

# **CONDITIONS OF APPROVAL**

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #DP15-3023; BAY POINT FAMILY APARTMENTS LLC (APPLICANT & OWNER)**

**FINDINGS**

**A. General Plan Growth Management Element Standards**

- 1) Traffic: A Transportation Impact Analysis was administered for the project due to the fact that the proposed development would generate more than 100 peak-hour vehicle trips. Once completed, the Transportation Impact Analysis report is utilized to assess whether the project will be consistent with the County General Plan's Growth Management Standard that traffic Peak Hour Level of Service (LOS) grades in urban areas be a LOS grade of D or better. The resultant report found that the proposed apartment complex would increase average delay times at 5 of the 11 analyzed intersections by a margin of between 0.1 and 4.2 seconds. However, the study also found that none of the 11 analyzed intersections will be at a LOS grade less than D after establishment of the proposed development. More specifically, the proposed project will not cause the LOS grades for any of the analyzed intersections to drop a grade below their existing levels.
- 2) Water: The project site is located within the service area of the Contra Costa Water District. The proposed development will be connected to existing public water service via an existing main located within Willow Pass Road. The County relies on staff of the Contra Costa Water District for information regarding the availability of water and the impacts of new projects within their service district. The proposed project was forwarded to the Contra Costa Water District for review and comment, and there has been no indication by their staff that the additional demand created by the proposed project will exceed that which can be accommodated by their current infrastructure.
- 3) Sanitary Sewer: The project site is located within the service area of the Delta Diablo Sanitary District. The proposed development will be connected to existing public sanitary services via an existing main located within Willow Pass Road. The County relies on staff of the Delta Diablo Sanitary District for information regarding the demand of new projects within their service district, and their ability to accommodate them. The proposed project was forwarded to the Delta Diablo Sanitary District for review and comment, and there has been no indication by their staff that the additional demand created by the proposed project will exceed that which can be accommodated by their current infrastructure. They have provided design recommendations to the applicant for the connection to their infrastructure, and have advised that a final review of the system design will be required prior to construction of the development.

- 4) Fire Protection: The project site is located within the service area of the Contra Costa County Fire Protection District (CCCFPD), who has been provided with an opportunity to review and provide comments on the project. The CCCFPD has advised that the development will need to include fire hydrants and private underground fire service water mains in the design; which the applicant has provided. As a result, the project was given a preliminary approval from the CCCFPD. In addition, due to the projects site's location within a previously developed urban area of the County, there is no potential for the project impacting the County's ability to maintain the standard of having a fire station located within one and one-half miles of developments in urban, suburban, and central business district areas. The closest fire station is located approximately 0.49 miles east of the project site at 3000 Willow Pass Road.
- 5) Public Protection: Studies administered during the application review process anticipate the project generating a population increase of approximately 500 new residents in the Bay Point area. This anticipated increase is not a significant increase in population, and will not impact the County's ability to maintain the standard of having 155 square feet of Sheriff facility station and area support facilities for every 1,000 members of the population. In addition, the County Sheriff has been provided with an opportunity to review and comment on the project, and there has been no indication that the anticipated population increase generated by the development will exceed their available services in the Bay Point area.
- 6) Parks and Recreation: The project design includes a 25,180 square foot (0.58 acres) private recreation area for residents that will be constructed in the center of the development. This private recreational area will consist of amenities such as a lawn area, swimming pool, children's play area, and picnic/BBQ area. In addition the applicant will be paying a per-unit Park Impact/Park Dedication in-lieu fee prior to pulling building permits for the residential units, which will be used by the County towards acquiring park land and developing parks throughout the unincorporated County. The combination of the private recreational area and the per-unit in-lieu fees provided by the applicant will ensure that the project does not adversely impact the County's ability to maintain the standard of having 3-acres of neighborhood parks for every 1,000 members of the population.
- 7) Flood Control and Drainage: The project site is not located within a 100—year flood hazard area as determined by the Federal Emergency Management Agency (FEMA). In addition none of the required construction activities associated with the structural improvements or utility extensions requires the removal or alteration of any existing dam, levee, or other flood control infrastructure within the County. With regard to drainage, the applicant has provided a Storm Water Control Plan (SWCP) for the development which details how water

runoff generated at the site will be managed. The submitted plan details how storm water generated at the site will be collected and treated on-site via six bio-retention areas, and then connected to the areas existing storm drainage system via connections to existing infrastructure in Weldon and Lynbrook Streets. This plan has been reviewed and given a preliminary approval by the County Public Works Department.

**B. Development Plan (Planned Unit District) Findings**

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

Project Finding: The project site was previously located within a Retail Business (R-B) zoning district. However, the site has remained vacant as prior owners have advised of their inability to attract potential retail tenants due to the relatively small size of the project site and the local retail market; which could not support a large-scale retail development. Subsequently, the project site was rezoned to a P-1 district with an associated General Plan Land Use designation change to a "Multiple-Family Residential, Medium Density" (MM) designation in 2007 as it was found that a residential land development would be a more viable land use. A 126-unit townhouse development was approved in concert with the rezoning of the project site, but was never constructed likely due to the downturn in the economic climate soon after the approval. The applicant is now requesting approval of an 8-building multiple-family apartment complex, which is a land use that is consistent with those desired at the site pursuant to the current MM General Plan designation. In addition, the development consists of 193 one-, two-, three, and four-bedroom units; which will ensure that the development is attractive to potential families of all sizes that currently live in or that desire to live in the Bay Point area.

- 2) *The proposed project shall be compatible with other uses in the vicinity, both inside and outside the district.*

Project Finding: The project site is located within an area of Bay Point that is dominated by multi-family and single-family residential developments. When constructed, the development will include all the fundamental elements needed to safely operate a complex of this size such as public water and sanitary services, fire-fighting infrastructure, a storm drainage system, solid waste collection, and basic utilities (i.e. gas, electricity, cable). In addition, the complex will include amenities such as a private recreational area, community center, on-site vehicle and bicycle parking, and laundry facilities; which make for a "complete" multi-family development. The development has been designed in a manner that takes the surrounding land uses into consideration, while also effectively utilizing the entire project site.

### C. Exception Findings

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

Project Finding: An unusual circumstance affects the property because the existing topography of the project site does not support the delineation of the watersheds as shown on the Drainage Area 48B Hydrology Map. Furthermore, the area that is requested to drain to line B-1 as a diversion is already draining to Line B-1 in the existing condition.

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

Project Finding: The exception is necessary for the preservation of the applicant's ability to develop the property. In order to match the drainage areas as laid out in the DA48B Hydrology Map, either a lift station or storm drain piping be installed at a depth exceeding 20-feet through a substantial portion of the project site would be required. Either method adds significant financial burden and limits the economic viability of the development of the project.

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

Project Finding: The 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 because preliminary calculations indicate that Line B-1 has adequate capacity to convey drainage as proposed from the project site. The applicant indicates that the risk of increased flooding and resultant property damage within the Line B-1 drainage area is not significant because the preliminary calculation show the storm drain line has adequate capacity.

## **CONDITIONS OF APPROVAL**

### **Administrative**

1. **Preliminary and Final Development approval** is granted to allow for the construction of a new 193-unit apartment complex with associated infrastructure and utility improvements.
2. **Density Bonus approval is granted** to allow 32 additional units beyond the 161 units allowed for the project site under applicable density standards.

3. **An exception from collect and convey standards to allow a diversion of storm water entering and/or originating on the subject property is granted** to allow a diversion of the DA48B watershed from Line B-2 to Line B-1.
4. The Preliminary and Final Development Plan approvals described above are granted based on and as generally shown on the following documents:
  - Development Plan application received by the Department of Conservation and Development, Community Development Division (CDD) on August 4, 2015;
  - Project Plans of SDG architects dated and received on November 17, 2015;
  - Initial Study and Mitigated Negative Declaration document of Contra Costa County dated June 30, 2016.
5. This approval allows for a maximum of 193 apartment units for rental.

#### **Fees**

6. This application is subject to an initial application deposit of \$3,500.00, which was paid with the application submittal, plus time and materials costs if the application review expenses exceed 100% of the initial deposit. **Any additional cost due must be paid within sixty (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 Report**

7. **At least 30 days prior to CDD stamp-approval of plans for issuance of a building or grading permit, whichever occurs first,** the applicant shall submit a report in compliance with the conditions of approval of this permit for review and approval of the CDD. The report shall list each condition followed by a description of what the applicant has provided as evidence of compliance with that condition. The CDD may reject the report if it is not comprehensive with respect to the applicable requirements for the requested permit. The permit compliance review is subject to staff time and materials charges, with an initial deposit of \$1,000, which shall be paid at the time of submittal of the compliance report.

#### **Indemnification**

8. The applicant agrees to defend, indemnify, and hold harmless Contra Costa County and its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, and employees to attack, set aside, void, or annul this approval. The applicant also agrees to defend, indemnify, and hold harmless Contra Costa County and its agents, officers, and employees from any and all liability caused by negligent or wrongful acts of the applicant, its agents, or employees arising out of the issuance or exercise of this Development Plan permit, or the interpretation of any of its provisions, and to pay all claims, damages, judgments, legal costs, adjuster fees, and attorney fees incurred by the County or its agents, officers, and employees related thereto. The applicant shall be entitled to select its own legal counsel in the defense of all such actions. The applicant shall submit a letter on company letterhead verifying acknowledgement and acceptance of this condition of approval.

#### **Lot Line Adjustment**

9. **Prior to recordation of any required deed restrictions and the CDD approval of plans for issuance of building or grading permits;** the applicant shall submit an application for, obtain approval of, and record a lot line adjustment to merge the two parcels that comprise the project site.

#### **Affordable Housing**

The following conditions of approval are for the purpose of compliance with Chapter 822-2 of the County Ordinance and the granting of a residential density bonus for the project. Terms and definitions used in the following conditions of approval may be found in the above-referenced County Ordinance.

10. General: The following are general terms for the granting of density bonus units pursuant to the County Residential Density Bonus Ordinance, Chapter 822-2.
  - The applicant, owner, and/or developer ("Applicant") shall enter into a Density Bonus Developer Agreement ("Agreement") (form to be approved by the County) with the County at least 90 days prior to issuance of building permits, which ensures that no fewer than 19 lower income affordable housing rental units (density bonus units) will be occupied by lower income households. The terms of this Agreement between the County and owner of the property are detailed in the conditions below.
  - The owner hereby represents, warrants, and covenants that it will cause this 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 owner 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 the filing of a building permit.

- The County will provide to the Applicant income certification forms to be completed by the renters. The income levels of all Lower Income Household applicants for units in the project shall be certified prior to initial occupancy and annually thereafter and records shall be maintained by the Applicant over the entire term of the period of affordability.
- The 19 density bonus 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 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 owner or any person claiming under or through owner, 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.
- In addition to any other marketing efforts, Density Bonus Units shall be marketed through local non-profit, social service, faith-based, and other organizations that have potential renters as clients or constituents. The applicant shall translate marketing materials into Spanish and Chinese.

A copy of the translated marketing materials shall be submitted to the Department of Conservation and Development **prior to CDD stamp-approval of plans for issuance of building permits**, approval, and the file record.

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



- Upon violation of any of the provisions of the Agreement by the owner, the County may give written notice to the owner 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 owner has made any misrepresentation in connection with receiving any benefits under this Agreement, the County may apply to a court of competent jurisdiction for such relief at law or in equity as may be appropriate.
11. Deed Restriction: The Applicant shall enter into an Agreement between the owner and the County pursuant to County Ordinance Code Section 822-2.1006, for the construction of a minimum of 19 density bonus units on the property.

**At least 90 days prior to requesting CDD stamp-approval of plans for issuance of a building permit**, the Applicant shall submit draft language for the Agreement for the review and approval of the Department of Conservation and Development, Housing and Community Improvement Division and acceptance by the Board of Supervisors. This Agreement shall be recorded at the owner's expense as a restriction on the parcel or parcels on which the density bonus units will be constructed and shall run with the land and be binding on all successors in interest. The Agreement shall set rent and occupancy requirements for a minimum of 19 lower income density bonus units with 174 market rate units. For purposes of this condition, the following information shall be incorporated into the Agreement:

Terms in Agreement

- i. The total number of units approved for the housing development, including the number of density bonus units.
- ii. A description of the affordability and occupancy restrictions for the density bonus units (i.e., very low-income households, lower-income households, moderate-income households, or qualifying residents), including the standards for determining the corresponding affordable rent or affordable sales price and housing cost.
- iii. The location, unit sizes (in square feet), and number of bedrooms of all units in the development, including the density bonus units.
- iv. Term of use restrictions specified in Section 822-2.410.

- v. A schedule of completion and occupancy of all units in the development, including the density bonus units.
- vi. A description of all concessions or incentives.
- vii. A description of remedies for breach of the agreement by either party.
- viii. Other provisions to ensure implementation and compliance with County Ordinance Code Chapter 822-2.
- ix. Rental housing development terms governing the use of density bonus units.

#### Rental Housing Development Terms

- i. The methodology and procedures for qualifying tenants as lower income households; for establishing affordable rent; for filling vacancies; and for maintaining density bonus units for qualified tenants.
- ii. Provisions requiring owners of the rental housing developments to verify tenant incomes and rents, and maintain books and records in a form approved by the Department of Conservation and Development, to demonstrate compliance.
- iii. Provisions requiring owners of the rental housing developments to submit an annual report to the Department of Conservation and Development. The report must include the name, address, household size, and income of each person occupying density bonus units, and identify the number of bedrooms and monthly rent or cost (including utility allowance) of each density bonus unit. Tenants in rental housing developments shall provide consent to the owners to allow these disclosures.

#### Definitions

- i. Lower Income Households – Households earning up to 80 percent of the area median income (AMI) for Contra Costa County as adjusted for family size as defined in Section 50079.5 of the California Health & Safety Code.
- ii. Affordable Rent – Rent, including a reasonable utility allowance as determined by the Department of Conservation and Development Director, for rental inclusionary units that does not exceed the calculations pursuant to Health and Safety Code section 50053.
- iii. Rent calculations shall take into account unit size with the following assumptions:

Studio	=	1 person
One bedroom	=	2 persons
Two bedrooms	=	3 persons
Three bedrooms	=	4 persons
Four bedrooms	=	5 persons
Five bedrooms	=	6 persons

Affordable rents shall be determined annually by the County.

- 12. Term: The density bonus units must remain affordable to the designated group for a minimum period of 55 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
- 13. Location: On-site affordable housing units shall be provided throughout the project, and placed throughout the development in a manner such that the size (including number of bedrooms) and quality of affordable housing units reflect the proportions in the total development, and that the affordable housing units be spatially dispersed.

**Prior to CDD stamp-approval of plans for issuance of a building permit**, the Applicant shall submit to the CDD a site plan, floor plans, and an inventory list for review and approval showing and listing the proposed locations of the 19 lower income density bonus units. The density bonus units must be constructed concurrently with the non-restricted units.

- 14. Availability: All density bonus units shall be made available for occupancy not later than the time at which the first market rate dwelling unit of the housing development is available for occupancy.

## Housing Annual Reporting and Compliance Review

15. **Prior to the initial occupancy of each density bonus unit**, the Applicant of the property shall submit to the Department of Conservation and Development, for review and approval, forms and documentation that demonstrates the tenants of the density bonus units are qualified as a lower income household. A hold shall be placed on the final inspection of the building permit until the documentation has been deemed adequate by the Department of Conservation and Development.
16. **After the initial occupancy of the density bonus units**, the owners of the rental housing development shall submit an annual compliance review report to the Department of Conservation and Development for all density bonus units. The report must include the name, unit number, household size, and income of each person occupying density bonus units, and identify the number of bedrooms and monthly rent or cost (including utility allowance) of each density bonus unit. Tenants in rental housing developments shall provide consent to the owners to allow these disclosures.
17. The Applicant is responsible for keeping the Department of Conservation and Development informed of the contact information of the owner or designee who is responsible for maintenance and compliance with this permit and how they may be contacted (i.e., mailing and email addresses, and telephone number) at all times.
  - i. Prior to CDD stamp-approval of plans for issuance of a building permit, the Applicant shall provide the name of the contact person representing the owner of the property for permit compliance and their contact information.
  - ii. Should the contact person subsequently change (e.g. new designee or owner), within 30 days of the change, the Applicant shall issue a letter to the Department of Conservation and Development with the name of the new party who has been assigned permit compliance responsibility and their contact information. Failure to satisfy this condition may result in the commencement of procedures to revoke the permit.

### **Density Bonus & Concession/Incentive**

18. Pursuant to the County's Affordable Housing Ordinance, the applicant has earned one project concession/incentive for providing 19 affordable units within the development. For use of the

earned concession the applicant has requested a reduction in the applicable per-unit Park Dedication/Park Impact Fees to be collected for the development. In response, the County has offered **a credit/waiver of 14.45% of the per-unit Park Dedication/Park Impact fees due for the 174 market rate units** within the development; which was formally accepted by the applicant. The concession/incentive described above is contingent upon the following:

- The applicant providing the 19 affordable units within the approved development and in compliance with the standards and requirements of the County's Affordable Housing Ordinance as required in Condition of Approval #8 above; and
- The private recreational area shall meet the standards and include local park elements as stated in Section 920-8.006 (Standards) of the County's Park Dedication Ordinance. An exception is granted for the two contiguous acres standard.

## **Child Care**

19. The project sponsor shall mitigate the need for the additional child care spaces created by the proposed development **via one or a combination of** the following methods (**MM POP-1**):

- At the time of building permit issuance for the residential buildings the developer shall pay a per/unit fee to the County towards expanding and improving child care in the geographical region. The fee amount shall be equal to the in-lieu fee amounts as adopted by the County Board of Supervisors for residential projects between 1 and 29 units pursuant to County Code Section 82-22.806(d).
- The developer shall contract with the Contra Costa Child Care Council to recruit and train additional family child care providers, with a special focus on recruiting providers to provide infant/toddler and school-age care. The proposed contract shall be submitted for review and approval of the Community Development Division.
- The developer shall contribute funds directly to child care centers located adjacent to elementary schools in the area to improve and expand facilities to provide care for school-age children. The fund contribution amount shall be sufficient enough to substantially accommodate the additional child care need created by the project, and shall be subject to review and approval of the Contra Costa Child Care Council and the Community Development Division.

- The developer shall contribute funds directly to family child care providers in the Bay Point area to encourage providers to care for infants, toddlers, and school-age children. The submitted funds are intended for use in training or the purchase of infant equipment. The fund contribution amount shall be sufficient to train a sufficient number of additional staff or to purchase enough equipment to substantially meet the additional child care demand created by the proposed development. The fund amount shall be subject to review and approval of the Contra Costa Child Care Council and the Community Development Division.

### **Park Impact/Park Dedication Fees**

20. **Prior to issuance of building permits for any building containing residential units**, the applicant shall pay Park Impact/Park dedication fees as follows:

- Low Income Units: \$2,121.50 per unit (\$4,243 - 50% credit)
- Market Rate Units: \$3,629.89 per unit (\$4,243 - 14.45% credit)

### **Project Design**

21. The proposed buildings shall be similar in design to that which is shown on plans submitted to the CDD on November 17, 2015. **Prior to CDD stamp-approval of plans for issuance of building or grading permits**, the applicant shall submit final architectural drawings which include design modifications as follows:

- The height of the stairwell elements of each residential building shall be lowered as close to the roofline as possible, while still allowing for the screening of rooftop mechanical equipment. The applicant shall also make an effort to locate rooftop mechanical equipment as far away from the edge of building rooflines to aid in limiting visibility of rooftop equipment from adjacent properties and roadways.
- The color options for the "Accent" and "Daltile Festiva" ceramic wall tile elements of the design shall be changed to softer colors or shades of an earth tone.
- A pedestrian/bicycle security gate similar to that shown for direct access to Weldon Street shall be placed in the northwestern region of the project site along Port Chicago Highway to encourage walking to the nearby commercial plaza to the north.

### **Solar Energy**

22. The applicant shall incorporate photovoltaic systems, or other infrastructure for the purpose of harnessing solar energy, as a supplemental energy source for the development. The general design and location (rooftop, ground mounted) of the system shall be included on final construction plans submitted for CDD staff-approval.

#### **~~Rough Grade and Elevation of Improvements at Common Boundary~~**

23. ~~At least 45 days prior to CDD stamp-approval of plans for issuance of building or grading permits,~~ the applicant shall submit revised plans showing that the foundation pad for Building B1, parking surface (1<sup>st</sup> floor) for Building D1, perimeter surface parking, and other related improvements along the northern, northeastern, and eastern property lines of the project site shall be the same elevation as that of the adjacent properties to the north and northeast.

#### **Landscaping**

24. Final Landscape Plan: **At least 30 days prior to issuance of a grading permit or Department of Conservation and Development, Community Development Division (CDD) stamp-approval of plans for issuance of a building permit,** a final landscape and irrigation plan shall be submitted to the CDD for review and approval. The plans shall be designed in general accord with the preliminary landscape plans received by the CDD on November 17, 2015. The purpose of the final landscaping plan is to enhance the aesthetics of the property and to help screen the larger buildings from adjacent properties and from northerly views towards the Suisun Bay and Sacramento/San Joaquin River Delta. The submitted plans shall be compliant with the State Model Water Efficient Landscape Ordinance or the County's water conservation ordinance if one has been adopted. **(MM AES-1)**
25. Minimum Tree Size and Type: The majority of trees proposed for installation along the Port Chicago Highway, Willow Pass Road, and Weldon Street frontages shall meet the following characteristics **(MM AES-2)**:
- Be a minimum of 24-inch box size
  - Be of a drought-tolerant species
26. Long-Term Viability: To assure viability of the approved landscaping the applicant shall provide a copy of a 2-year landscaping warranty from the landscape contractor or designer, for the review and approval of the CDD. **(MM AES-3)**

#### **Lighting**

27. All lighting, especially pole-top lighting adjacent to the boundaries of the project site, shall be deflected downward so as to focus illumination towards buildings and parking areas on the project site, and not to adjacent properties. **(MM AES-4)**
28. All pole-top lighting adjacent to property boundaries and intended for illumination of the uncovered parking areas shall be turned off no later than 10:00 P.M. daily. The use of motion sensors and dimmer switches may be used with the perimeter pole-top lighting to allow for intermittent and/or dimmed lighting after 10:00 P.M. as needed. This time restriction is not applicable to pole-top lighting proposed for the interior areas of the development, nor for the overhead lighting proposed within the covered parking canopies. **(MM AES-5)**

### **Materials**

29. The use of highly reflective materials, including but not limited to glass and unfinished metals, shall be prohibited from use. **(MM AES-6)**
30. All exterior components of the proposed residential buildings, carport structures, trash enclosures, and structures within the private recreational area shall be finished with paints or other materials with a reflectivity less than 55 percent. **(MM AES-7)**
31. **Prior to CDD stamp-approval of plans for issuance of building or grading permits**, the applicant shall submit a sample board of the materials and colors proposed for each residential building as well as other structures such as the carports, pool building, trash enclosures, and pergolas.

### **Climate Action Plan Consistency**

32. **Prior to CDD stamp-approval of plans for issuance of building or grading permits**, the applicant shall provide evidence (construction plan details/notes) that the proposed project meets all standards listed in Table-E.1 (Standards for CAP Consistency – New Development) of the County Climate Action Plan's Appendix-E.

### **Transportation Demand Management Program**

33. The applicant shall implement a project-specific Final Transportation Demand Management (TDM) Program with the goal of encouraging residents of the development to use alternate modes of transportation. **Prior to CDD stamp-approval of plans for issuance of building or grading permits**, the applicant shall submit a conceptual TDM Program which complies



with the standards of the County TDM Ordinance. The conceptual TDM Program shall be subject to review and approval of the CDD.

## **Biology**

34. The project shall be covered under the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCC HCP/NCCP) as agreed upon by the applicant of the project. All applicable avoidance, minimization, and mitigation measures of the ECCC HCP/NCCP will be imposed on the project. The project will receive take authorization for twenty-eight species under the County's incidental take permit from the United States Fish and Wildlife Service (USFWS) issued pursuant to Section 10(a)(1)(B) of the Federal Endangered Species Act (permit number: TE 160958-0) and the County's incidental take permit from the California Department of Fish and Wildlife (CDFW) issued pursuant to California Fish and Wildlife Code Section 2835 (permit number 2835-200701-03). **(MM BIO-1)**
35. Prior to ground disturbance associated with the proposed project (i.e. grading, trenching, construction, etc.) and in accordance with the final ECCC HCP/NCCP Planning Survey Report application, the applicant shall pay the required ECCC HCP/NCCP Development Fee (the fee is subject to change on March 15, 2017 according to a consumer price index and a home price index, as described in Chapter 9.3.1 of the ECCC HCP/NCCP), receive a Certificate of Coverage from the County, and submit a construction monitoring plan to the Conservancy (Implementing Entity) for review and approval. The Certificate of Coverage will confirm that the fee has been received, confirm that other ECCC HCP/NCCP requirements have been met or will be performed, and will authorize take of covered species. **(MM BIO-2)**
36. The project could impact habitat of endangered species, including but not limited to, Western Burrowing Owl, Swainson's Hawk, and Golden Eagle. In accordance with the 2006 Final Environmental Impact Report/Environmental Impact Statement for the ECCC HCP/NCCP a mitigation fee of \$53,034.62 shall be paid. Funds will be used to enhance habitat for all of these covered species. **(MM BIO-3)**

### Burrowing Owl

37. Preconstruction Survey: Prior to any ground disturbance related to covered activities, a USFWS/CDFW-approved biologist will conduct a preconstruction survey in areas identified in the planning survey as having potential Burrowing Owl habitat, the surveys will establish the presence or absence of Western Burrowing Owl and/or habitat features and evaluate use by

owls in accordance with CDFW survey guidelines (California Department of Fish and Game 1995).

On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFW guidelines. All burrows or burrowing owls will be identified and mapped. Surveys will take place no more than 30 days prior to construction. During the breeding season (February 1 – August 31), surveys will document whether burrowing owls are nesting in or directly adjacent to disturbance areas, during the nonbreeding season (September 1 – January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey is conducted. **(MM BIO-4)**

38. Avoidance and Minimization: If burrowing owls are found during the breeding season (February 1 – August 31), the project proponent will avoid all nest sites that could be disturbed by the project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance will include establishment of a non-disturbance buffer zone (described below). Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation, or that the juveniles from the occupied nests have fledged. During the nonbreeding season (September 1 – January 31), the project proponent should avoid the owls and the burrows they are using, if possible. Avoidance will include the establishment of a buffer zone (described below).

During the breeding season, buffer zones of at least 250 feet in which no construction activities can occur will be established around each occupied burrow (nest site). Buffer zones of 160 feet will be established around each burrow being used during the nonbreeding season, the buffers will be delineated by highly visible, temporary construction fencing. **(MM BIO-5)**

39. Construction Monitoring: If occupied burrows for burrowing owls are not avoided, passive relocation will be implemented. Owls should be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area should be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation. (California Department of Fish and Game 1995). Plastic tubing or a similar

structure should be inserted in the tunnels during excavation to maintain an escape route for any owls still inside the burrow. **(MM BIO-6)**

#### Swainson's Hawk

40. Preconstruction Survey: Prior to any ground disturbance related to covered activities that occurs during the nesting season (March 15 – September 15), a qualified biologist will conduct a preconstruction survey no more than 1 month prior to construction to establish whether Swainson's Hawk nests within 1,000 feet of the project site are occupied. If potentially occupied nests within 1,000 feet are off the project site, then their occupancy will be determined by observation from public roads or by observations of Swainson's Hawk activity (e.g. foraging) near the project site. If nests are occupied, minimization measures and construction monitoring is required. **(MM BIO-7)**
41. Avoidance and Minimization: During the nesting season (March 15 – September 15), covered activities within 1,000 feet of occupied nests or nests under construction will be prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity (e.g. steep topography, dense vegetation, limited activities) indicate that a smaller buffer zone could be used, the Implementing Entity will coordinate with the CDFW/USFWS to determine the appropriate buffer size. **(MM BIO-8)**
42. Construction Monitoring: If young fledge prior to September 15, covered activities can proceed normally. If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project applicant can apply to the Implementing Entity for a waiver of this avoidance measure. Any waiver must also be approved by USFWS and CDFW, while the nest is occupied, activities outside the buffer can take place.

Any active nest trees will be preserved on site, if feasible. Nest trees, including non-native trees, lost to covered activities will be mitigated by the project proponent according to the requirement below. **(MM BIO-9)**

43. Mitigation for Loss of Nest Trees: The loss of non-riparian Swainson's Hawk nest trees will be mitigated by the project proponent by **(MM BIO-10)**:
- If feasible on-site, planting 15 saplings for every tree lost with the objective of having at least 5 mature trees established for every tree lost according to the requirements listed below; and either:

- a. Pay the Implementing Entity an additional fee to purchase, plant, maintain, and monitor 15 saplings on the HCP/NCCP Preserve System for every tree lost according to the requirements listed below; or
- b. The project proponent will plant, maintain, and monitor 15 saplings for every tree lost at a site to be approved by the Implementing Entity (e.g. within an HCP/NCCP Preserve or existing open space linked to HCP/NCCP preserves), according to the requirements listed below.

The following requirements shall be met for all planting options

- Tree survival shall be monitored at least annually for 5 years, then every other year until year 12. All trees lost during the first 5 years will be replaced. Success will be reached at the end of 12 years if at least 5 trees per tree lost survive without supplemental irrigation or protection from herbivory. Trees must also survive for at least three years without irrigation.
- Irrigation and fencing to protect from deer and other herbivores may be needed for the first several years to ensure maximum tree survival.
- Native trees suitable for this site should be planted. When site conditions permit, a variety of native trees will be planted for each tree lost to provide trees with different growth rates, maturation, and life span, and to provide a variety of tree canopy structures for Swainson's Hawk. This variety will help to ensure that nest trees will be available in the short term, (5-10 years for cottonwoods and willows) and in the long term (e.g., Valley Oak, Sycamore). This will also minimize the temporal loss of nest trees.
- Riparian woodland restoration conducted as a result of covered activities (i.e., loss of riparian woodland) can be used to offset the nest tree planting requirements above, if the nest trees are riparian species.
- Whenever feasible and when site conditions permit, trees should be planted in clumps together or with existing trees to provide larger areas of suitable nesting habitat and to create a natural buffer between nest trees and adjacent development (if plantings occur on the development site).
- Whenever feasible, plantings on the site should occur closest to suitable foraging habitat outside the UDA.

- Trees planted in the HCP/NCCP preserves or other approved offsite location will occur within the known range of Swainson's Hawk in the inventory area and as close as possible to high-quality foraging habitat.

#### Golden Eagle

44. Preconstruction Survey: Prior to implementation of covered activities, a qualified biologist will conduct a preconstruction survey to establish whether nests of Golden Eagles are occupied. If nests are occupied, minimization requirements and construction monitoring will be required. **(MM BIO-11)**
45. Avoidance and Minimization: Covered activities will be prohibited within 0.5 miles of active nests. Nests can be built and active at almost any time of the year, although mating and egg incubation occurs late January through August, with peak activity in March through July. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be appropriate or that a larger buffer should be implemented, the Implementing Entity will coordinate with CDFW/USFWS to determine the appropriate buffer size. **(MM BIO-12)**
46. Construction Monitoring: Construction monitoring will focus on ensuring that no covered activities occur within the buffer zone established around an active nest. Although no known Golden Eagle nest sites occur within or near the Urban Limit Line, covered activities inside and outside the Preserve System have the potential to disturb Golden Eagle nest sites. Construction monitoring will ensure that direct effects to Golden Eagles are minimized. **(MM BIO-13)**

#### Construction Monitoring Plan

47. Prior to any ground disturbance related to implementation of covered activities, the applicant shall develop and submit a construction monitoring plan to the planning department of the local land use jurisdiction and the East Contra Costa County Habitat Conservancy for review and approval. Elements of the construction monitoring plan shall include the following **(MM BIO-14)**:

- Results of planning and preconstruction surveys.

Description of avoidance and minimization measures to be implemented, including a description of project-specific refinements to the measures or additional measures not included in the HCP/NCCP.

- Description of monitoring activities, including monitoring frequency and duration, and specific activities to be monitored.
- Description of the onsite authority of the construction monitor to modify implementation of the activity.

## **Air Quality**

48. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. **(MM AQ-1)**
49. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. **(MM AQ-2)**
50. All visible mud or dirt tract-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. **(MM AQ-3)**
51. Site access to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel. **(MM AQ-4)**
52. All vehicle speeds on unpaved roads shall be limited to 15 mph. **(MM AQ-5)**
53. 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. **(MM AQ-6)**
54. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idle 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. **(MM AQ-7)**
55. 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. **(MM AQ-8)**
56. The project sponsor shall post a publicly visible sign with the telephone number and person to contact at the general contractor 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 AQ-9)**

57. All contractors shall use equipment that meets the California Air Resources Board's (CARB) most recent certification standard for off-road heavy duty diesel engines. **(MM AQ-10)**

### **Cultural Resources**

58. Should archaeological materials be uncovered during grading, trenching or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), if deemed necessary. **(MM CUL-1)**

59. If any significant cultural materials such as artifacts, human burials, or the like are encountered during construction operations, such operations shall cease within 10 feet of the find, the Community Development Division shall be notified within 24-hours and a qualified archaeologist contacted and retained for further recommendations. Significant cultural materials include, but are not limited to, aboriginal human remains, chipped stone, groundstone, shell and bone artifacts, concentrations of fire cracked rock, ash, charcoal, shell, bone, and historic features such as privies or building foundations. **(MM CUL-2)**

60. In the event of discovery or recognition of any human remains on the site, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of Contra Costa County has been contacted, per Section 7050.5 of the California Health and Safety Code. **(MM CUL-3)**

61. Appropriate mitigation of any discovered cultural resources may include monitoring of further construction and/or systematic excavation of the resources. Any artifacts or samples collected as part of the initial discovery, monitoring or mitigation phases shall be properly conserved, catalogued, analyzed, evaluated and curated along with associated documentation in a professional manner consistent with current archaeological standards. **(MM CUL-4)**

### **Geology**

62. Following rough grading and prior to construction of improvements, the project proponent shall submit a geotechnical monitoring and testing report. That report shall include evidence of testing and observation services performed during grading, including: 1) results of all compaction tests data gathered during rough grading; 2) results of corrosivity testing of each building "footprint" (performed after rough grading), along with the recommendations of the

corrosion engineer for the level of corrosion protection required for steel and concrete materials used for construction; and 3) comments regarding the geotechnical engineer's observations made during over-excavation of the undocumented fill and justification for its suitability for use in engineered fill. **(MM GEO-1)**

63. **Prior to requesting a final building inspection for each residential building**, the project proponent shall submit a geotechnical letter/report documenting inspections made by the project geotechnical engineer during foundation-related work and final grading, and provide the geotechnical engineer's opinion of the consistency of the as-built improvements with the recommendations in the approved geotechnical report. This can be submitted as individual reports on a building-by-building basis or one report for all eight residential buildings. **(MM GEO-2)**

64. Grading, improvement, erosion control, and building plans shall employ, as appropriate, the following surface drainage measures: 1) positive grading of building pads for removal of surface water from foundation areas; 2) individual pad drainage; 3) collection of downspout water from roof gutters; 4) avoidance of planted areas adjacent to structures; 5) avoidance of sprinkler systems (as opposed to drip irrigation systems) in the immediate vicinity of foundations; 6) grading of slopes to control erosion from over-the-bank runoff; and 7) re-vegetation of permanent slopes. Interim protective measures for runoff shall be followed during the construction phases when slopes are most susceptible to erosion. The final design shall incorporate subsurface drainage measures, including the installation of subsurface drains, where their use is recommended by the project geotechnical engineer. **(MM GEO-3)**

65. Geotechnical monitoring reports shall be subject to review by the County Peer Review Geologist and approval by the Department of Conservation and Development, Community Development Division. **(MM GEO-4)**

## **Noise**

66. All windows of the residential units proposed adjacent to Port Chicago Highway and Willow Pass Road from which those roadways would be visible should be upgraded to STC 32 as shown in Figure-3 of the consulting acoustician's report. **(MM NOI-1)**

67. Mechanical ventilation (air conditioning) should be provided for all residential units in the development to allow the occupants to close doors and windows as desired to achieve compliance with the applicable interior noise levels. **(MM NOI-2)**



68. In order to ensure the acoustical isolation integrity of the party wall partitions, all electrical boxes shall be offset in separate stud cavities on either side of the partition (where possible), and "putty pads" shall be used around the electrical boxes. **(MM NOI-3)**

69. Resilient channels in unit-separation floor-ceiling assemblies should be the Clarke-Dietrich RC-Deluxe. Use of other RC's is not recommended due to inferior performance. **(MM NOI-4)**

### **Construction Restrictions**

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

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.ftb.ca.gov/aboutftb/holidays.shtml>

71. The project sponsor 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 and concrete pumps as far away from existing residences as possible. **(MM NOI-6)**

72. 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 A.M. and 4:00 P.M. and prohibited on Federal and State holidays. This restriction does not apply to typical material and equipment delivery or grading activities. **(MM NOI-7)**
73. Impact tools (e.g. jack hammers, pavement breakers) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used. External jackets on the tools shall be used where feasible. In addition, quieter methods such as using drills rather than impact equipment shall be used whenever feasible. **(MM NOI-8)**
74. A pre-construction meeting with the job inspectors and the general contractor/onsite manager shall be held to confirm that all noise mitigation measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed prior to beginning construction. **(MM NOI-9)**
75. The applicant shall notify neighbors within 300 feet of the subject property at least one week in advance of demolition, grading, and construction activities. **(MM NOI-10)**
76. 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 around the project site and shall also be distributed 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. The complaint log shall be available for review by County staff upon request. **(MM NOI-11)**

### **Construction Traffic**

77. Prior to the issuance of building and/or grading permits, the project applicant shall submit a Traffic Control Plan for review and approval of the County Public Works Department. At minimum, the plan shall include the following elements **(MM TRN-1)**:
- Suggested truck routes
  - Points of ingress and egress to the project site
  - Potential need for temporary traffic signals
  - Location and configuration of construction employee parking

### **PUBLIC WORKS DEPARTMENT CONDITIONS OF APPROVAL**

**FOR COUNTY FILE #DP15-3023**

**Applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance. Any exception(s) must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan submitted to the Community Development Division, of the Department of Conservation and Development, on November 17, 2015.**

**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.**

**General Requirements**

78. In accordance with Section 92-2.006 of the Ordinance Code, this development shall conform to all applicable provisions of the County Ordinance (Title 9). Any exceptions there from must be specifically listed in this conditional approval statement. The drainage, and road and utility improvements outlined below shall require the review and approval of the Public Works Department, which are based on the Site Plan received by the Community Development Department on November 17, 2015.
79. Improvement plans prepared by a Registered Civil Engineer shall be submitted to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the County Ordinance Code for the conditions of approval of this project. These plans shall include any necessary traffic signage and striping plans for review by the Transportation Engineering Division.

**Frontage Improvements (Port Chicago Highway)**

80. Contra Costa County Public Works Department has a three-year moratorium on all surface treated roads. The Port Chicago Highway and Willow Pass Road Way will be receiving a surface treatment August/September 2016. If the permittee's work damages the surface treatment, the permittee shall be required to replace the surface treatment with a Type II slurry seal pursuant to County standards. The limit of the slurry seal application shall be the full width of Willow Pass Road extending at least 10 feet beyond the ends of the trench cut along the length of the roads. Additionally, all existing pavement delineation covered by the slurry seal application shall be replaced in kind. Between the time that the existing pavement delineation is covered with slurry seal and the permanent pavement delineation is applied, temporary pavement delineation shall be furnished, placed, maintained, and removed.

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

#### **Frontage Improvements (Willow Pass Road)**

82. Pavement Moratorium: Contra Costa County Public Works Department has a three-year moratorium on all surface treated roads. The Port Chicago Highway and Willow Pass Road Way will be receiving a surface treatment August/September 2016. If the permittee's work damages the surface treatment, the permittee shall be required to replace the surface treatment with a Type II slurry seal pursuant to County standards.
83. The limits of the slurry seal application shall be the full width of Willow Pass Road extending at least 10 feet beyond the ends of the trench cut along the length of the roads. Additionally, all existing pavement delineation covered by the slurry seal application shall be replaced in kind. Between the time the existing pavement delineation is covered with slurry seal and the permanent pavement delineation is applied, temporary pavement delineation shall be furnished, placed, maintained, and removed.
84. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Willow Pass Road.
85. Concrete shall be saw cut prior to removal. Existing lines and grade shall be maintained. New curb and gutter shall be doveled into existing improvements.

#### **Frontage Improvements (Weldon Street)**

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

#### **Access to Adjoining Property**

87. Proof of Access: Applicant shall furnish proof to Public Works 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.

88. Encroachment Permit: Applicant shall obtain an encroachment permit from the County's Application and Permit Center for construction of sidewalks, pavement widening, driveways, drainage features, or other improvements within the right-of-way of Port Chicago Highway, and Willow Pass Road.
89. Site Access: Applicant shall only be permitted access at the locations shown on the approved site/development plan.

### **Sight Distance**

90. Applicant shall provide adequate sight distance at the on-site driveways with the road intersections with Port Chicago Highway and Willow Pass Road for a through traffic design speed of 45 miles per hour. Landscaping, walls, fences, signs, or any other obstructions must be placed to maintain adequate sight distance.

### **Bicycle – Pedestrian Facilities**

91. Pedestrian Access: 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.
92. 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.

### **Landscaping**

93. Applicant shall insure that all public and private landscaping, fences and gates, pool, recreation areas, monument signs, and any retaining walls on-site be privately maintained in perpetuity. A copy of a maintenance plan of operation for all common areas and perimeter walls/fences shall be submitted for the Public Works Department. The County will not accept these properties or facilities for ownership or maintenance.

### **Utilities/Undergrounding**

94. Applicant shall underground all new and existing utility distribution facilities, including those along the frontage of Port Chicago Highway. The 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.

### **Construction**

95. Applicant shall provide a pavement analysis for those roads along any proposed haul route or any alternate route(s) that are proposed to be utilized during hauling operations. This study shall analyze the existing pavement conditions and determine what impact the hauling operation will have over the life of the project. The study shall provide recommendations to mitigate identified impacts. The applicant shall construct any recommended repairs and execute a bonded road improvement agreement to ensure the roadways are repaired adequately prior to occupancy.

### **Maintenance of Facilities**

96. A Homeowner's Association (HOA) or other acceptable entity other than the County shall be formed to insure maintenance of all common areas, public and private landscaped areas, private drainage facilities, clean water facilities, retaining walls, monument signs and, fences/gates, etc. The County will not accept these facilities for maintenance.
97. Applicant shall develop and enter into a maintenance and plan of operation agreement that will ensure that all common areas, the on-site private roadway system, any private street lights, public and private landscaped areas, private drainage facilities, clean water facilities, retaining walls, and fences throughout the site will be maintained, for the review and approval of the Public Works and Community Development Departments.

### **Drainage Improvements**

98. The applicant shall collect and convey all storm water entering and/or originating on this property, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the storm waters to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code.
99. The applicant shall design and construct all storm drainage facilities in compliance with the Ordinance and Public Works design standards.
100. Exception: The applicant shall be permitted an exception to allow a diversion of storm water entering and/or originating on the subject property provided that the applicant verifies the adequacy of the storm water facility or natural watercourse to which the storm water shall be

directed. If the off-site conveyance system or ultimate drainage facility or natural watercourse to which storm water is proposed to be diverted is inadequate, the applicant shall be responsible for all costs related to the construction and/or right-of-way acquisition related to any necessary improvements to make the system adequate.

### **Miscellaneous Drainage Requirements**

101. Applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Design Standards.
102. Applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
103. Drainage Area 48B has inadequate maintenance funding. The construction of this development should not result in added costs or reduction of revenue for the County or Flood Control District. As one of the mitigation measures for the adverse drainage impacts of this development, the applicant shall annex into a County Maintenance Benefit Assessment District (MBAD) to provide a perpetual funding source for maintenance of the regional drainage area facilities. The County is in the process of forming this MBAD. If this MBAD is formed prior to final approval of this development, then the applicant shall annex into the MBAD.

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

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

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

- Minimize the amount of directly-connected impervious surface area.
- 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.

- Distribute public information items regarding the Clean Water Program and lot specific IMPs to buyers.
- Filtering inlets.
- The applicant shall sweep the paved portion of the site at least once a year between September 1<sup>st</sup> and October 15<sup>th</sup> 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.

### **Storm Water Management and Discharge Control Ordinance**

105. The applicant shall submit a FINAL Storm Water Control Plan (SWCP) and a Storm Water Control Operation and Maintenance Plan (O+M Plan) to the Public Works Department, which shall be reviewed for compliance with the County's National Pollutant Discharge Elimination System (NPDES) Permit and shall be deemed consistent with the County's Storm Water Management and Discharge Control Ordinance (§1014). To the extent required by the NPDES Permit, the Final Storm Water 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.

Improvement Plans shall be reviewed to verify consistency with the Final SWCP and compliance with Provision C.3 of the County's NPDES Permit and the County's Storm Water Management and Discharge Control Ordinance (§1014).

Storm water management facilities shall be subject to inspection by Public Works Department staff; all time and materials costs for inspection of storm water management facilities shall be borne by the applicant.

The property owner(s) shall enter into a standard Storm Water Management Facility Operation and Maintenance Agreement with Contra Costa County, in which the property owner(s) shall accept responsibility for, and related to, operation and maintenance of the storm water facilities, and grant access to relevant public agencies for inspection of storm water management facilities.

The property owner(s) shall annex the subject property into Community Facilities District (CFD) No. 2007-1 (Storm water Management Facilities), which funds responsibilities of Contra Costa County under its NPDES Permit to oversee the ongoing operation and maintenance of storm water facilities by property owners.



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**

**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. Comply with the Bridge/Thoroughfare Fee Ordinance requirements for the Bay Point Area of Benefit, the ECC Area of Benefit, and the ECCRFFA (RTDIM) Area of Benefit, as adopted by the Board of Supervisors. These fees must be paid prior to issuance of building permits.
- C. Comply with the Drainage Fee Ordinance requirements for Drainage Area 48B, as adopted by the Board of Supervisors. This fee must be paid prior to filing a Final Map.
- 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 Wildlife Code.
- F. Although the Storm Water 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 storm water 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. Prior to commencement of the use approved under this permit, the applicant may wish to contact the following agencies to determine if additional requirements and/or additional permits are required as part of the proposed project:

- County Building Inspection Division
- County Health Services Department, Environmental Health Division
- Delta Diablo Sanitary District
- Contra Costa County Fire Protection District
- Contra Costa Water District
- Mt. Diablo Unified School District