

FINDINGS AND CONDITIONS OF APPROVAL FOR HAMID TAEB – HABITAT FOR HUMANITY (APPLICANT & OWNER); COUNTY FILES #SD13-9340, DP13-3027, RZ13-3223 & GP13-0001

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 2005-2020 Contra Costa 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 cause a violation of the 65/35 Land Preservation Standard (the "65/35 Standard"), originally 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, Single-Family Residential Medium-Density (SM), 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 increase the subject site's maximum development potential from 7-12 single-family residential units to 29-53 multiple-family residential units. The project includes subdivision of the subject property into 29 new residential parcels and 6 common area parcels and construction of 29 new townhomes. The increase is 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 governing development in the unincorporated areas. Although the proposed GPA involves an increase in

density at the subject site, the MM designation is consistent with the policies for the Bay Point Area, amongst others, and the site will remain residential in nature. 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 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 is consistent with these policies and will increase the supply of affordable housing units. While the County is on pace to fulfill its overall Regional Housing Needs Allocation, 98.7 percent of the units constructed during the current housing cycle are in the moderate or above-moderate income categories. The proposed project will serve to increase the current number of units in the low income categories.

B. Growth Management Findings

1. Traffic: Policy 4-c of the Growth Management Element of the General Plan requires a traffic impact analysis of any project that is estimated to generate 100 or more additional AM or PM peak-hour trips. The proposed project consisting of a 29-lot subdivision and the construction of 29 single-family residences would generate an estimated 29 AM and 29 PM peak-hour trips, and therefore, is not required to have a project-specific traffic impact analysis. Therefore, there would be a less than significant impact on traffic in the local area.
2. Water: The project site currently receives water service from the Golden State Water District (GSWD). The project shall be submitted to and reviewed by GSWD, and, by meeting the development standards of GSWD, the project is expected to be accommodated by existing water facilities without expansion of the existing system. Accordingly, the impact of providing water service to the proposed project would be less than significant.
3. Sanitary Sewer: Wastewater generated by the proposed project would originate from the 29 new townhomes that would be constructed within the new subdivision. The project site is served by the Delta Diablo Sanitation District (DDSD). DDSD has received the project application comment request and has stated that wastewater services are available for the project with the

submittal, review and approval of DDS. By meeting the development standards of DDS, the proposed project is expected to be accommodated by existing DDS facilities without expansion of the wastewater treatment system. Thus, no significant impacts related to the wastewater treatment requirements of the Regional Water Quality Control Board for the San Francisco Bay Region would be expected.

4. Fire Protection: Fire protection and emergency medical response services for the project vicinity are provided by the Contra Costa County Fire Protection District (CCCFPD). The closest fire station to the subject property is Station #86 located approximately 2.1 miles away at 3000 Willow Pass Road, in Bay Point. The CCCFPD submitted comments on the project application detailing requirements for fire lane delineation, water supply, fire hydrants, and CCCFPD review of building permit submittals, amongst other items. Prior to operation of the proposed facility, the revised plans would be reviewed and approved by the CCCFPD. As a result, there is no significant increase in demand for fire services expected as a result of the project.

5. Public Protection: Police protection services in the project vicinity are provided by the Contra Costa County Sheriff's Office, through the Muir Station, located approximately 7.3 miles driving distance to the northwest of the project site. Public protection standards under Policy 4-c of the Growth Management Program (GMP) of the County General Plan require a Sheriff facility standard of 155 square feet of station area and support facilities per 1,000 in population shall be maintained within the unincorporated area of the County. The proposed project would not induce a significant population increase within the County that would equal or exceed 1,000 persons. The project would construct 29 new townhomes subsequent to subdividing the subject property, which would directly increase the Bay Point area population by an estimated 80 people, based on the Census 2010 estimate of 2.77 people per household for Contra Costa County. As the project will add to the County's population, Condition of Approval (COA) #12, 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, the project proponent is required by the conditions of approval 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 lies within the 0.02% Zone X flood boundary as designated on the Federal Emergency Flood Rate Maps. No special requirements per the Federal Flood Insurance Program or the County Flood Plain Management Ordinance (Ordinance No. 2000-33) are applicable to future construction of any structures on this property.

The project would not substantially alter the drainage pattern of the site or area or result in substantial erosion or siltation. The property is generally level and slopes from southwest to northeast toward Pacifica Avenue. Storm water presently sheet flows off the property over the sidewalk and into the street where it is collected by existing storm drain facilities and ultimately conveyed to tidal marsh lands north of the railroad tracks. The applicant has submitted a preliminary Storm Water Control Plan that provides an underground storm drain system with a bioretention basin. The system will tie this bioretention basin to the existing storm drain system in Pacifica Avenue, with the storm water being filtered before it is discharged to the offsite storm drain system. The bioretention basin would be designed to intercept storm water collected in the storm drains, remove pollutants from storm water, and allow for percolation into the ground or into the drainage pipes.

Division 914 of the County Ordinance Code requires that all storm water entering and/or originating on this property to be collected and conveyed, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having a definable bed and banks or to an existing adequate public storm drainage system which conveys the storm water to an adequate natural watercourse. A preliminary SWCP has been reviewed and deemed sufficient by the Public Works Department (PWD), who has recommended conditions of approval regarding storm water management. PWD has stated that review of the final SWCP is required prior to construction of improvements. Conformance of the proposed project with this PWD requirement would ensure that there would not be any significant risk due to an increase in the project-related volume of runoff that would result in onsite or off-site flooding.

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 SM. The project includes a General Plan amendment to allow the designation from SM to MM. The intent of the MM General Plan land use designation is to promote the orderly establishment of medium-density residential development. This designation allows between 12.0 and 21.9 multiple-family units per net acre, and sites can range up to 3,349 square feet. With an average of 2.5 persons per unit, population densities would normally range between about 30 to about 55 persons per acre. The proposed 29-unit subdivision of the 2.42-acre property would result in a density of 14.97 units per net acre, which falls well within the density range for the proposed MM designation and is an allowed use within the MM designation. As proposed, the project would be 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 currently a vacant lot and surrounded by primarily single-family residential development, but also multi-family residential development and public/semi-public land, such as Rio Vista Elementary School adjacent to the east, trails, parks and open spaces to be used by the local residents. The residential subdivision is a use consistent with the MM General Plan land use designation, as it will provide medium-density residential development in an established residential area of Bay Point. 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 29-unit residential subdivision is located within an area that is developed with primarily single-family residential development, but also multi-family residential development and public/semi-public land, such as Rio Vista Elementary School adjacent to the east, trails, parks and open spaces. The property is currently vacant, so the subdivision of the property and development of 29 new residential units will significantly improve the current

unimproved condition of the property. Furthermore, 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 would attain the goals of these housing policies, and the project is consistent with the surrounding area consisting of single-family and multi-family 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 site is located within an area that is developed with primarily single-family residential development, but also multi-family residential development and public/semi-public land, such as Rio Vista Elementary School adjacent to the east, trails, parks and open spaces. The project is to subdivide the 2.42-acre property into 29 residential lots with six common area parcels for the private road, open and recreational spaces for the residences, and guest parking. The project is consistent with the General Plan land use designation of Multiple-Family Residential-Medium Density (MM). This designation allows between 12.0 and 21.9 multiple-family units per net acre, and the 2.42-acre property (1.94 net acres) would allow for between 23 and 42 units. The 29 unit residential subdivision falls well within this range. Furthermore, 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. 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 Single-Family Residential-Medium Density (SM). The project includes a General Plan amendment to allow the designation from SM to Multiple-Family Residential-Medium Density (MM). The 29 residential lots and six 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 2.42 acres (1.94 net acres), which allows a range of 23 to 42 units. The project's 29 new residential lots are within the MM density range and are a use consistent with the MM designation.

The subject property is located within the Urban Limit Line (ULL) and is consistent with the following policies of the Land Use Element:

- *Policy 3-8: Infilling of already developed areas shall be encouraged. In accommodating new development, preference shall generally be given to vacant or under-used sites within urbanized area, which have the necessary utilities installed with available remaining capacity, before undeveloped suburban lands are utilized.*
- *Policy 3-28: New residential development shall be accommodated only in areas where it will avoid creating severe unmitigated adverse impacts upon the environment and upon the existing community*

The subject property is under-utilized, as it is currently vacant. Additionally, a four-lot minor subdivision was approved in 2009, which was never exercised. A higher-density project would be more appropriate, as it is an infill project in an already-developed area sandwiched between single-family and multiple-family residential uses. Additionally, all necessary utilities are available for the proposed project. The project would be a good transition from the high-density single-family and multi-family properties to the south and east to the medium-density single-family residence to the north. As shown in the CEQA Initial Study, the proposed project would not create unmitigated adverse impacts on the environment or the existing community. The Initial Study identified potentially significant impacts in the areas of Air Quality, Cultural Resources, Noise, and Tribal Cultural Resources, and proposed mitigation measures to reduce the impacts to a less-than-significant level.

The following Transportation Policy of the County's Transportation Element also supports the project.

- *Policy 5-24: Use of alternative forms of transportation, such as transit, bike, and pedestrian modes, shall be encouraged to provide basic accessibility to those without access to a personal automobile and help minimize automobile congestion and air pollution.*

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 proposed housing units.

The project is also consistent with the following Housing Goal and Policy of the County's Housing Element.

- *Goal 6: Provide adequate sites through appropriate land use and zoning designations to accommodate the County's share of regional housing needs.*
- *Policy 7.3: Encourage P-1 zoning areas with concentrations of applicants seeking variances.*

The County's General Plan also provides goals and policies that promote and encourage projects, such as this subdivision project within the Bay Point 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 29 residences on a property that is underutilized, adjacent to other properties with residences, and within close proximity to public spaces, public transit and 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 that are less than five acres and have been rezoned to P-1.

Overall, the 29 residential lot subdivision with six common area parcels complies with the MM General Plan land use designation and applicable General Plan policies.

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 subject site is an approximately 2.42-acre lot located at the southeast corner of Driftwood Drive and Pacifica Avenue in Bay Point and is adjacent to the Contra Costa Canal Trail. The subject property is located within the Single-Family Residential Medium Density (SM) General Plan Land Use designation and both the Single-Family Residential District (R-10) and General Agricultural District (A-2), within an established single-family and multi-family residential community of properties. The land to the northwest of the property and approximately 0.5 miles west of the property are established open space and agricultural lands within the A-2 zoning district. The parcels in the surrounding area vary greatly in size, and generally range from about 1,800 square feet to upwards of 130,000 square feet (3+ acres) with the average lot size being approximately 9,440 square feet. The project involves the subdivision of the subject property into 29 residential lots with six parcels for the private road and common areas. The 29 new townhomes will be two-story, single-family residential units, and will be developed in triplex and five-plex clusters around the subject property. The 29 units will be a mix of two-, three- and four-bedroom residences ranging in living area from approximately 992 square feet up to 1,442 square feet. Utilizing clusters of units throughout the subdivision disperses the density of the project, rather than centralizing it, in order to maintain the new buildings' harmony with the surrounding

development of high-density single-family residential development and multi-family residential development. The subdivision is located within an established neighborhood of single-family and multi-family residential development. The subject property is located within an area that is accessible to different modes of transportation (e.g. bus, BART, 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 a 2.42-acre parcel currently zoned Single-Family Residential (R-10) and General Agricultural (A-2). The current SM General Plan land use designation, as well as the proposed MM designation permits single-family residential development. Applying the limit of one single-family residence per legal lot from the R-10 and A-2 districts and the established density limits to the subject property limits its ability to provide housing units to the people of Contra Costa County. Therefore, the project includes a rezoning of the property to a Planned Unit District, P-1 to allow the construction of 29 townhouse single-family residences on a property that is under-utilized and is considered an infill project. Amending the General Plan designation to MM allows for the property to accommodate the increased number of units, while the P-1 zoning allows for comprehensive and harmonious development of the site that is custom-tailored to the subject property's conditions. Overall, the subdivision will remain for residential use consistent with surrounding area.

F. Housing Element (SB 166) Finding

1. Required Finding: Pursuant to Government Code Section 65863, (a) Each city, county, or city and county shall ensure that its housing element inventory described in paragraph (3) of subdivision (a) of Section 65583 or its housing element program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583 can accommodate, at all times throughout the planning period, its remaining unmet share of the regional housing need allocated pursuant to Section 65584, except as provided in paragraph (2) of subdivision (c). At no time, except as provided in paragraph (2) of subdivision (c), shall a city, county, or city and county by administrative, quasi-judicial, legislative, or other action permit or cause its inventory of sites identified in the housing element to be insufficient to meet its remaining unmet share of the regional housing need for lower and moderate-income households.

Project Finding: A component of preparing the County's Housing Element for the General Plan is the identification of vacant and underutilized sites suitable for residential development and an evaluation of the adequacy of these sites in fulfilling the County's share of the regional housing needs as determined by the Association of Bay Area Governments. This property is identified in the County's Housing Element site inventory with a unit potential of 23 lower income units.

This project includes 29 units, where four units will be deed restricted pursuant to the County's Inclusionary Housing Ordinance, three units will be deed restricted pursuant to a Neighborhood Stabilization Program award of funds, and 22 units will be market-rate units. Although this project proposes 16 fewer lower income units than identified in the County's Housing Element sites inventory, the developer is seeking other affordable housing funding sources with a goal to sell all townhomes at below-market rates.

Habitat for Humanity East Bay/Silicon Valley (Habitat), a non-profit housing developer, is the owner and developer of this project. Their overall mission is to construct decent and affordable housing for home ownership to stabilize and strengthen communities through home ownership. Habitat must obtain entitlements and can only commit to seven below-market-rate units and 22 market-rate units at this time. This project includes two, three, and four bedroom units. These unit types will increase housing opportunities for larger households, and the project proposes to maximize development of the site and increase the density allowed by 17 units. The existing general plan designation (SM) allows up to 12 units, where this project is proposing 29 units.

The County's Housing Element site inventory currently has a surplus of approximately 266 lower income units. Although this project will result in a reduction of 16 lower income units from the estimated 23 lower income units for the site, there is sufficient capacity on other identified sites that can accommodate the County's unmet share of the regional housing need for this cycle of the Housing Element.

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

On behalf of the applicant, the project's engineer, Aliquot Associates, submitted an exception request letter dated May 21, 2018, requesting exceptions from the following provisions of the County Ordinance Code:

- a) 98-6.006 Pavement across intersections
- b) 98-6.012 Minimum length of vertical curve
- c) 82-18.002 Sight obstructions at intersections – prohibited
- d) 914-2.004 Offsite collect and convey requirements
- e) 914-6.402 Discharge to roadside ditches

Pursuant to Section 92.6002, minor exceptions can be granted when the required findings can be made.

1. An exception request to Section 98-6.012 for the existing grade of the pavement of Pacifica Avenue being 8%, while the maximum grade allowed is 6%.

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

Project Finding: The existing grade of the pavement of Pacifica Avenue is 8%, while the maximum grade allowed is 6%. However, Pacifica Avenue is an existing public street and the grade is greater than 6%. As this condition is existing, it is an unusual circumstance/condition affecting this property, and, therefore the finding can be made to grant the requested exception.

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

Project Finding: The site is inaccessible if the intersection grade is not allowed to be greater than 6%. Reconstruction of Pacifica Avenue, a public road, to comply with the County Ordinance would place an undue burden on the property owner inconsistent with the requirements of similar projects.

- c. 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. As such, the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant.

Project Finding: Traffic generated by the project will be controlled by a stop sign, and sight distance from the private road and along Pacifica

Avenue will not be compromised due to this exception. As such, the project will maintain traffic safety features as required and will not be materially detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

2. An exception request to allow a sag vertical curve with a length of 30 feet at the main entrance to the project from Pacifica Avenue, where Section 98-6.012 requires a minimum of 50 feet.

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

Project Finding: The proximity of the curve to the intersection prohibits the length from meeting the 50-foot minimum. As such, the location of the vertical curve, with respect to the intersection, necessitates that the curve be less than 50 feet, or else the curve would occur within the right-of-way. Therefore, this constitutes an unusual circumstance or condition affecting the property.

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

Project Finding: In order to maintain proper drainage across the intersection and not allow drainage to enter the site, the new grade must slope out towards Pacifica Avenue. The grading of the project necessitates that the grade must slope back down after the intersection, and, therefore, a vertical curve is necessary.

- c. 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. As such, the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant.

Project Finding: The vertical curve included in the project will only be utilized by vehicles entering and exiting the project, and, therefore, will not affect surrounding properties. Ample sight distance for a 15 mile-per-hour (MPH) posted speed limit shall be maintained.

3. An exception request to allow the public leg of the sight obstructions at intersections triangle be positioned ten feet from the face of the Pacifica Avenue curb, rather than the right-of-way line, as defined under Section 82-18.002.

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

Project Finding: The sight triangle definition requires the sides of a compliant sight triangle (25 feet X 25 feet) be identical to the rights-of-way of the two intersecting streets. The subject street is in a common area parcel without a right-of-way line, so the back of the curb is used for that leg of the triangle. Pacifica Avenue is a public street, whose curb face is 13 feet from the right-of-way line. Usually, County public streets are designed with the right-of-way ten feet from the curb face. As Pacifica Avenue provides 13 feet, it provides an additional three feet for visibility in excess of the normal requirement. Therefore, there is an unusual circumstance affecting the property.

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

Project Finding: The exception provides the required space for access along the home intended to be located on Lot 4. The portion of the fence along the rear and side property lines within the sight triangle will be held to a height of 30 inches or the fence will be constructed on the hypotenuse sight line of the triangle. Both will comply with the geometric dimensions required by the Ordinance. However, without this exception, there would not be ample space for access around the new residence on Lot 4.

- c. 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: With Pacifica Avenue being wider than right-of-way standards, allowing a leg of the sight triangle to be positioned ten feet from the curb face will not compromise the required geometric dimensions and will provide conforming visibility at the intersection comparable to other compliant intersection designs in the County.

4. An exception request to Section 914-2.004 regarding offsite collect and convey requirements and Section 914-6.402 regarding discharge to roadside ditches.

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

Project Finding: The project site is located in Drainage Area 48C (DA 48C). Drainage from the project site enters a storm drain catchbasin adjacent to the site within Pacifica Avenue. This storm drain crosses Pacifica Avenue and discharges immediately into a ditch that flows northerly along Wharf Drive for approximately 600 feet before flowing to a curb and gutter for an additional 1,050 feet before entering another existing storm drain system. This storm drain system crosses Port Chicago Highway and discharges into marshy lowlands, which then crosses under the railroad tracks and eventually reaches Suisun Bay. As described, it is clear that this area has long stretches without any storm drainage facilities, and the path of drainage for this site travels overland for a long distance prior to reaching a storm drain system. As such, this is an unusual circumstance affecting this property inconsistent with most properties located within the County.

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

Project Finding: Under these existing conditions, it would be infeasible for this project to construct an adequate storm drain system for the full 1,650 feet along Wharf Drive, to verify the adequacy of the existing storm drain line down to the discharge point, and to study the effects on the marshlands. The distance and uncertainty related to existing utilities and drainage facilities in Wharf Drive necessitate that the site continue to drain in the same pattern as it currently does.

- c. 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 drainage study demonstrates that the post-development peak discharge can be mitigated to a level below the

pre-development discharge. Therefore, 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.

H. 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 2.42-acre property from R-10, Single-Family Residential Zoning 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 district. This would allow the development of smaller 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 of a 1.12-acre property identified as the Westborough Condominium project located off Tice Valley in Walnut Creek to P-1.

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 2.42-acre property would allow the construction of 29 new residences located on an vacant, under-utilized property. Overall, the project is compatible with the surrounding development in the area consisting of single-family and multi-family residential uses. Properties less than five acres have previously been rezoned to P-1 since 1978, including the 2015 approval to rezone a 1.12-acre property less than five acres to P-1. The County's Housing Element identifies the removal of the minimum five-acre requirement to encourage development

of infill properties. Thus, implementing the current zoning standards would deprive the subject property of rights enjoyed by other properties developed as multiple-family development.

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. Rezoning the property will allow for the construction of 29 residences, and this is determined to be compatible with the development in the surrounding area of single-family and multi-family uses.

I. Tree Permit Findings

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

- Reasonable development of the property will require the removal of 13 trees will be necessary to construct the project. All feasible efforts have been made to retain the maximum number of trees; however, the applicant has included a comprehensive landscaping plan that will substantially provide restitution for their removal.

II. CONDITIONS OF APPROVAL FOR COUNTY FILES #GP13-0001, RZ13-3221, SD13-9340 & DP13-3027

1. The Vesting Tentative Map and Final Development Plan for the 29 Residential-Lot and Six Common Area Lots Subdivision 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 July 24, 2013;

- Revised Vesting Tentative Map, Final Development Plan, Phasing Plan, and Landscaping Plan for Subdivision 9340, dated received on September 7, 2018;
 - Geotechnical Investigation Report, prepared by Rockridge Geotechnical, Inc., received December 21, 2017;
 - Stormwater Control Plan, prepared by Aliquot Associates, Inc. dated February 1, 2018;
 - Arborist Report, prepared by Traverso Tree Service received December 21, 2017.
 - Revised off-street parking plan received June 25, 2019.
2. Approval is granted to allow for the following variances that meet the requirements of Section 26-2.2006 of the County Ordinance Code:
- 2.42 acres for the rezoning of the property to P-1 (where five acres is required for residential use).

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

3. This subdivision is approved contingent upon approval of a general plan amendment request, County File #GP13-0001 from Single-Family Residential-Medium Density (SM) to Multiple-Family Residential-Medium Density (MM) and a rezoning request, County File #RZ13-3221 from Single-Family Residential (R-10) and General Agricultural (A-2) to Planned Unit District (P-1). If the general plan amendment is not approved and/or the site is not rezoned, then this approval shall be null and void.

Application Fees

4. This application is subject to an initial application deposit of \$18,175, 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

5. 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 full in the defense.

Prior to recordation of the Final Map, or issuance of grading or building permits, whichever occurs first, the applicant shall submit the indemnification agreement between the applicant and Contra Costa County for the review and approval of CDD.

Compliance Report

6. **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.

7. This Final Development Plan Permit includes approval of the design for the residences. 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.

Off-Street Parking

8. Prior to recordation of the Final Map, the applicant shall revise the project plans to include the four additional parking spaces, as shown in the revised off-street parking plan received June 25, 2019.

Inclusionary Housing Ordinance

9. This project is subject to the Inclusionary Housing Ordinance. Pursuant to Section 822-4.402 of the County Ordinance Code, a residential development of 29 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 4.35 inclusionary housing units for the project. The applicant has submitted an Inclusionary Housing Plan (Housing Plan) dated August 9, 2018, which proposes to construct and sell one Lower Income Housing Unit and three Moderate Income Housing Units (as shown on the site plan attached to the Housing Plan, which identifies one (1) two-bedroom unit, two (2) three-bedroom units, and one (1) four-bedroom unit as part of Phase 2 of the subdivision) and to pay the in-lieu fee for the remaining fractional unit (0.35 unit) to comply with the County's Inclusionary Ordinance requirements. Any proposed changes to the Housing Plan is subject to the review and approval of the Department of Conservation and Development.

For-Sale Inclusionary Housing (Inclusionary Housing Agreement)

10. **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 three of the approved units (one three-bedroom, one four-bedroom, and one two-bedroom) are affordable to and occupied by a "Moderate Income Household" and one of the approved units (one three-bedroom) is affordable to and occupied by a "Lower Income Household."
11. Pursuant to Chapter 822-4.402(b), the four inclusionary units will be sold and occupied by lower income and moderate income households. 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 lower income or moderate income household, depending on the unit designation. The four inclusionary units 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. Lower Income Households: Households whose income does not exceed the lower income limits applicable to Contra Costa County, adjusted for household size, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50079.5.
- B. 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.
- C. Affordable sales price: 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. Affordable Sales Price shall not exceed the market price, as determined by an independent appraisal.
- D. Sale price and rent calculations shall take into account unit size with the following assumptions:
 - i. Studio = 1 person
 - ii. One bedrooms = 2 persons
 - iii. Two bedrooms = 3 persons
 - iv. Three bedrooms = 4 persons

- v. Four bedrooms = 5 persons
- vi. Five bedrooms = 6 persons

E. 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.

For-Sale Inclusionary Housing In-Lieu Fee

12. **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 \$8,989.74 shall be paid in full for the remaining fraction of required inclusionary units (0.35 of a unit). This in-lieu fee is non-refundable.

Park Impact Fee

13. **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

14. **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

15. **Prior to submittal of a building permit for each 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

16. **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

17. 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.

Lighting

18. **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 Pacifica Avenue.

Restitution for Tree Removal

19. Required Restitution for Approved Tree Removal: The following measures are intended to provide restitution for the removal of 13 code-protected trees:
 - A. Tree Restitution Planting and Irrigation Plan: **Prior to the removal of trees or submittal of building permits (e.g. demolition, grading or building) 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 a total of **15 California-native-species trees, no larger than 15 gallons in size**. The plan shall comply with the State's Model Water Efficient Landscape Ordinance or the County Ordinance, if one is adopted. The plan shall be accompanied by an estimate prepared by a licensed

landscape architect or arborist of the materials and labor costs to complete the improvements on the plan. **The plan shall be implemented in each phase prior to final building inspection for the final lot in each phase.**

- 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.

Tree Protection

- 20. Tree removal shall not occur until building permits are issued for construction.
- 21. The applicant shall adhere to all of the recommended tree preservation measures outlined within the arborist reports prepared by Traverso Tree Service received December 21, 2017. All recommended tree protection measures shall be placed on the face of construction plans.
- 22. 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.

23. 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.
24. 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.

Pre-Construction Survey

25. In order to avoid impacts to nesting birds, a nesting survey shall be conducted 15 days prior to commencing with grading, construction work or tree removal if this work would commence between February 1st and August 31st. The nesting survey should include an examination of all trees on-site and within 200 feet of the entire project site (i.e., within a zone of influence of nesting birds), not just trees slated for removal. The zone of influence includes those areas off the project site where birds could be disturbed by earth-moving vibrations and/or other construction-related noise.
26. If birds are identified nesting on or within the zone of influence of the construction project, a qualified biologist shall establish a temporary protective nest buffer around the nest(s). The nest buffer should be staked with orange construction fencing. The buffer must be of sufficient size to protect the nesting site from construction-related disturbance and shall be established by a qualified ornithologist or biologist with extensive experience working with nesting birds near and on construction sites. Typically, adequate nesting buffers are 50 feet from the nest site or nest tree drip line for small birds and up to 300 feet for sensitive nesting birds that include several raptor species known in the region of the project site that are not expected to occur on the project site. Upon completion of nesting surveys, if nesting birds are identified on or within a zone

of influence of the project site, a qualified ornithologist/biologist that frequently works with nesting birds shall prescribe adequate nesting buffers to protect the nesting birds from harm.

27. No construction or earth-moving activity shall occur within any established nest protection buffer prior to September 1st unless it is determined by a qualified ornithologist/biologist that the young have fledged and have attained sufficient flight skills to avoid project construction zones, or that the nesting cycle is otherwise completed. In the region of the project site, most species complete nesting by mid-July. This date can be significantly earlier or later, and would have to be determined by the qualified biologist. At the end of the nesting cycle, and abandonment of the nest by its occupants, as determined by a qualified biologist, temporary nest buffers may be removed and construction may commence in established nesting buffers without further regard for the nest site.

Landscaping

28. **Prior to issuance of a building permit**, a final landscaping and irrigation plan shall be submitted for the review and approval of CDD. The landscaping plan shall conform to the State's Model Water Efficient Landscape Ordinance or the County Ordinance, if one is adopted. **Prior to requesting a final inspection for the final lot of each phase**, the approved landscaping shall be installed and evidence of the installation (i.e. photos) shall be provided for the review and approval of CDD.
29. The final landscaping and irrigation plan shall include screening provisions along Pacifica Avenue (i.e. tree planting, hedges, fencing, etc.), subject to the review and approval of CDD.

Air Quality

30. The following Bay Area Air Quality Management District, Basic Construction Mitigation Measures shall be implemented during project construction and shall be included on all construction plans **(MM AIR-1)**:
- 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 and operational equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- H. 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.

Cultural Resources

- 31. If deposits of prehistoric or historical archaeological materials are encountered during ground disturbance activities, all work within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA), and the Native American tribe that has requested consultation and/or demonstrated interest in the project site, have had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s) if deemed necessary. **(MM CUL-1)**
- 32. If the deposits are not eligible, avoidance is not necessary. If the deposits are eligible, they will need to be avoided by impacts or such impacts must be mitigated. Upon completion of the archaeological assessment, a report should be prepared documenting the methods, results, and recommendations. The

report should be submitted to the Northwest Information Center and appropriate Contra Costa County agencies.

Prehistoric materials can include flake-stone tools (e.g., projectile points, knives, choppers) or obsidian, chert, or quartzite tool-making debris; culturally darkened soil (i.e., midden soil often containing heat-affected rock, ash and charcoal, shellfish remains, and cultural materials); and stone milling equipment (e.g., mortars, pestles, handstones). Historical materials can include wood, stone, concrete, or adobe footings, walls and other structural remains; debris-filled wells or privies; and deposits of wood, glass ceramics, and other refuse. **(MM CUL-2)**

33. If human remains are encountered, work within 50 feet of the discovery should be redirected and the County Coroner notified immediately. At the same time, an archaeologist should be contacted to assess the situation. If the human remains are of a Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the property and provide recommendations for the proper treatment of the remains and associated grave goods.

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

Geology

34. An updated geotechnical report shall be prepared by the project geotechnical engineer to confirm (or modify) the preliminary opinions on the hazard posed by highly expansive soil indicated in the data provided by Rockridge Geotechnical, Inc.. **Prior to the submittal of building permits**, the updated geotechnical report shall be submitted for the review by the County Geologist and review/approval by CDD. This report must be accompanied with a \$750.00 deposit.
35. **Prior to the submittal of building permits**, the project geotechnical engineer shall review grading, drainage, and foundation plans for consistency with recommendations in the updated/approved geotechnical report. The letter

issued by the project geotechnical engineer, along with comments on the building plans, shall include provisions for observation and testing services to ensure that all geotechnical recommendations are properly implemented during construction. This letter-report shall be subject to review by the County Geologist and review/approval by CDD.

36. The updated geotechnical report and grading, drainage, and foundation plans shall be subject to the review by the County Geologist and review and approval by CDD.

Noise

37. 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 **(MM Noise-1)**:

- A. 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.
- B. 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.
- C. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.
- D. 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: http://www.opm.gov/Operating_Status_Schedules/fedhol/2019.asp

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

Construction

38. 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

39. **Prior to issuance of building permits**, the applicant shall submit Construction Waste Management Plan, which identifies approved methods to meet 65% recycling requirement of construction and demolition waste materials generated at jobsite.
40. **Prior to final inspection**, the applicant shall submit Construction Waste Management Final Report containing information and supporting documentation that demonstrates compliance with 65% recycling requirement of construction and demolition waste materials generated at jobsite.

Transportation Demand Management

41. **At least 30 days prior to recording the Final Map**, the applicant shall submit a Transportation Demand Management (TDM) information program in accord with the requirements of Chapter 82-32 of the County Zoning Code for review and approval by CDD. The applicant shall also comply with the County Growth Management Program and Bay Area Air Quality Management District regulations regarding transportation.

Street Names

42. **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.

**PUBLIC WORKS CONDITIONS OF APPROVAL FOR
SUBDIVISION SD13-9340/DP13-3027/RZ13-3223/GP13-0001**

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/development plan submitted to the Department of Conservation and Development on September 7, 2018.

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

General Requirements

43. 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 September 7, 2018.

Roadway Improvements (Pacifica Avenue)

44. Applicant shall construct necessary longitudinal and transverse drainage and street lighting along the frontage of Pacifica Avenue.
45. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Pacifica 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.
46. Applicant shall construct a street-type connection with 20-foot radii curb returns in lieu of standard driveway depressions at the main private street/parking lot entrance serving the site. A standard driveway depression is allowed for the private street/parking lots entrance serving lots 1 through 3.
47. Applicant shall install safety related improvements on Pacifica Avenue. These include any signing and striping additions or changes along the project frontage or off-site as may be deemed necessary by the Public Works Department.

Access to Adjoining Property

Proof of Access

48. 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

49. Applicant shall obtain an encroachment permit from the Application and Permit Center for construction of driveways or other improvements within the right-of-way of Pacifica Avenue or Wharf Drive.

Abutter's Rights

50. Applicant shall relinquish abutter's rights of access along Pacifica Avenue with the exception of the proposed private road intersection and common driveway serving Lots 1, 2 and 3.

Road Alignment/Intersection Design/Sight Distance

Sight Distance

Exception (Subject to Advisory Agency findings and approval)

51. County Code Section 82-18.002 Sight obstructions at intersections – prohibited: Applicant shall provide sight distance at the intersection of the private driveway with Pacifica Avenue in accordance with Chapter 82-18 "Sight Obstructions at Intersections" of the County Ordinance Code modified as follows:

The setback sight triangle shall be measured at a 10-foot offset from the point of intersection from the face of the intersecting curbs.

The applicant shall trim vegetation, as necessary, to provide sight distance at this intersection, and any new signage, landscaping, fencing, retaining walls, or other obstructions proposed at this intersection shall be setback to ensure that the sight line is clear of any obstructions.

Private Roads

52. Applicant shall construct the on-site roadways/travelway to current County private road standards, subject to the review of the Fire District. Although the proposed on-site roadways are to remain private, the pavement structural section shall conform to County public road standards. A reduced structural section under designated parking stalls may be allowed subject to the recommendation of the geotechnical engineer and review and approval of Public Works Department.

Bicycle - Pedestrian Facilities

Pedestrian Access

53. 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. 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.

54. 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

55. On-street parking is prohibited along the project frontage of Pacifica Avenue due to the presence of the exclusive bike lane. Additional signage or pavement markings may be required subject to review and recommendation of the Public Works Department.
56. With the exception of those areas of the parking lots where parking spaces are designated on the vesting tentative map, parking shall be prohibited on one side of on-site roadways where the drive aisle is less than 36 feet and on both sides of the on-site roadways where the drive aisle width is less than 28 feet. "No Parking" signs shall be installed along these portions of the roads/drive aisles subject to the review and approval of the Fire Marshal and Public Works Department.

Utilities/Undergrounding

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

Drainage Improvements

Collect and Convey

58. The applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage system, to *an adequate* natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the storm waters to *an adequate* natural watercourse, in accordance with Division 914 of the Ordinance Code.
59. The nearest public drainage facility is the storm drain located near the southwest corner of the subject property. The applicant shall verify its adequacy prior to discharging run-off.

Maintenance of Facilities

60. Property Owner shall record a Statement of Obligation in the form of a deed notification, to inform all future property owners of their legal obligation to maintain the private roadway and street lights.
61. Property Owner shall develop and enter into a maintenance agreement that will insure that the proposed private road and street lights will be maintained, and that each parcel/lot in this subdivision that will use the proposed private road and street lights will share in its maintenance.
62. 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.
63. Applicant shall insure that all public and private street lights and landscaping, private roads, and any retaining walls on-site be privately maintained in perpetuity. A maintenance plan of operation for all common areas, private roads and perimeter walls/fences shall be submitted for Public Works Department review. The County will not accept these properties or facilities for ownership or maintenance.
64. 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 landscaping and appurtenant features and hardscape 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. 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

65. The applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the stormwater to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code.
66. The nearest acceptable public drainage facility is the Line A of DA 48C crossing of Wharf Drive.

Exceptions

- County Code Section 914-2.004 Offsite collect and convey requirements: The applicant shall be permitted an exception to allow a diversion of stormwater entering and/or originating on the subject property provided that the applicant verifies the adequacy of the surface drainage infrastructure (i.e. ditches, culverts and gutter capacity) to which the stormwater shall be directed. If the off-site conveyance system 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 and/or construction of on-site detention to restrict stormwater discharge from the project site to pre-project peak flow rates.
- County Code Section 914-6.402 Discharge to roadside ditches: Applicant shall be permitted an exception to allow discharge of stormwater to roadside ditches provided that the applicant verifies the adequacy of the downstream ditch system or constructs any necessary improvements to make this system adequate to handle ultimate stormwater runoff.

Miscellaneous Drainage Requirements

67. The applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.
68. Applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
69. A private storm drain easement, conforming to the width specified in Section 914-14.004 of the County Ordinance Code, shall be dedicated over proposed storm drain lines traversing the site that encroach into numbered lots or any lettered parcels that are not included in common area owned by the HOA.

National Pollutant Discharge Elimination System (NPDES)

70. 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:

- A. Offer pavers for household driveways and/or walkways as an option to buyers.
- B. Minimize the amount of directly connected impervious surface area.
- C. 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.
- D. Place advisory warnings on all catch basins and storm drains using current storm drain markers.

- E. 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.
- F. Distribute public information items regarding the Clean Water Program and lot specific IMPs to buyers.
- G. Shared trash bins shall be sealed to prevent leakage, OR, shall be located within a covered enclosure.
- H. Other alternatives comparable to the above as approved by the Public Works Department.

Stormwater Management and Discharge Control Ordinance

- 71. 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.
- 72. 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).
- 73. 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.
- 74. 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.

75. 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.
76. 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.
77. All treatment BMP/IMPs constructed within each phase of the proposed development shall be designed and sized to treat, at a minimum, stormwater generated from each phase constructed.

Drainage Area Fee Ordinance

78. The applicant shall comply with the drainage fee requirements for Drainage Area 48C as adopted by the Board of Supervisors.

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 Bay Point and East Contra Costa Regional Fee & Finance Authority (ECCRFFA/RTDIM) Areas of Benefit as adopted by the Board of Supervisors.
- C. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife, 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.
- D. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- E. This project is subject to the development fees in effect under County Ordinance as of October 8, 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.
- F. The applicant shall comply with the requirements of the following agencies:
 - Contra Costa County Building Inspection Division
 - Contra Costa County Public Works Department
 - Contra Costa Environmental Health Division
 - Contra Costa County Fire Protection District
 - Delta Diablo Sanitary District
 - Golden State Water District
 - East Bay Municipal Utility District