

Findings and Conditions of Approval

FINDINGS AND CONDITIONS OF APPROVAL FOR AYM, LLC. (Applicant and Owner):
County Files # GP16-0007, RZ17-3237, SD17-9466, DP17-3010

I. FINDINGS

A. General Plan Amendment

1. The subject site is located inside the County's Urban Limit Line (ULL), and therefore may be developed with "urban" or "non-urban" uses, as defined in the County General Plan. The proposed land use designation, Multiple-Family Residential Medium-Density (MM), is urban. Furthermore, the project does not involve extension of urban services beyond the ULL boundary.
2. Adoption of the proposed General Plan Amendment (GPA) will not conflict with the 65/35 Land Preservation Standard (the "65/35 Standard"), approved by County voters through adoption of Measure C-1990 and reaffirmed through adoption of Measure L-2006. Under the 65/35 Standard, no more than 35 percent of the land in the County may be developed with urban uses and at least 65 percent of the land must be preserved for non-urban uses such as agriculture, open space, parks, wetlands, etc. The existing land use designation for the subject site, Office (OF), is an urban land use designation. The site contains no non-urban land use designations. As the proposed MM land use designation is also an urban designation, there will be no change in the percentage of land devoted to urban and non-urban uses.
3. The project complies with the objectives and requirements of Measure J-2004, the Contra Costa Growth Management Program and related Contra Costa Transportation Authority (CCTA) resolutions. Adoption of the proposed GPA would not increase the subject site's maximum development potential from office use to eight multiple-family residential units. The project would result in less vehicle trip impact and is well below the Measure J threshold for studying the proposed GPA's potential impacts on Routes of Regional Significance.
4. The General Plan comprises an integrated, internally consistent, and compatible statement of policies for the County. The proposed GPA involves a change in use from office use to eight multiple-family residences at the subject site, but remains consistent with the Pacheco area policies of the General Plan. Adoption of the proposed GPA will not cause the General Plan to become internally inconsistent.

5. Pursuant to Government Code Section 65358(a), the General Plan may be amended if such amendment is deemed to be "in the public interest." The 2005-2020 Contra Costa County General Plan contains policies related to providing an adequate supply of housing and encouraging infill development on under-utilized sites within urbanized areas where necessary utilities already are installed. It is in the public interest to adopt the proposed GPA because the project as a whole furthers these policies.

B. Growth Management Findings

1. **Traffic:** Policy 4-c under the Growth Management Program (GMP) of the County's General Plan requires a traffic impact analysis be conducted for any project that is estimated to generate 100 or more AM or PM peak-hour trips. The project would allow an eight residential lot subdivision and one parcel for a private road and guest parking, and construction of a residence on each lot for a total of eight residences. The project would not generate more than 100 peak-hour trips, AM or PM. Further, compliance with the requirements of the Bridge/Thoroughfare Fee Ordinance, as adopted by the Board of Supervisors is required.
2. **Water:** The project is an urban in-fill site that is currently serviced by public utility systems. Uses on-site would include eight residences and irrigation of landscaped areas. Contra Costa Water District provides water service to the site and has indicated that sufficient capacity is available for the project.
3. **Sanitary Sewer:** The project is within the service area of the Central Contra Sanitary District who provides wastewater services for the project. The District has indicated that service is available for the project.
4. **Fire Protection:** The project is located immediately northwest from Contra Costa Fire Protection District Station - 9. The District provided comments requiring compliance with applicable fire codes and regulations. There is no significant increase in demand for fire services expected as a result of the project.
5. **Public Protection:** As the project will add to the County's population, Condition of Approval (COA) #14, requires that prior to the recording of the final map, the owner of the property shall participate in establishing a special tax for the parcels created by this subdivision. The collected tax money will be used to augment existing police services to accommodate for the incremental increase in population as a result of the subdivision.

6. **Parks and Recreation:** As the project will add to the County's population, COA #11 and 12 requires the project proponent to pay applicable Park fees per unit. The Park Impact fee collected will be used for acquisition of parkland and development of parks and recreational facilities. The Park Dedication requirement allows the developer of land for residential use to dedicate land, pay an in-lieu fee, or a combination of both for neighborhood and community park or recreational purposes.
7. **Flood Control and Drainage:** The project is located in Zone X, as designated on the Federal Emergency Management Agency's Flood Insurance Rate Maps; however, it is just outside the 100-year flood boundary as is indicated on the Vesting Tentative map. Based on the proposed finished floor elevations shown on the "Plot Plan Grading Plan," it appears that the finished floors are currently planned to be at least one foot above the adjacent base flood elevation. The applicant should comply with the requirements of the Federal Flood Insurance Program and the County Floodplain Management Ordinance (Ordinance No. 2000-33), as they pertain to future construction of any structures on this property.

The property is currently located within Drainage Area 88 and the Grayson Creek watershed. The site generally drains to Grayson Creek, which is east of the property. It appears that there are existing drainage facilities located along the project frontage on Center Avenue. The applicant will be required, as a condition of approval, to verify the adequacy of any downstream drainage facility accepting stormwater from this project prior to discharging runoff. If the downstream system is inadequate to handle the additional stormwater generated from the development, the applicant will be required to construct improvements to make the system adequate in order to satisfy the collect and convey requirements of the Ordinance code and be in compliance with Public Works Department design standards.

C. Rezoning Findings

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

Project Finding: The subject property has a General Plan land use designation of Office (OF). The project includes a General Plan amendment to allow the designation from OF to Multiple-Family Residential-Medium Density (MM). The eight residential lots and one parcel subdivision is a

permitted use in the MM General Plan land use designation, as the general plan designation allows townhomes. The MM General Plan land use designation identifies a density range of 12.0 – 21.9 units per net acre. The subject property is 0.49 acres – gross (0.41 acres – net) and the density of the property would yield a range of 5-9 units. The project is for eight residential lots, which results a density of 19 units/net acre. As proposed, the project would be within the MM density range and is consistent with the MM General Plan designation.

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 subject property is located within the established neighborhood of Pacheco. The surrounding area consists of single-family residences, multiple family residences, and commercial uses directly east and southeast of the property. The residential subdivision is a use consistent with the MM General Plan land use designation. 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 subdivision is located within an area that is developed with residential and commercial uses. The project to subdivide and build eight residential units will improve the current unimproved condition of the property. Further, the 2005-2020 Contra Costa County General Plan contains policies related to providing an adequate supply of housing and encouraging infill development on under-utilized sites within urbanized areas where necessary utilities already are installed. This project is consistent with the surrounding area consisting of residential development.

D. Tentative Map Findings

1. **Required Finding:** The advisory agency shall not approve a tentative map unless it finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general plan required by law.

Project Finding: The project is located within the Pacheco community, where surrounding uses include single-family residential, multiple-family residential,

and commercial. The project is to subdivide the 0.49-acre property into eight residential lots with one parcel for the private road and guest parking. The project is consistent with the proposed General Plan land use designation of Multiple-Family Residential-Medium Density (MM), which allows 12.0 – 21.9 units per net acre. The 0.49-acre property - gross (0.41 acres – net) would allow for 5 - 9 units. The eight residential lot subdivision would have a density of 19 units/net acre, which is within the MM density range. Thus, the project is consistent with the applicable policies for the MM land use designation.

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

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

E. Findings of Approval of P-1 Zoning District 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 subject property has a General Plan land use designation of Office (OF). The project includes a General Plan amendment to allow the designation from OF to Multiple-Family Residential-Medium Density (MM). The eight residential lots and one common area parcel subdivision is a permitted use in the MM General Plan land use designation. The MM General Plan land use designation provides a density range of 12.0 – 21.9 units per net acre. The subject property is 0.49 acres – gross (0.41 acres – net), which allows a range of 5 - 9 units. The project of allowing eight

residential lots would have a density of 19 units/net acre, which is within the SH density range. As proposed, the project is consistent with the County General Plan.

The County's General Plan also provides goals and policies that promote and encourage projects, such as this subdivision project within the Pacheco area. 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 project will be providing eight residences on a property that is underutilized, adjacent to other properties with residences, and adjacent to commercial uses. 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 MM. The variance to the lot area for P-1 (where a minimum of five acres is required) is also consistent with properties within the County, including the unincorporated Walnut Creek area (Westborough Condominium, Olympic Blvd., and Del Hombre Projects) that are less than five acres and have been rezoned to P-1. Policy 3-8 of the General Plan encourages infilling of already developed areas, where new development are preferred to vacant or under-used sites within urbanized areas, which have necessary utilities installed. Furthermore, the Housing Element identifies the removal of governmental constraints (i.e. eliminating the 5-acre minimum parcel size requirement for 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. There is a sidewalk along Center Avenue and no additional frontage improvements to the subject property along Center Avenue are required. Policy 5-24 encourages the use of alternative forms of transportation, such as transit, bike, and pedestrian modes. According to Figure 5-3 of the Transportation and Circulation Element, the subject property is located within a Transit Corridor and within Local Transit Service Area. Alternative modes of transportation are within close proximity to the property and are accessible for the housing provided. The county Connection on Pacheco Blvd. is located 570 feet east of the property and the applicant is required to provide short-term bicycle spaces on-site. 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 single-family and multiple-family residential development. Residential buildings in the area range from 1,028 to 7,629 square feet of living area. The residences for the eight lots will be three stories and range from 1,677 to 2,419 square feet of living area. The subdivision is located within an established neighborhood that provides a transition from commercial uses to the south and east to residential uses to the north and west of the property. The subject property is located within an area that is accessible to different modes of transportation (e.g. bicycle, transit, etc.). Overall, the proposed development will be 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 0.49-acre in size on a property currently zoned Single-Family Residential (R-6). The current MM General Plan land use designation, as well as the proposed MM designation permits residential uses such as the single-family residences and townhomes proposed. Applying the required setbacks for R-6 Zoning District would not be feasible, as the property is irregular in shape and is sloped upward towards the rear of the property. Therefore, the project includes a rezoning of the property to a Planned Unit District, P-1 to allow the construction of six townhomes and two standalone units on a property that is under-utilized and is an infill project. Overall, the subdivision will remain for residential use consistent with surrounding area.

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

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

Project Finding: The exception to the Subdivision Ordinance Section 98-6.010 requires parabolic vertical curves be used at changes of grade. Due to the required location of the site access relative to existing roadways, the limited depth of the parcel, the difference in elevation between the back of

the lot and the front and the required minimum length of the vertical curves, it would not be possible to fit a road using the two necessary vertical curves on the parcel.

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

Project Finding: If the site were to be lowered to avoid the need for vertical curves, connection into the existing storm drain system would not be possible because the onsite drain system would be too low due to the necessary bioretention basins.

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

Project Finding: The exception would not be detrimental to the public welfare because on-site traffic should be limited to residents and their guests and on-site vehicle speed will be low, similar to an apartment complex driveway.

G. 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: The project requires a variance to allow the rezoning of a 0.49-acre property from Single-Family Residential (R-6) to Planned Unit District (P-1). Under the P-1 Zoning District, a minimum of five acres is required. 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 MM General Plan land use designation.

Additionally, Table 6-39 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 and under-utilized properties. Other properties in the County that are less than the required five acres have been rezoned to P-1. In 2015, the Board of Supervisors approved the rezoning to P-1 of a 1.12-acre property identified as the Westborough

Condominium project located off Tice Valley, a 0.53-acre property located on Del Hombre Lane within the unincorporated Walnut Creek area. Subsequently, another 0.96-acre property located on Olympic Blvd. in the unincorporated area of Walnut Creek was also rezoned to P-1.

The project also includes a variance request to the public road setback of 10 feet. The project is a Planned Unit District development, where the setbacks are as proposed and the traditional zoning setbacks are not applied. However, this variance request is for a relief of a setback from a public road that is applicable to all zoning districts. The residential buildings along Center Avenue on Lots 4-8 will be located varying from 3-5 from the public road; however, the portion of the building that is closest to the public road is the front porch. The layout of the buildings on the lots are restricted due to the depth of the lot and requirement of the paved private road of 20 feet. The applicant has also reduced the number of lots proposed, initially nine lots for the project to accommodate a better site design. The portion of the building closest to the public road is the front porch entry. Granting of the variance requests would not be a special privilege inconsistent with the limitations of other properties in the vicinity and the respective land use district.

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

Project Finding: The proposal to rezone the property to P-1 on a 0.49-acre property would allow the construction of eight residences located on an under-utilized property. The project is compatible with the surrounding development in the area consisting of single-family and multiple-family residences, and commercial uses. Properties less than five acres have been rezoned to P-1 since 1978, including the 2015 and 2017 approval to rezone a 1.12-acre, a 0.53-acre, and a 0.96-acre properties 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. Thus, implementing the current zoning standards would deprive the subject property of rights enjoyed by other properties developed as multiple-family development.

The project also includes a variance request to the public road setback of 10 feet for Lots 4-8. The project is a Planned Unit District development, where

the setbacks for the project are as proposed. The short depth, irregular shape, and the requirement of the private road are special circumstances the subject property is challenged with. Hereto, implementing the public road setback would deprive the subject property of rights enjoyed by other properties developed as multiple-family projects.

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: 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. The P-1 Zoning District provides an opportunity for a cohesive design with flexible regulations. Further, the variance request for relief from the required public road setback of 10 feet will still meet the intent of the P-1 district, as the closest point to the public road is the front entry porch and the overall design is consistent with the development pattern in the area.

H. Tree Permit Findings

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

1. Reasonable development of the property will require the removal of seven trees will be necessary to construct the project. All feasible efforts have been made to retain the maximum number of trees, as well as, to preserve those trees, which are exceptional due to their visual prominence on the site.
2. Development of this project cannot be reasonably accommodated on other parts of the property due to the topography and irregular shape of the property.

II. CONDITIONS OF APPROVAL FOR COUNTY FILES #GP16-0007, RZ17-3237, SD17-9466, DP17-3010

Project Approval

1. The Vesting Tentative Map and Final Development Plan for an Eight Residential-Lot Subdivision and a parcel for the private road and guest parking spaces is APPROVED, as generally shown and based on the following documents:
 - Application and materials submitted to the Department of Conservation and Development, Community Development Division (CDD) on April 24, 2017;
 - Revised Vesting Tentative Map for Subdivision 9466, received on June 20, 2018, and Final Development Plans received on April 16, 2018;
 - Preliminary Geotechnical Investigation Report, prepared by Craig S. Shields, Rockridge Geotechnical, dated August 14, 2017;
 - Stormwater Control Plan, prepared by Joseph McCue, Luk and Associates, dated April 2018;
 - Arborist Report, prepared by Darren Edwards, Advance Tree Service and Landscaping, dated July 19, 2017 and Addendum dated June 14, 2018;
 - Cultural Resources Survey Report, prepared by Daniel Shoup and Jennifer Ho, Archaeological/Historical Consultants dated August 8, 2018; and
 - Environmental Noise Study, prepared by Brian Wourms, Charles M. Salter, Charles M. Salter Associates, Inc. dated May 30, 2018.

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

- *0.49 acres for the rezoning of the property to P-1*
(where five acres is required for residential use)
- *Public road setback for Lots 4-8 varying per lot from 3-5*
(where 10 feet is required)

Approval Contingent on Consistent Approval of Related General Plan Amendment and Rezoning Application

2. This subdivision is approved contingent upon approval of a general plan amendment request, County File #GP16-0007 from Single-Family Residential-Medium Density (SM) to Multiple-Family Residential-Medium Density (MM) and a rezoning request, County File #RZ17-3237 from Single-Family Residential (R-6) to Planned Unit District (P-1). If either, the general plan amendment or the rezoning application is not approved, then this approval shall be null and void.

Application Fees

3. This application is subject to an initial application deposit of \$15,215, 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 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.

Indemnification

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

Compliance Report

5. **At least 45 days prior to recordation of the Final Map or issuance of a grading or building permit, whichever occurs first**, the applicant shall provide a permit compliance report to the Department of Conservation and Development, Community Development Division (CDD) for review and approval. The report shall identify all conditions of approval that are administered by the CDD. The report shall document the measures taken by the applicant to satisfy all relevant conditions. Copies of the permit conditions may be obtained from the CDD. Unless otherwise indicated, the applicant will be

required to demonstrate compliance with the applicable conditions of this report prior to filing the Final Map.

The permit compliance review is subject to staff time and materials charges, with an initial deposit of \$1,500, which shall be paid at the time of submittal of the compliance report.

6. This Final Development Plan Permit includes approval of the design for the residences on Lots 1-8. Any changes to the approved plans stated above must be submitted for review and approval of CDD, and may require the submittal of an application, if deemed necessary.
7. If this approval expires or the Final Map is not recorded, then a Certificate of Compliance application shall be filed with CDD for the subject property prior to issuance of a building permit.

Inclusionary Housing Ordinance

8. This project is subject to the Inclusionary Housing Ordinance. Pursuant to Section 822-4.402 of the County Ordinance Code, a residential development of eight for-sale units shall require at least fifteen percent of the for-sale units to be developed and sold as inclusionary units. The applicant is required to construct 1.20 inclusionary housing units for the project. The applicant has submitted an Inclusionary Housing Plan dated April 24, 2017, which proposes to construct and sell one moderate income housing unit (shown on the site plan attached to the Inclusionary Housing Plan dated April 24, 2017 and identified as: Lot 2, Building 5) and to pay the in-lieu fee for the remaining fractional unit (0.20 unit) to comply with the County's Inclusionary Ordinance requirements.

For-Sale Inclusionary Housing (Inclusionary Housing Agreement)

9. **At least 90 days prior to the recordation of the Final Map or the filing of the first building permit for any portion of the residential development, whichever occurs first,** the applicant shall execute an Inclusionary Housing Agreement (form to be provided by the County) with the County pursuant to Chapter 822-4 to ensure that one of the approved units are affordable to and occupied by a "Moderate Income Household."

Pursuant to Chapter 822-4.402(b), the one inclusionary unit will be sold and occupied by a moderate income household. The inclusionary unit shall be deed restricted so that if the home is sold within three (3) years, it must be sold at an

affordable sales price to a moderate income household. The one inclusionary unit shall be deed restricted in order to ensure the continued affordability of this unit for at least three (3) years in accordance with Chapter 822-4 Inclusionary Housing Ordinance. The inclusionary unit shall be developed with the standards and restrictions in accordance with Chapter 822-4 of the County Ordinance.

Restrictions

For purposes of this condition, the following definitions apply:

- A. Moderate Income Households – Households earning up to 120 percent of the area median income for Contra Costa County as adjusted for family size as defined in Section 50093 of the California Health & Safety Code.
- B. Affordable sales price - means a sales price at which very low, lower, or moderate income households can afford to purchase an inclusionary unit, calculated using the affordable housing cost formula set forth in Health and Safety Code Section 33334.22(b), and taking into account reasonable down payment, assumed household size, and other ownership housing costs described in California Code of Regulations, Title 25, Section 6920. Under Health and Safety Code Section 33334.22(b), the affordable housing cost is calculated using the following standards: for very low income households, a standard of forty percent of fifty percent of the area median income; for lower income households, a standard of forty percent of seventy percent of area median income; and for moderate income households, a standard of forty percent of one hundred ten percent of area median income.
- C. Sale price and rent calculations shall take into account unit size with the following assumptions:

Studio	= 1 person
One bedrooms	= 2 persons
Two bedrooms	= 3 persons
Three bedrooms	= 4 persons
Four bedrooms	= 5 persons
Five bedrooms	= 6 persons
- D. The sales price calculation shall also take into account Anticipated Financing so that Housing Costs do not exceed the limits.

"Anticipated Financing" means private mortgage financing at current interest rates and terms. Anticipated Financing may include approved public agency down payments or second mortgage grants and loans.

"Housing Costs" include mortgage principal and interest, property insurance, property taxes, homeownership association dues, and expected utility costs.

Affordable Sales Price shall not exceed the market price, as determined by an independent appraisal.

For-Sale Inclusionary Housing In-Lieu Fee

10. **At least 90 days prior to recordation of the Final Map or issuance of building permits for any portion of the residential development**, the For-Sale Inclusionary Housing In-Lieu Fee of \$5,269.83 shall be paid in full for the remaining fraction of required inclusionary units (0.20 of a unit). This in-lieu fee is non-refundable.

Park Impact Fee

11. **Prior to submittal of a building permit for a new residence**, the applicant shall pay the applicable park impact fee as established by the Board of Supervisors.

Park Dedication Fee

12. **Prior to submittal of a building permit for a new residence**, the applicant shall pay the applicable park dedication fee as established by the Board of Supervisors.

Child Care

13. **Prior to submittal of a building permit for a new residence**, the applicant shall pay a fee of \$400.00 toward childcare facility needs in the area, as established by the Board of Supervisors.

Police Services District

14. **Election for Establishment of a Police Services District to Augment Police Services: Prior to the recordation of the Final Map**, the owner of the

property shall participate in the provision of funding to maintain and augment police services by voting to approve a special tax for the parcels created by this subdivision approval. The tax shall be per parcel annual amount (with appropriate future CPI adjustment) established at the time of voting by the Board of Supervisors. The election to provide for the tax shall be completed prior to filing the Final Map. The property owner shall be responsible for paying the cost of holding the election, payable at the time the election is requested by the owner. Allow a minimum of three to four months for processing.

CC&R's

15. Covenants, Conditions and Restrictions (CC&R's) shall be submitted for review with the final map, and shall be subject to review and approval by the CDD. This document shall provide for establishment, ownership and maintenance of the common open spaces, parking, fire protection, fencing, private streets, drainage maintenance, and establishment of signs. Additionally, CC&R's shall require occupants to maintain garage spaces in a manner, which makes them available for off-street parking.

Signs/Walls

16. All signs shall be subject to the review and approval of CDD.
17. The design, color and location of any project sign at the entrance to the property shall be reviewed and approved by CDD.
18. **At least 30 days prior to submittal of a building permit**, the details of the design, location, color and type of materials for masonry walls shall be submitted for the review and approval of CDD.

Lighting

19. **At least 30 days prior to submittal of a building permit**, a lighting plan for proposed exterior lighting shall be submitted to the Department of Conservation and Development, Community Development Division (CDD) for review and approval. The proposed exterior lighting shall be directed down so that lights shine onto the subject property and away from adjacent properties and away from Olympic Blvd. **(MM AES-1)**

Restitution for Tree Removal

20. Required Restitution for Approved Tree Removal: The following measures are intended to provide restitution for the removal of 5 code-protected trees and two additional trees on Center Avenue:
- A. Tree Restitution Planting and Irrigation Plan: **Prior to the removal of trees or submittal of building permits (e.g. demolition, grading or building) for each lot, 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 **seven California native species trees, 15-gallon trees**. The plan shall comply with the State's Model Water Efficient Landscape Ordinance or the County's 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. **The plan shall be implemented prior to final building inspection for each lot.**
 - 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) for each lot, 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 for each lot shall be retained by the County for a minimum of 12 months up to 24 months beyond the date of receipt of the security and from the time, the final inspection for the lot was approved. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist to inspect the trees and to prepare a report on the trees' health. In the event that CDD determines that the tree(s) intended to be protected has been damaged, and CDD determines that the applicant has not been diligent in providing reasonable restitution, then CDD may require that all part of the security be used to provide for mitigation of the damaged

tree(s). Should one security be submitted for all lots, the security may be released upon complying with the requirements stated above and upon approval of a final inspection for the last lot constructed.

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

Tree Protection

22. The applicant shall adhere to all of the recommended tree preservation measures outlined within the arborist report prepared by Advance Tree Service Landscaping dated June 14, 2018. All recommended tree protection measures shall be stated on the face of construction plans.
23. Prior to the start of any clearing, stockpiling, trenching, grading, compaction, paving or change in ground elevation on a site with trees to be preserved, the applicant shall install fencing at the dripline or other area as determined by an arborist report of all trees adjacent to or in the area to be altered. Prior to grading or issuance of any permits, the fences may be inspected and the location thereof approved by appropriate County staff.
24. No grading, compaction, stockpiling, trenching, paving or change in ground elevation shall be permitted within the dripline unless indicated on the grading plans approved by the County and addressed in any required report prepared by an arborist. If grading or construction is approved within the dripline, an arborist may be required to be present during grading and construction, an involved arborist shall prepare a report outlining further methods required for tree protection if any are required. All arborist expense shall be borne by the developer and applicant.
25. No parking or storing vehicles, equipment, machinery or construction materials, construction trailers and no dumping of oils or chemicals shall be permitted within the dripline within the dripline of any tree to be saved.

Landscaping

26. The landscaping plan shall conform to the State's Model Water Efficient Landscape Ordinance or the County's Ordinance, if one is adopted. **Prior to requesting a final inspection for each lot**, the approved landscaping shall be installed and evidence of the installation (e.g., photos) shall be provided for the review and approval of CDD.

Air Quality

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

The applicant shall post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. **(MM AIR-1)**

28. During construction, the project developer shall implement standard construction dust control measures recommended by the BAAQMD to include, which shall be stated on the face of all construction plans:

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

Cultural Resources

29. The following mitigation measure shall be implemented during project construction-related ground disturbance, and shall be stated on the face of all construction plans:

Should human remains be encountered during grading, trenching, or other on-site excavation(s), earthwork within 30 feet of the discovery should be stopped until the County Coroner has had an opportunity to evaluate the significance of the human remains and determine the proper treatment and disposition of the human remains. If the human remains are of a Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the property and provide recommendations for the proper treatment of the remains and associated grave goods. **(MM CUL-1)**

Should ground disturbance uncover Native American artifacts and/or human remains, the applicant shall immediately stop construction and notify Wilton Rancheria and the appropriate Federal and State agencies.

Geology

30. The updated geotechnical report shall include the following: (i) review of project grading and drainage plans, including the siting and design of C.3 bio-retention facilities, (ii) present California Building Code Seismic Design Parameters, (iii) provide geotechnical recommendations pertaining to site clearing, grading, foundation designs, slabs-on-grade, pavement, flat work, and drainage, (iv) outline of details of the proposed observation/monitoring/testing services recommended during construction. The geotechnical monitoring during construction shall commence with clearing, and extending through grading, installation of drainage facilities, and foundation-related work. The required geotechnical update report shall be subject to technical review by the County Peer Review Geologist, and for review and approval by the Department of Conservation and Development. **(MM GEO-1)**
31. The updated geotechnical report shall include additional corrosivity testing to determine if special precautions shall be required to avoid damage to improvements that are in contact with the ground (concrete or steel). Following rough grading, but prior to commencement of foundation-related work, additional testing of each building pad can be required by the County, if deemed to be necessary. **(MM GEO-2a)**
32. Prior to the issuance of building permits, the project geotechnical engineer shall certify that lot preparation work complies with the recommendations in the approved geotechnical report. **(MM GEO-2b)**
33. During foundation work, the project geotechnical engineer shall provide observations services to ensure the geotechnical recommendations are properly interpreted and implemented by the contractors. Prior to requesting a final building inspection, the Building Inspection Division may require documentation of the geotechnical engineer's observation services during final grading foundation work/lot drainage. The intent of such documentation is to ensure that the lot/building improvements are in conformance with recommendations in the approved geotechnical report. **(MM GEO-2c)**

Noise

34. The project shall comply with the requirements for Sound Transmission Class (STC) ratings for windows and exterior doors. STC rating for selected assemblies should be based on laboratory testing performed in accordance within ASTM E-90 and comprise the entire window or door assembly, including

the frame. If non-tested assemblies are to be used, an acoustical consultant must review the glazing and frame submittals, and the STC rating of the glass may need to be increased. The location of windows and doors shall comply with Figure 2 of the Noise Study prepared for this project prepared by Brian Wourms and Charles M. Salter. Verification of compliance shall be submitted.

(MM NOISE -1)

35. To reduce potential construction noise impacts, the following multi-part mitigation measure shall be implemented for the project, and shall be stated on the face of all construction plans:

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

New Year's Day (State and Federal)
Birthday of Martin Luther King, Jr. (State and Federal)
Washington's Birthday (Federal)
Lincoln's Birthday (State)
President's Day (State 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/eddsth.htm>

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

- C. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.

(MM NOISE -2)

Construction

36. Contractor and/or developer shall comply with the following construction, noise, dust and litter control requirements.

- A. A dust and litter control program shall be submitted for the review and approval of the Community Development Division staff. Any violation of the approved program or applicable ordinances shall require an immediate work stoppage. Construction work shall not be allowed to resume until, if necessary, an appropriate construction bond has been posted.
- B. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.

Debris Recovery

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

Street Names

38. **Prior to the recordation of the Final Map,** proposed names shall be submitted for review by the Department of Conservation and Development, GIS/Mapping Section. Alternate street names should be submitted. The Final Map cannot be certified by CDD without the approved street names.

Bicycle Parking

39. **Prior to issuance a building permit,** the applicant shall provide a revised site plan identifying the location for the required two bicycle spaces in accordance with County Code Section 82-16.412 for the review and approval of CDD.

PUBLIC WORKS CONDITIONS OF APPROVAL FOR PERMIT SD17-9466

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 (vesting) tentative map submitted to the Department of Conservation and Development on June 20, 2018.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO FILING OF THE FINAL MAP.

General Requirements:

40. In accordance with Section 92-2.006 of the Ordinance Code, this subdivision shall conform to all applicable provisions of the Subdivision Ordinance (Title 9). Any exceptions therefrom must be specifically listed in this conditional approval statement. The drainage, road and utility improvements outlined below shall require the review and approval of the Public Works Department and are based on the Vesting Tentative Map received by the Department of Conservation and Development, Community Development Division, on June 20, 2018.
41. The applicant shall submit improvement plans prepared by a registered civil engineer to the 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.

Roadway Improvements (Frontage):

42. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Center Avenue. 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:

Proof of Access

43. The applicant shall furnish proof to the Public Works Department of the acquisition of all necessary rights of way, rights of entry, permits and/or

easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.

Encroachment Permit

44. The applicant shall obtain an encroachment permit from the Application and Permit Center, if necessary, for construction of driveways or other improvements within the right-of-way of Center Avenue.

Abutter's Rights

45. The applicant shall relinquish abutter's rights of access along Center Avenue with the exception of the proposed private road intersection.

Road Alignment/Intersection Design/Sight Distance:

Sight Distance

46. The applicant shall provide sight distance at the private road and Center Avenue for a design speed of 45 miles per hour. The applicant shall trim vegetation, as necessary, to provide sight distance at these driveways. Any new landscaping, signs, fencing, retaining walls, or other obstructions proposed at the driveways shall be setback to ensure that the sight lines are clear. If the sight distance design does not meet the required standards, then the project shall be brought back to the County Planning Commission.

Private Roads:

47. The applicant shall construct an on-site roadway system to current County private road standards with a minimum traveled width of 16 feet, 2-foot shoulders, and within a 25-foot access easement.

Exception (Subject to Advisory Agency findings and approval):

The applicant shall be granted an exception to the Section 98-6.010 requirement that parabolic vertical curves be used at changes in grade provided that the applicant designs and constructs the access roadway in accordance with current County Standards for Driveway Profile Design.

Landscaping:

48. The applicant shall submit four sets of landscape and automatic irrigation plans and cost estimates (for landscaping and automatic irrigation in public right-of-way only), prepared by a licensed landscape architect, to the Public Works Department for review and to the Zoning Administrator for review and approval, prior to filing of the Final Map. Applicant shall pay appropriate fees in accordance with County Ordinance. Any landscaping approved and constructed within the public right-of-way shall be maintained by the property owner(s).
49. All landscaping to be maintained by the property owner shall be submitted to the Zoning Administrator for review and approval.

Bicycle - Pedestrian Facilities:Pedestrian Access

50. 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.
51. 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:

52. Parking shall be prohibited on one side of on-site roadways where the curb-to-curb width is less than 36 feet and on both sides of on-site roadways where the curb-to-curb width is less than 28 feet. "No Parking" signs shall be installed along these portions of the roads subject to the review and approval of the Public Works Department.

Utilities/Undergrounding:

53. The applicant shall underground all new and existing utility distribution facilities, including those along the frontage of Center Avenue. 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.

Maintenance of Facilities:

54. The maintenance obligation of all common and open space areas, private roadways, any private street lights, public and private landscaped areas, perimeter walls/fences, and on-site drainage facilities shall be included in the covenants, conditions, and restrictions (CC&Rs). The language shall be submitted for the review and approval of the Zoning Administrator and Public Works Department at least 60 days prior to filing of the Final Map for the first phase.
55. The applicant shall record a Statement of Obligation in the form of a deed notification to inform all future lot owner(s) of their obligation to maintain trees, shrubs and ground cover landscaping (landscaping features) at the expense of the lot owner(s). Applicant shall remove the landscaping features at the expense of the lot owner(s) should it become necessary in the future for the County to do any work in the public right-of-way. Maintenance and any removal of landscaping features may be performed through the Home Owners Association. This requirement shall be covenant, which shall run with the lot and shall bind all present and future owner(s) of the lot.

Drainage Improvements:

Collect and Convey

56. The applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the stormwater to a natural watercourse, in accordance with Division 914 of the Ordinance Code. Applicant shall verify the adequacy at any downstream drainage facility accepting stormwater from this project prior to discharging runoff. If the downstream system(s) is inadequate to handle the existing plus project condition for the required design storm, improvements shall be

constructed to make the system adequate. The applicant shall obtain access rights to make any necessary improvements to off-site facilities.

57. The nearest public drainage facility is a storm drain line located at along the project frontage on Center Avenue. Applicant shall verify its adequacy prior to discharging run-off.

Miscellaneous Drainage Requirements:

58. The applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.
59. 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):

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

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

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

Stormwater Management and Discharge Control Ordinance:

61. The applicant shall submit a FINAL Storm Water Control Plan (SWCP) and a Stormwater Control Operation and Maintenance Plan (O+M Plan) to the Public Works Department, which shall be reviewed for compliance with the County's National Pollutant Discharge Elimination System (NPDES) Permit and shall be deemed consistent with the County's Stormwater Management and Discharge Control Ordinance (§1014) prior to filing of the final map. 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.
62. 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).
63. Stormwater management facilities shall be subject to inspection by the Public Works Department staff; all time and materials costs for inspection of stormwater management facilities shall be borne by the applicant.
64. Prior to filing of the final map, 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.
65. Prior to filing of the final map, the property owner(s) shall annex the subject property into Community Facilities District (CFD) No. 2007-1 (Stormwater Management Facilities), which funds responsibilities of Contra Costa County under its NPDES Permit to oversee the ongoing operation and maintenance of stormwater facilities by property owners.
66. Any proposed water quality features that are designed to retain water for longer than 72 hours shall be subject to the review of the Contra Costa Mosquito & Vector Control District.

Drainage Area Fee Ordinance:

67. The applicant shall comply with the drainage fee requirements for Drainage Area 88 as adopted by the Board of Supervisors prior to initiation of the use requested with this application.

ADVISORY NOTES

ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL, BUT ARE NOT CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED IN ORDER TO INFORM THE APPLICANT OF ADDITIONAL REGULATIONS, ORDINANCES, AND REQUIREMENTS THAT MAY BE APPLICABLE TO THE PROPOSED PROJECT.

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

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

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

- B. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Pacheco Area of Benefit as adopted by the Board of Supervisors.
- C. The project is adjacent to a Special Flood Hazard Area (100-year flood boundary) as designated on the Federal Management Emergency Agency's Flood Insurance Rate Maps. The applicant shall be aware of the requirements of the National Flood Insurance Program and the County Flood Plain

Management Ordinance (Ordinance No. 2000-33) as they pertain to future construction of any structures on this property.

- D. This project is subject to the development fees in effect under County Ordinance as of July 20, 2018, the date the vesting tentative map application was accepted as complete by the Department of Conservation and Development. These fees are in addition to any other development fees, which may specified in the conditions of approval.
- E. The applicant shall comply with the requirements of the following agencies:
 - Department of Conservation and Development, Building Inspection Division
 - Contra Costa County Fire Protection District
 - Central Contra Costa Sanitary District
 - Contra Costa Water District

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