The P-1 Zoning District provides an opportunity for a cohesive design with flexible regulations. The proposal is to rezone the property will allow a 13-unit apartment complex and is determined to be compatible with the development in the surrounding area of multiple family residences. Further, the proposal is an example of Transit Oriented Development (TOD) that is highly encouraged for properties located adjacent to transit.*

Project Finding for Guest Parking: The applicant proposes to allow three guest parking spaces – two on-site and one on Del Hombre Lane (where four spaces are required). Approval of three guest parking spaces, as proposed would provide parking, while access to transit is another option. The proposed project is an example of a TOD project and is encouraged by SB 375 and the County's Housing Element. Overall, the proposed project meets the intent and purpose of the P-1 Zoning District.

E. Tree Permit Findings

Required Factors for Granting Permit: The County Planning Commission is satisfied that the following factor as provided by County Code Section 816-6.8010 for granting a tree permit has been fulfilled:

Project Finding: 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.

Required Factors for Denying a Tree Permit: The County Planning Commission is satisfied that the following factors as provided by County Code Section 816-6.8010 for denying (or modifying) a tree permit application have been satisfied as marked:

Project Finding: None of the factors apply.

CONDITIONS OF APPROVAL FOR COUNTY FILE #RZ12-3221 & DP12-3017

Project Approval

1. ___ ___ The Development Plan application is APPROVED for a preliminary and final development plan to construct a 13-unit apartment complex, removal of 19 trees (ranging in size from 5.5 inches to 72 inches in diameter) and work within the drip line of 21 trees (ranging in size from 15 inches to 40 inches in diameter), as generally shown on the plans received by the Department of Conservation and Development, Community Development Division (CDD), subject to the conditions listed below and based on the following documents:

- A. Application submitted on August 9, 2012.
- B. Revised Plans dated November 13, 2014.
- C. Supplemental Stormwater Control Plan received on December 16, 2013 and Off-Site Storm Drain Exhibit received on May 22, 2014.
- D. Archaeological Survey and Architectural Assessment prepared by James Allen, William Self Associates (WSA), Inc. dated March 29, 2013.
- E. Arborist Report prepared by William R. McKinley, McKinley & Associates dated April 15, 2013.
- F. Biological Resources Reports prepared by Monk and Associates dated July 23, 2014 and August 8, 2014.

Approval is granted to allow for the following variances that meet the requirements of Section 26-2.2006 of the County Ordinance Code:

- Three guest parking spaces – two spaces on-site and one space on Del Hombre Lane
(where four spaces are required); and
- 0.53 acres for the rezoning of the property to P-1
(where five acres is required for residential use)

Approval Contingent on Consistent Approval of Related Rezoning Application

2. ____ This Development Plan application is approved contingent upon approval of the rezoning request, County File #RZ12-3221 from Single-Family Residential, R-15 to Planned Unit District, P-1. If the site is not rezoned, then this approval shall be null and void.

Payment of Any Supplemental Processing Fees that May Be Due

3. ____ This application is subject to an initial application deposit of \$9,507.00, which was paid with the application submittal, plus time, and material costs if the application review expenses exceed 100% of the initial deposit. **Any additional costs due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever occurs first.** The applicant may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.

Compliance Review

4. ____ **At least 45 days prior to submittal of a building permit,** the applicant shall provide a report on compliance with the conditions of approval for the review and approval by CDD. The fee for this application is a deposit of \$1000 that is subject to time and materials costs. Should staff costs exceed the deposit, additional fees will be required.

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

Restitution for Tree Removal

5. ____ Required Restitution for Approved Tree Removal: The following measures are intended to provide restitution for the removal of 19 code-protected trees:
- A. Tree Restitution Planting and Irrigation Plan: **Prior to the removal of trees or submittal 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 ***five trees, no larger than 15 gallons in size***. The plan shall comply with the State's Model Water Efficient Landscape Ordinance or the County Ordinance, if one is adopted. 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.

- B. Required Security to Assure Completion of Plan Improvements: **Prior to removal of trees or submittal of building permits (e.g. demolition, grading or building), whichever occurs first**, the applicant shall submit a security that is acceptable to the CDD. The bond shall include the amount of the approved cost estimate, *plus* a 20% inflation surcharge.
- 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 \$100.
- 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. 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).

Contingency Restitution Should Altered Trees Be Damaged

- 6. ____ Trees to be Preserved but Altered – Pursuant to the conclusions of the arborist report, proposed improvements within the root zone of trees noted on the site plan to be preserved have been determined to be feasible and still allow for preservation provided that the recommendations of the arborist are followed.

Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction activity nevertheless damages these trees, the applicant shall provide the County with a security (e.g. bond, cash deposit) to be submitted prior to submittal of a building permit or a grading permit, whichever occurs first, to allow for replacement of trees intended to be preserved that are significantly damaged by construction activity. The security shall be based on:

- A. Extent of Possible Restitution Improvements – The planting of up to **five trees, no larger than 15-gallons in size** in the vicinity of the affected trees, or equivalent planting contribution, subject to prior review and approval of CDD.
- B. Determination of Security Amount: The security shall provide for all of the following costs:
 - i. Preparation of landscape/irrigation plan by a licensed landscape architect or arborist;
 - ii. Labor and materials estimate for planting the potential number of trees and related irrigation improvements that may be required, prepared by a licensed landscape contractor; and
 - iii. An additional 20% of the total of the above amounts to address inflation costs.
- C. Initial Deposit for Processing of Security – The County Ordinance requires that the applicant cover all time and material costs of staff for processing a tree protection security. The Applicant shall pay an initial fee deposit of \$100 at time of submittal of a security.
- 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 this letter. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist to inspect the trees and to prepare a report on the trees' health. In the event that CDD determines that the tree intended to be protected has been damaged by development activity, and CDD determines that the applicant has not been diligent in providing reasonable restitution of the damaged trees,

then CDD may require that all part of the security be used to provide for mitigation of the damaged tree(s.)

7. ____ Compliance with Arborist Recommendations: The applicant shall implement all measures recommended by the consulting arborist as stated in the approved arborist report.
8. ____ Arborist Expenses: The applicant shall be responsible for all arborist expenses related to the work authorized by this permit.
9. ____ Except for the trees identified in this permit approved for removal or to work within the drip line of, this tree permit does not include approval of other tree removal or any work within the drip line of any trees within the subject property.

60dBA Noise Control

10. ____ **Prior to final occupancy**, the applicant shall provide proof that all window and door openings on all 14 units have been fitted with windows and doors that maintain interior noise levels that are below 60dBA.

Transportation Demand Management (TDM)

11. ____ **At least 45 days prior to submittal of building permits**, the applicant shall submit a Transportation and Demand Management (TDM) Plan, pursuant to Contra Costa County Code Section 82-32.010 for the review and approval of CDD. The requirements may include identification of proposed improvements to accommodate pedestrian, bicyclists, and transit users.

Bicycle Parking

12. ____ At least two short-term bicycle parking spaces shall be provided to serve the proposed project, pursuant to Contra Costa County Code Section 82-16.412. **At least 45 days prior to submittal of building permits**, a revised site plan shall be submitted identifying the location of the required bicycle spaces.

Building Design

13. ____ ____ **At least 45 days prior to submittal of building permits**, elevations, building materials, and a color palette shall be submitted for the review and approval of CDD.

Sign Identification Program

14. ____ ____ **At least 45 days prior to submittal of building permits**, a sign program for the purpose of identifying the property/apartment complex shall be submitted for review and approval by CDD. The details of the design, location, color, and type of materials for the proposed sign(s) shall be submitted.

Exterior Lighting

15. ____ ____ **At least 45 days prior to submittal of building permits**, an exterior lighting plan shall be submitted for the review and approval by CDD. The plan shall include details of location and design of outside lighting fixtures, proposed screening, and hours of operation of exterior lights.

Exterior lights shall be deflected so that the lights shine onto subject property and not toward adjacent properties.

Park Impact Fees

16. ____ ____ **Prior to submittal of building permits**, the applicant shall pay a fee of \$5,213 per unit for the construction of the 14-unit apartment complex for park and recreation improvements in the area as established by the Board of Supervisors.

Mitigation Measures

17. ____ ____ During construction, the project developer shall implement standard construction dust control measures recommended by the BAAQMD, to include:

1. Watering active construction areas on the site at least twice daily.

2. Daily watering or covering stockpiles of debris, soils, sand, and other materials that can be blown by the wind.
3. Covering all trucks hauling soils, sand, and other loose material or require all material-hauling trucks to maintain at least two feet of freeboard.
4. Paving, watering three times daily, or applying non-toxic soil stabilizers on all unpaved access roads, parking lots, and staging areas at construction site.
5. Sweeping streets daily, preferably with water sweepers, if soil is carried onto adjacent streets.
6. Seeding disturbed areas as quickly as possible or installation of cover vegetation over exposed soils. **(MM AIR -1)**

18. ____ Bats - In order to avoid impacts to roosting special-status bats, a biologist shall survey trees and buildings 15 days prior to commencing with any removal or demolition. All bat surveys shall be conducted by a biologist with known experience surveying for bats. The applicant shall provide the biologist conducting the surveys access to the boarded-up structure. If no special-status bats are found during the surveys, then there would be no further regard for these bat species.

If special-status bat species are found on the project site, then there shall be a determination if young bats present (i.e., the biologist shall determine if there are maternal roosts). If young are found roosting in any tree or building, then impacts to the tree or building shall be avoided until the young are flying free and are feeding on their own. A non-disturbance buffer fenced with orange construction fencing shall also be established around the maternity site. The size of the buffer zone shall be determined by a qualified bat biologist at the time of the surveys. If adults are found roosting in a tree or building on the project site but no maternal sites are found, then the adult bats can be flushed or a one-way eviction door can be placed over the tree cavity (or building access opening) for a 48 hour period prior to the time the tree or building in question would be removed or disturbed. No other mitigation compensation would be required. **(MM BIO-1)**

19. ____ Nesting Passerine Bird - A nesting bird survey shall be conducted on the project site and within a zone of influence around the project site if the project would commence between March 1 and September 1st. This is the formally recognized bird nesting season enforced by the California

Department of Fish and Wildlife. The zone of influence includes those areas off the project site where birds could be disturbed by earth-moving vibrations or noise associated with construction. Accordingly, the nesting survey(s) must cover the project site and an area around the project site boundary. If project site disturbance associated with the project would commence between March 1 and September 1st, the nesting surveys should be completed 15 days prior to commencing with any activities that would disturb the current site conditions. If common (that is, not special-status) birds, for example, California towhee, western scrub jay, or acorn woodpeckers are identified nesting on or adjacent to the project site, a non-disturbance buffer of 75 feet should be established around the nest or as otherwise prescribed by a qualified ornithologist. The buffer should be demarcated via the installation of orange construction fencing. Disturbance within the buffer should be postponed until it is determined by a qualified ornithologist that the young have fledged and have attained sufficient flight skills to leave the area or that the nesting cycle has otherwise completed.

Typically, most nesting birds in the region of the project site are expected to complete nesting by August 1st. However, many species can complete nesting by early to mid-July. Regardless, nesting buffers should be maintained until August 1st unless a qualified ornithologist determines that young have fledged and are independent of their nests at an earlier date. If buffers are removed prior to August 1st, the qualified biologist conducting the nesting surveys should prepare a report that provides details about the nesting outcome and the removal of buffers. This report should be submitted to the Contra Costa County Department of Conservation and Development prior to the time that nest protection buffers are removed if the date is before August 1st. **(MM BIO-2)**

20. ____ Trees - To offset impacts resulting from the removal of, or impact to the drip line of any code-protected tree, replacement trees that are California native species, no larger than 15-gallon size (to ensure that healthy smaller specimens are planted) should be planted within the post constructed development site. Valley oaks, coast live oaks, interior live oaks, coast redwoods, California sycamores, white alder, California buckeyes, and madrone are suitable native replacement trees. Replacement trees will be required for the removal or injury to any code protected tree. **(MM BIO-3)**

21. ____ Trees identified to be retained on the Final Development Plan shall be

preserved by implementing Best Management Practices and the recommendations outlined in the arborist report. **(MM BIO-4)**

22. ____ ____ If deposits of prehistoric or historical archeological materials are encountered during ground disturbance activities, then all work within 10 feet of the discovery shall stop and be evaluated by a qualified archaeologist shall be contacted to evaluate the finds and make recommendations. It is recommended that such deposits be avoided by further ground disturbance activities. If such deposits cannot be avoided, then they should be evaluated for their significance in accordance with the California Register of Historical Resources. **(MM CULT RESOURCES-1)**

23. ____ ____ If human remains are encountered, then all work shall stop with 10 feet and the County Coroner shall be notified immediately. At the same time, an archaeologist shall be contacted to assess the situation. If the human remains are of 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 site and provide recommendations for the proper treatment of the remains and associated grave goods. **(MM CULT RESOURCES-2)**

Construction Restrictions

24. ____ ____ Contractor and/or developer shall comply with the following construction, noise, litter, and traffic control requirements:

A. Construction activities shall be limited to the hours of 8:00 A.M. -5:00 P.M., Monday – Friday, and shall be prohibited on State and Federal Holidays, on the calendar dates that these holidays are observed by the state or federal government as listed below:

New Year's Day (State and Federal)
 Birthday of Martin Luther King, Jr. (State and Federal)
 Washington's Birthday (Federal)
 Lincoln's Birthday (State)
 President's Day (State and Federal)
 Cesar Chavez Day (State)
 Memorial Day (State and Federal)

Independence Day (State and Federal)
Labor Day (State and Federal)
Columbus Day (State and Federal)
Veterans Day (State and Federal)
Thanksgiving Day (State and Federal)
Day after Thanksgiving (State)
Christmas Day (State and Federal)

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

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

California Holidays <http://www.edd.ca.gov/eddsthoh.htm>

- B. Contractors shall be required to include measures to reduce equipment noise such as:
- All internal engine-driven equipment shall be equipped with mufflers that are in good condition;
 - Use "quiet" gasoline-powered compressors or other electric-powered compressors, wherever possible; and
 - Retain a disturbance coordinator to monitor construction activity and to identify additional mitigation measures as needed. **(MM NOISE -1)**
- C. The applicant shall immediately notify the Department of Conservation and Development, Community Development Division of any damage that occurs to any tree during the construction process. Any tree not approved for destruction or removal that dies or is significantly damaged as a result of construction or grading shall be replaced with a tree or trees of equivalent size and of a species as approved by the Deputy Director, Community Development Division to be reasonably appropriate for the particular situation.
- D. No parking or storage of vehicles, equipment, machinery, or construction materials and no dumping of paints, oils, contaminated water, or any chemicals shall be permitted within the drip line of any tree to be preserved.

- E. No grading, compaction, stockpiling, trenching, paving, or change in ground elevation shall be permitted within the drip line of any tree intended for preservation unless such activities are indicated on the improvement plans approved by the County and addressed in the arborist reports. If any of the activities listed above occur within the drip line of a tree to be preserved, an arborist may be required to be present. The arborist shall have the authority to require implementation of measures to protect the trees.
- F. The applicant shall make a good-faith effort to avoid interference with existing neighborhood traffic flows.
- G. Transporting of heavy equipment and truck shall be limited to week days between the hours of 9:00 A.M. and 4:00 P.M. and prohibited on Federal and State holidays.
- H. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.

**PUBLIC WORKS CONDITIONS OF APPROVAL
FOR PERMIT DP12-3017**

Applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exception(s) must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan submitted to Department of Conservation and Development, Community Development Division, on May 31, 2013, Stormwater Control Plan dated December 16, 2013 and of site drainage exhibit dated May 22, 2014.

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

- 25. ____ The applicant shall submit improvement plans prepared by a registered civil engineer to Public Works Department and pay appropriate fees in accordance with the County Ordinance and these conditions of approval.

The below conditions of approval are subject to the review and approval of the Public Works Department.

26. ____ 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 (Frontage):

27. ____ The applicant shall construct curb, 6-foot sidewalk, necessary longitudinal and transverse drainage, street lighting, and pavement widening curb ramps and transitions along the frontage of Del Hombre Lane. Applicant shall construct face of curb 10 feet from the widened right-of-way line.

Access to Adjoining Property:

Proof of Access

28. ____ 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

29. ____ 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 Del Hombre Lane.

Road Alignment/Intersection Design/Sight Distance:

Sight Distance

30. ____ The applicant shall provide sight distance at the intersection of the private driveway with Del Hombre Lane 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.

Road Dedications:

- 31.____ The property owner shall convey to the County, by Offer of Dedication, 10 feet of additional right-of-way for the planned 30-foot half-width along the Del Hombre Lane frontage.

Pedestrian Facilities:

- 32.____ 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.
- 33.____ The applicant shall design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.

Parking:

- 34.____ "No Parking" signs shall be installed along the western portion of Del Hombre Lane, subject to the review of the Public Works Department and the review and approval of the Board of Supervisors.

Utilities/Undergrounding:

- 35.____ The applicant shall underground all new and existing utility distribution facilities. The developer 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

- 36.____ 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 storm waters to *an adequate* natural watercourse, in accordance with Division 914 of the Ordinance Code.
- 37.____ The nearest public drainage facility is the existing 84-inch diameter storm drain in Coggins Lane to the west of the subject property. Applicant shall verify its adequacy prior to discharging run-off. Off-site storm drain improvements extending as far north as Las Juntas Way may be necessary to install facilities within public right-of-way and avoid conflicts with existing utilities.

Miscellaneous Drainage Requirements:

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

National Pollutant Discharge Elimination System (NPDES):

- 40.____ 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).
- 41.____ 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

- 42.____ _ Minimize the amount of directly connected impervious surface area.
- 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.
 - Shallow roadside and on-site swales.
 - The applicant shall sweep the paved portion of the site at least once a year between September 1st and October 15th utilizing a vacuum type sweeper. Verification (invoices, etc.) of the sweeping shall be provided to the County Clean Water Program Administrative Assistant at 255 Glacier Drive, Martinez CA 94553 (925) 313-2238).
 - Trash bins shall be sealed to prevent leakage, OR, shall be located within a covered enclosure.

Stormwater Management and Discharge Control Ordinance:

- 43.____ _ 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. To the extent required by the NPDES Permit, the Final Stormwater Control Plan and the O+M Plan will be required to comply with NPDES Permit requirements that have recently become effective that may not be reflected in the preliminary SWCP and O+M Plan. All time and materials costs for review and preparation of the SWCP and the O+M Plan shall be borne by the applicant.
- 44.____ _ 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).

- 45.____ Stormwater management facilities shall be subject to inspection by Public Works Department staff; all time and materials costs for inspection of stormwater management facilities shall be borne by the applicant.
- 46.____ **Prior to submittal of a building permit**, the property owner(s) shall enter into a standard Stormwater Management Facility Operation and Maintenance Agreement with Contra Costa County, in which the property owner(s) shall accept responsibility for, and related to, operation and maintenance of the stormwater facilities, and grant access to relevant public agencies for inspection of stormwater management facilities.
- 47.____ **Prior to submittal 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.
- 48.____ 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.

ADVISORY NOTES

THE FOLLOWING INFORMATION DOES NOT CONSTITUTE CONDITIONS OF APPROVAL. IT IS PROVIDED TO ALERT THE APPLICANT TO LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES TO WHICH THIS PROJECT MAY BE SUBJECT.

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

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

- B. Any deviation from or expansion beyond the limits of this permit shall necessitate the filing of a request for modification of the variance permit and may require a public hearing.
- C. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Central County Area of Benefit, as adopted by the Board of Supervisors.
- D. 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, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.

- E. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- F. 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 in order 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.
- G. The applicant shall comply with the requirements of the following agencies:
- Department of Conservation and Development, Building Inspection Division
 - San Ramon Valley Fire Protection District
 - Contra Costa Central Sanitary District
 - East Bay Municipal Utility District
- H. The applicant shall comply with the County's Debris Recovery Ordinance.