

**FINDINGS AND CONDITIONS OF APPROVAL – COUNTY FILE #'S RZ18-3244 AND SD18-9495; LENOX HOMES, LLC (APPLICANT) AND HARREL TRUST (OWNER)**

**I. FINDINGS**

**A. Growth Management Findings**

- 1. Traffic:** Streets that provide access to and around the project site include Concord Boulevard, Ayers Road, and Laurel Drive. Regional access to the project site is provided by Kirker Pass Road, Interstate 680 and Highway 4.

Traffic engineers and planners use the concepts of Level of Service (LOS) and Vehicle Miles Traveled (VMT) to qualitatively describe traffic conditions. Additionally, the Contra Costa Transportation Authority (CCTA) Growth Management Plan, the West Contra Costa Transportation Advisory Committee (WCCTAC) Action Plan and the County of Contra Costa (County) General Plan establish measures of effectiveness and requirements for the analysis and disclosure of circulation impacts associated with new land developments. Potential circulation impacts may be expected, and traffic impact analyses are required for projects that generate more than 100 or more net new peak-hour trips. A project generating less than 100 peak-hour trips generally will not create or exacerbate any current traffic patterns. Using standard Institute of Transportation Engineers (ITE) Trip Generation trip rates, the 8-unit project will generate 7 gross a.m. peak-hour trips and 9 gross p.m. peak-hour trips. Based on the fact, that there is limited other new residential development potential in the immediate area, the cumulative effect to local roadways will be negligible.

As part of project implementation, a sidewalk and guest parking will be constructed within the new private road right-of-way. Once completed, the roadway improvements will improve pedestrian safety for current and future residents of the area. Additionally, these improvements will provide a safer means for neighborhood children to access local schools. This is viewed as a positive contribution for the existing residents of the area and potential future homeowners within the subdivision.

- 2. Water:** The proposed project is located at a suburban in-fill site that is currently serviced by public utility service systems. Proposed uses on-site would include 8 new residences and irrigation of landscaped areas. Contra Costa Water District provides water related services to the project site and have indicated that sufficient capacity exists for the project.

- 3. Sanitary Sewer:** No municipal sewer service is presently serving the subject property, however, the site is contiguous to the City of Concord boundaries which affords the project an opportunity to annex into the City of Concord boundaries or enter into an Out of Area Service agreement in order to receive wastewater services. Either of these options will require approval from the Contra Costa Local Agency Formation Commission (LAFCO). City of Concord staff has issued a Will Serve Letter indicating that wastewater services are available to the development.
- 4. Fire Protection:** The project is located 1.8 miles from Contra Costa Fire Department Station #8. In a memorandum dated, January 23, 2019, Fire District staff provided basic requirements for the development. Compliance with all applicable fire codes and regulations suggests that the project will not increase fire related risks beyond any acceptable levels.
- 5. Public Protection:** As the project will add to the County's population, condition of approval (COA) #16, 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 8 lot subdivision.
- 6. Parks and Recreation:** As the project will add to the County's population, COA #14 requires the project proponent to pay applicable Park Dedication in-lieu fees per unit. That fee in conjunction with all other Park Dedication fees collected for development within the County will be used in part to purchase new park land and upgrade existing community parks as determined appropriate by the Board of Supervisors.
- 7. Flood Control and Drainage:** The applicant must comply with the County's National Pollutant Discharge Elimination System Permit and Stormwater Management and Discharge Control Ordinance Title 10, for stormwater treatment. To comply, submittal of a final stormwater control plan, operation and maintenance plan, and actual construction of the necessary stormwater treatment facilities is required. Additionally, payment of drainage area DA 33B fees is required prior to filing of the Final Map. The collected fee will in part fund infrastructure within that drainage area. Furthermore, the applicant has provided a Stormwater System Analysis, dated October 3, 2018, indicating that sufficient capacity exists in the Karas Court drainage system to accommodate the project's additional rainwater flow. The Public Works Department staff has reviewed the analysis and accepted the report's findings. Therefore, compliance with all applicable codes and regulations suggests that the project will not represent any unacceptable risks with respect to drainage.

## **B. Re-zoning Findings**

Section 26-2.1806 of the County Ordinance Code requires specific findings to be made by the planning agency when a request for change in land use district is made; they are as follows:

1. **Required Finding:** *The change proposed will substantially comply with the General Plan.*

**Project Finding:** The site's current zoning designation is R-40 Single-Family Residential District. Changing the zoning of the site to R-15 Single-Family Residential District will remain consistent with the Single-Family Residential-Low Density (SL) General Plan designation for this location. The SL designation allows a range of 1.0 to 2.9 single family units per net acre. With a total net area of 3.1 acres for this site (3.6 acres gross minus 0.5 acres for roadway improvements, etc.), the project is allowed to have 9 residential units. As the project includes 8 new residential lots, the project is within the allowable density range of the SL designation. No other uses are proposed with the application other than an access road, drainage and frontage improvements. For these reasons, approval of the re-zoning is appropriate and would substantially comply with the General Plan.

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

**Project Finding:** The subject site is bordered by residential developments of similar densities. Uses allowed by the R-15 Zoning District include, single-family residences, accessory buildings, care facilities and other uses indicative of a residential neighborhood. Re-zoning the site from R-40 to R-15 will not result in any uses capable of producing toxic waste, noise or vibrations. As the project includes a complete clearing of the site, no current uses or structures will become non-conforming or inconsistent with the approved R-15 designation. Thus, the uses allowed in the R-15 Zoning District are found to be compatible with uses previously authorized for the site and currently established in adjacent districts.

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

**Project Finding:** Approval of the rezoning request from R-40 Single-Family Residential District to R-15 Single-Family Residential District is necessary in order to construct the 8-lot subdivision project. The existing single-family residence has been

established on the 3.6-acre property for many decades. Historical use of the property included agricultural activities from 1939 to 1974, which no longer exist at the site or in the general area. Within the past few decades, much of the surrounding land has been re-zoned to similar zoning districts that allow higher residential densities (e.g., R-6, R-10, R-15 and R-20). Therefore, approval of this rezoning will in part allow construction of 8 new single-family residences that will provide additional housing options for the residents of the County and improve upon a property that is being underutilized. Therefore, for the reasons given above, the re-zoning of the site from R-40 to R-15 is appropriate for the area in which it is situated.

### **C. Tentative Map Findings**

1. ***Required Finding:*** *The County Planning Commission 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 has been found to be consistent with the General Plan designation of Single-Family Residential-Low Density (SL). Pursuant to the SL designation, the allowable density range is 1.0 to 2.9 residential units per net acre. As the site consists of 3.1 net acres (3.6 total acres, minus 0.5 acre of roadway/drainage improvements), the 8-lot subdivision is within the allowable density range for this site. The SL designation also allows for lots up to 43,560 square feet in area. The lots for this project range from 18,000 to 20,000 square feet in area, which is well within the allowable lot area maximum for the SL designation.

As part of the project's evaluation, the extent to which the project is consistent with General Plan policies pertaining to compatibility of land uses, compliance with principles of the Urban Limit Line and Measure C-1990, protection of open spaces, standards regarding geology, soils and earthquake risks, hazardous materials, flood hazards and drainage, protection of water quality, protection of biological resources, noise, protection of air quality, protection of visual resources, and protection of archeological and historical resources and found no evidence of inconsistencies. Additionally, the projected related traffic is not anticipated to negatively affect local traffic patterns or significantly diminish the Level of Service of key intersections in the area. The tentative map for the subdivision is consistent with the applicable goals and policies as found in the County 2005-2020 General Plan.

Lastly, when appropriate, the General Plan encourages development projects to contribute improvements of pedestrian facilities to ensure safe and efficient

connections from the development to major destination areas. As such, the applicant for this project has committed to install a sidewalk and guest parking within the new private access road to improve pedestrian safety and overall functionality (guest parking) of the subdivision. These improvements along with new housing options provided by this project are viewed as positive contributions to the area in general. Therefore, based on the entire record and as summarized herein, the tentative map is consistent with the County General Plan.

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

**Project Finding:** Compliance with the conditions of approval and Mitigation Monitoring and Reporting Program, suggests that the project will not pose any significant traffic impacts once the subdivision is completed. The design of the private road has been preliminarily reviewed and found to be compliant with County public road standards. Prior to issuance of building permits, the applicant is required to contribute fees for parks and recreation, school districts, child care and police services. Payment of these fees along with compliance with the applicable California Building Code, suggests that the project will fulfill all obligations related to construction of the project.

#### **D. 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 30 trees in order to create the new lots, grading, private roadway, and installation of drainage facilities. No trees scheduled to be removed are exceptional in their visual character or prominence on the site that would warrant special consideration to preserve.
2. Development of this project fully occupies the site making tree retention unreasonable. As home sites are developed, landscaping plans will be implemented and new vegetation will be established.
3. The County Planning Commission is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.

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

Exception to allow a diversion of stormwater entering and/or originating on the subject property, whereas County Code Section 914-2.004 requires all storm water entering and/or originating on a property to be collected and conveyed without diversion.

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

**Project Finding:** The subject property has a minor ridgeline within the western portion of the site that diverts about 25 percent of the site drainage to Laurel Drive. As the property is mapped as being within drainage area 33B (DA33B), the intent is to have this western runoff continue along the north side of Laurel Drive and eventually into a storm drain system west of Ayers Road. However, when the lot to the west (9902 Malu Lane) was developed, an inlet was installed along its frontage that diverts the subject site's western drainage and a portion of Laurel Drive to another formed drainage area 33C. The proposed layout corrects this situation and returns the site drainage back into the DA33B system (e.g., via Karas Court drainage inlets). Therefore, allowing the property owner an exception to the collect and convey without diversion requirements is appropriate as the project will utilize drainage infrastructure that has been determined to have adequate capacity to accommodate the project's anticipated rainwater runoff.

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

**Project Finding:** The Single-Family Residential-Low Density (SL) General Plan land use designation for the site, allows between 1.0 and 2.9 residential units per net acre. As the site contains 3.1 net acres (3.6 total acres, minus 0.5 acre of improvements), the 8-lot subdivision is within the allowable range of units for the site (3 to 9 units). Given the development potential of the site, denial of the collect and convey exception would deprive the property owner a right to subdivide and improve upon the site. As the project does not include any uses other than residential, granting of the exception request will allow the property owner an opportunity to execute a project that is consistent with the development pattern of the surrounding properties and area in general.

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:** In support of the exception request, the applicant has provided analysis and calculations relative to the adequacy of the proposed on-site storm drainage infrastructure, including an evaluation as to the adequacy of the existing storm drain in the Karas Court right-of-way. Based on that analysis, there is capacity within the Karas Court drainage infrastructure to accept the diverted runoff from the project. Based on these facts, granting the exception request will not be detrimental to neighboring properties or the area in general.

## II. **CONDITIONS OF APPROVAL**

### **Entitlement Approvals**

1. **Subdivision Map:** A Vesting Tentative Map for a 8-lot Subdivision is APPROVED based on the following documents, and is subject to the conditions of approval listed hereafter. The maximum number of lots approved for Subdivision #SD18-9495 is eight (8) lots.
  - Application and materials submitted to the Contra Costa County Department of Conservation and Development, Community Development Division (CDD), on August 1, 2018.
  - Revised Vesting Tentative Map for Subdivision 9495 – received February 27, 2019;
  - CEQA Initial Study, Mitigated Negative Declaration, and Mitigation Monitoring and Reporting Program prepared by CDD, and posted by the Contra Costa County Clerk on June 16, 2019.
  - Design Level Geotechnical Investigation, prepared by Berlogar Stevens & Associates, dated August 1, 2018;
  - Limited Phase II Subsurface Investigation, prepared by AEI Consultants, dated October 14, 2016;
  - Preliminary Storm Water Control Plan, prepared by APEX, dated December 28, 2018;

- Laurel Place Stormwater System Analysis, prepared by WENCK, dated October 3, 2018;
  - Preliminary Title Report, prepared by Old Republic Title Company, dated June 28, 2018.
2. Tree Permit: A Tree permit for the removal of thirty (30) code-protected trees for earthwork and construction activities within the property boundaries is APPROVED based on the following documents.
- Application and Materials submitted to CDD, on August 1, 2018;
  - Revised Vesting Tentative Map received by CDD on February 27, 2019.
3. Exception to Title 9: The following exception to Title 9 (Collect and Covey) of the County Code is APPROVED, as generally described in the materials dated, January 7, 2019.
- Diversion of the site's western storm water runoff from Drainage Area 33C to Drainage Area 33B.
4. Approval of this project is contingent upon approval of the re-zoning request, County File #RZ18-3244, by the Board of Supervisors.

#### **Timing of Tree Removal or Alteration**

5. Prior to any tree removal or alteration, the applicant shall record the Final Map and obtain the necessary grading and/or building permits for the proposed project.

#### **Indemnification**

6. 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 for in Section 66499.37. The County will promptly notify the subdivider of any such claim, action, or proceeding and cooperate full in the defense.



**Application Fees**

7. This application is subject to an initial application deposit of \$9,794.00 (total of subdivision and rezoning application fees), 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.

**Compliance Report Prior to Filing the Final Map**

8. At least 45 days prior to filing of the Final Map or issuance of a grading or building permit, whichever occurs first, the applicant shall provide a permit compliance report to CDD for review and approval. The report shall identify all conditions of approval that are administered by 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 CDD. CDD may reject the report if it is not comprehensive with respect to applicable requirements. The permit compliance review is subject to staff time and materials charges, with an initial deposit of \$1,000 which shall be paid at the time of submittal of the compliance report.

**Maintenance of Facilities**

9. Applicant shall record a deed disclosure on each of the proposed lots (Lot 1 through Lot 8) to inform prospective buyers of the "Maintenance of Facilities" obligation stated under Conditions No. 10, No. 11, and No. 12 below, and to inform prospective buyers of the "Stormwater Management" obligations stated under Conditions No. 55 and No. 58.
10. Applicant shall ensure that all private street lights, common landscaping, private roads, shared retaining walls, on-site shared drainage and stormwater management facilities are maintained in perpetuity. The County will not accept these properties or facilities for ownership or maintenance. At least 45 days prior to filing the Final Map, Applicant shall submit to DCD staff a maintenance plan of operation ("MPO") for these and any other common areas and/or infrastructure for review and approval by DCD staff and the Public Works Department.

11. Prior to filing the Final Map, Applicant shall develop and record a maintenance covenant to ensure that lands and infrastructure identified in the above MPO will be maintained in accordance with said MPO, and that each lot in this subdivision will either share or otherwise be responsible in the maintenance and related cost as defined in detail in the text of the MPO. At least 45 days prior to filing the Final Map, Applicant shall submit to DCD staff the maintenance covenant for review and approval by DCD staff and the Public Works Department.
12. Prior to filing the Final Map, Applicant shall record a deed disclosure informing future owners of Lots 4 and 5 that the Bio-retention basin located on said lots will require periodic maintenance and access by maintenance personnel. The deed disclosure shall also inform the future property owners of Lots 4 and 5 that no alteration of the vegetation or placement of structures or any other improvements is allowed in the bio-retention basin area. At least 45 days prior to filing the Final Map, Applicant shall submit the deed disclosure to DCD staff for review and approval by DCD staff and the Public Works Department.

### **Inclusionary Housing/In-Lieu Fee**

13. This project is subject to the Inclusionary Housing Ordinance (IHO). 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 (units that are required to be sold at an affordable sales price to lower and moderate income households). The applicant is required to construct 1.20 inclusionary housing units for the project. Required inclusionary units: 8 for-sale units x 15% = 1.20 inclusionary units.

As an alternative to the requirement to construct inclusionary housing, the applicant has proposed the payment of a For-Sale Housing In-Lieu Fee. This alternative to collect an in-lieu fee, as established in DCD's fee schedule, has been accepted.

Prior to the recordation of the Final Map or the filing of a building permit for the development, whichever occurs first, the applicant shall pay to the County the full amount of the Inclusionary Housing Ordinance For-Sale Housing In-Lieu fee of \$52,800.48. This project was deemed complete on March 18, 2019. The in-lieu fee is calculated as: \$6,600.06/unit x 8 market rate units = \$52,800.48 total in-lieu fee. This in-lieu fee is non-refundable.

14. Should the applicant choose not to pay the in-lieu fee in full prior to the recordation of the Final Map or filing of a building permit, whichever occurs first, then the applicant must construct the required number of inclusionary units on-site, off-site, or a combination of both on-site and off-site.

**Park Dedication and Park Impact Fees**

15. At least 45 days prior to filing of the Final Map, the applicant shall pay the appropriate Park Dedication and Park Impact Fees for the project (8 lots total) as required per Chapter 920-6 of the County Code.

**Child Care Fee**

16. At least 45 days prior to filing of the Final Map, the applicant shall pay a fee of \$3,200.00 (\$400.00 per lot) toward child care facility needs in the area as established by the Board of Supervisors.

**Police Services District**

17. **Election for Establishment of a Police Services District to Augment Police Services:** Prior to the recording 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 lot annual amount (with appropriate future CPI adjustment) then 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.

**Water Efficient Landscape Ordinance**

18. The applicant shall comply with California Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495) and/or any applicable State mandated landscape/water related requirements applicable at the time of landscaping installation for the project. To the maximum extent feasible, the project proponent shall use drought tolerant vegetation for the development.

**Aesthetics/Lighting**

19. At least 30 days prior to applying for building permits for each new residence, the applicant/property owner shall submit a Compliance Verification application (only one application needed if developer constructs entire subdivision), for review and approval of Department of Conservation and Development, Current Planning Division (CDD) staff. The application must include construction drawings (e.g., site plan, floor plans, elevations and grading plans) to verify compliance with all mitigations and conditions of approval. **(Mitigation Measure (MM) AES-1)**
  
20. At least 30 days prior to recordation the final map, the applicant shall submit for the review and approval of CDD staff, a proposed deed restriction with the following height limitation. The approved deed restriction shall be recorded concurrently with the final map.
  - a. Residential buildings on lots 1 through 8 shall be limited to 28 feet in height. **(MM AES-2)**
  
21. At least 30 days prior to applying for residential building permits, the applicant shall provide for the review and approval of CDD staff color schemes that reflect the following:
  - a. Building and roof colors shall be muted earth tone colors to blend in with the environment. A variety of colors shall be used to the extent feasible to break-up any monolithic facades. **(MM AES-3)**
  
22. To the extent feasible, new residential lighting shall be low-lying and exterior lights on buildings shall be deflected so that lights shine onto the building site and not toward adjacent properties or offsite locations. The use of overly bright lighting shall be avoided. **(MM AES-4)**

**Air**

23. Consistent with the Best Management Practices required by the BAAQMD, the following actions shall be incorporated into construction contracts if required and specifications for the project:
  - a. All haul trucks transporting soil, sand, or other loose material to and from the site shall be covered.
  - b. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - c. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

- d. 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]).
  - e. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications.
  - f. A publicly visible sign shall be posted with the telephone number and contact information for the designated on-site construction manager available to receive and respond to dust complaints. This person shall report all complaints to Contra Costa County and take immediate corrective action as soon as practical but not more than 48 hours after the complaint is received. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations. **(MM AIR – 1)**
24. Non-emergency maintenance, construction, and other activities on the site related to this project are restricted to the hours of 7:30 A.M. to 5:00 P.M., Monday through Friday, and shall be prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:

New Year's Day (State and Federal)  
Birthday of Martin Luther King, Jr. (State and Federal)  
Washington's Birthday (Federal)  
Lincoln's Birthday (State)  
President's Day (State and Federal)  
Cesar Chavez Day (State)  
Memorial Day (State and Federal)  
Independence Day (State and Federal)  
Labor Day (State and Federal)  
Columbus Day (State and Federal)  
Veterans Day (State and Federal)  
Thanksgiving Day (State and Federal)  
Day after Thanksgiving (State)  
Christmas Day (State and Federal)

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

Federal Holidays:

[http://www.opm.gov/Operating\\_Status\\_Schedules/fedhol/2019.asp](http://www.opm.gov/Operating_Status_Schedules/fedhol/2019.asp)

California Holidays:

<http://www.ftb.ca.gov/aboutFTB/holidays.shtml> **(MM AIR-2)**

### **Special Status Bats**

22. In order to avoid impacts to special-status bats, a biologist shall survey all trees affected by the development (not just ones slated for removal) at least 15 days prior to commencing with any tree removal or earthwork that might disturb roosting bats in nearby trees. All bat surveys shall be conducted by a biologist with known experience surveying for bats. If no special-status bats are found during the surveys, then there would be no further regard for special-status bat species.

If special-status bat species are found on the project site, a determination will be made if there are young bats present. If young are found roosting in any tree, impacts to the tree shall be avoided until the young have reached independence. A non-disturbance buffer fenced with orange construction fencing shall also be established around the roost or maternity site. The size of the buffer zone shall be determined by a qualified bat biologist at the time of the surveys. If adults are found roosting in a tree on the project site but no maternal sites are found, then the adult bats can be flushed or a one-way eviction door can be placed over the tree cavity prior to the time the tree in question would be removed or disturbed. No other mitigation compensation would be required. **(MM BIO – 1)**

23. A nesting bird survey shall be conducted 15 days prior to commencing construction/grading or tree removal activities, if this work would commence between March 1 and September 15. If common passerine birds (that is, perching birds such as Anna's hummingbird and mourning dove) are identified nesting on the project site, grading or tree removal activities in the vicinity of the nest shall be postponed until it is determined by a qualified ornithologist that the young have fledged and have attained sufficient flight skills to leave the area. The size of the nest protective buffer required to ensure that the project does not result in take of nesting birds, their eggs or young shall be determined by a qualified ornithologist. Typically, most passerine birds can be expected to complete nesting by June 15<sup>th</sup>, with young attaining sufficient flight skills by early July. **(MM BIO – 2)**

### **Cultural Resources**

24. The following Mitigation Measures shall be implemented during project demolition/construction activities.
  1. A program of on-site education to instruct all demolition/construction personnel in the identification of prehistoric and historic deposits shall be conducted prior to the start of any grading or construction activities.

2. If archaeological materials are uncovered during grading, trenching, or other onsite excavation, 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 Society of Professional Archaeology (SOPA), and the Wilton Rancheria Tribe, have had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s) if deemed necessary.

**(MM CUL – 1)**

25. Should human remains be uncovered during grading, trenching, or other on-site excavation(s), earthwork within 30 yards of these materials shall 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 remains. Pursuant to California Health and Safety Code Section 7050.5, if the coroner determines the remains may be those of a Native American, the coroner is responsible for contacting the Native American Heritage Commission (NAHC) by telephone within 24 hours. Pursuant to California Public Resources Code Section 5097.98, the NAHC will then determine a Most Likely Descendant (MLD) tribe and contact them. The MLD tribe has 48 hours from the time they are given access to the site to make recommendations to the land owner for treatment and disposition of the ancestor's remains. The land owner shall follow the requirements of Public Resources Code Section 5097.98 for the remains.

**(MM CUL-2)**

**Geology**

26. The applicant shall comply with all specific standards and criteria for use in design and construction of the project (site grading, drainage and foundation design, etc.) as identified in the February 15, 2017, BSA Design Level Geotechnical Investigation.

**(MM GEO - 1)**

27. Prior to issuance of construction permits or installation of improvements, the project proponent shall submit an geotechnical update report that references proposed grading, drainage and foundation plans and provides specific criteria and standards for site grading, drainage and foundation design based on adequate subsurface data. The scope of the update geotechnical investigation should address the following potential hazards: (i) expansive soils, (ii) corrosive soils, (iii) design of bio-retention facilities and their effect on planned improvements, and (iv) provide California Building Code seismic parameters that are based on the adopted CBC at the time that residential building permits are requested. It is anticipated that the geotechnical engineer's scope of work will demonstrate (v) that the expansivity and corrosivity of soils have been taken into account in grading and foundation design; (vi) that R-value testing has been utilized

for design of pavements, and (vii) include measures to protect pad areas from excessive moisture/ponding/surface runoff. **(MM GEO – 2)**

28. Concurrently with recordation of the Parcel Map, record a statement to run with deeds to the property acknowledging the BSA report by title, author (firm), and date, calling attention to conclusions, including the requirements for a design-level geotechnical investigation and noting that the report is available to prospective buyers from seller of the parcel. **(MM GEO – 3)**
29. The update geotechnical report shall be subject to review by the County's peer review geologist, and review/approval of the DCD staff. Improvement, grading and building plans shall carry out the recommendations of the approved report. **(MM GEO-4)**
30. The geotechnical report required by GEO-2 routinely includes recommended geotechnical observation and testing services during construction. These services are essential to the success of the project. They allow the geotechnical engineer to (i) ensure geotechnical recommendations for the project are properly interpreted and implemented by contractors, (ii) allow the geotechnical engineer to view exposed conditions during construction to ensure that field conditions match those that were the basis of the design recommendations in the approved report, and (iii) provide the opportunity for field modifications of geotechnical recommendations (with BID approval), based on exposed conditions. The monitoring shall commence during clearing, and extend through grading, placement of engineered fill, installation of recommended drainage facilities, and foundation related work. A hard hold shall be placed on the "final" grading inspection, pending submittal of a report from the project geotechnical engineer that documents their observation and testing services during grading and drainage related improvements.

Similarly, a hard hold shall be placed on the final building inspection for each residence, pending submittal of a letter-report from the geotechnical engineer documenting the monitoring services associated with implementation of foundation-related geotechnical recommendations. The geotechnical monitoring shall include pier hole drilling/foundation preparation work/installation of drainage improvements (e.g., collection of roof gutter in a closed conduit and conveying it to a suitable discharge point; and possibly installation of a sub-drain system around the perimeter of the foundation to control moisture beneath the foundation). **(MM GEO-5)**



31. All grading, excavation and filling shall be conducted during the dry season (April 15 through October 15) only, and all areas of exposed soils shall be revegetated to minimize erosion and subsequent sedimentation. After October 15, only erosion control work shall be allowed by the grading permit. Any modification to the above schedule shall be subject to review by the County Grading Inspector, and the review/approval of the CDD staff. **(MM GEO-6)**

### **Debris Recovery**

32. At least 15 days prior to the issuance of a grading permit or building permit, the developer shall enroll in the county's Debris Recovery Program and CalGreen regulation, which requires debris generated by construction projects to be recycled, or otherwise diverted from landfill disposal. Once the debris generated with the project activities are collected, Applicant shall transport the debris to an approved facility and in accordance with CalGreen regulations.

## **PUBLIC WORKS**

### **CONDITIONS OF APPROVAL FOR SUBDIVISION SD18-9495 and RZ18-3244**

**Applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exception(s) must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan/(vesting) tentative map submitted to the Department of Conservation and Development on February 27, 2019.**

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

### **General Requirements**

33. 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 February 27, 2019.

### **Roadway Improvements (Laurel Drive)**

34. Applicant shall construct curb, 5-foot sidewalk (width measured from curb face), necessary longitudinal and transverse drainage, street lighting, and pavement widening and transitions along the frontage of Laurel Drive. Applicant shall construct face of curb 10 feet from the widened right-of-way line.
35. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Laurel Drive. 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**

36. Applicant shall furnish proof to 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**

37. 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 Laurel Drive.

#### **Abutter's Rights**

38. Applicant shall relinquish abutter's rights of access along Laurel Drive with the exception of the proposed private road intersection.

### **Road Alignment/Intersection Design/Sight Distance**

#### **Sight Distance**

39. The applicant shall grade, trim vegetation, widen pavement as necessary and realign the proposed access to provide stopping sight distance for a design speed of 40 miles per hour. Any new landscaping, signs, fencing, retaining walls, or other obstructions proposed at the proposed access shall be setback to ensure that the sight lines are clear.

### **Private Roads**

40. Applicant shall construct a paved turnaround at the end of the proposed private road as shown on the vesting tentative map. Said turnaround is also subject to the review of the Fire District.
41. Applicant shall construct an on-site roadway system to current County private road standards with a minimum traveled width of 28 feet and a 33.5-foot access easement as proposed on the vesting tentative map. A five-foot sidewalk (width measured from curb face) shall be constructed along one side of the road. Although the proposed on-site roadway is shown as private, the pavement structural section shall conform to County public road standards.

### **Road Dedications**

42. Property Owner shall convey to the County, by Offer of Dedication, the right-of-way necessary for the planned future width of 60 feet along the frontage of Laurel Drive.

### **Street Lights**

43. Applicant shall annex to the Community Facilities District (CFD) 2010-1 formed for Countywide Street Light Financing. Annexation into a street light service area does not include the transfer of ownership and maintenance of street lighting on private roads.

### **Bicycle – Pedestrian Facilities**

#### **Pedestrian Access**

44. 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.
45. Applicant shall design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.

## **Parking**

46. 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**

47. Applicant shall underground all new and existing utility distribution facilities, including those along the frontage of Laurel Drive. 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**

48. 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 County Ordinance Code.

### **Exception**

The applicant shall be permitted an exception to allow a diversion of stormwater entering and/or originating on the subject property to be conveyed through Tract 7934, to the current 36-inch storm pipe in Karas Court, provided that the applicant verifies an access right of entry for construction on the neighboring property.

## **Miscellaneous Drainage Requirements**

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

50. Applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
51. The property owner shall dedicate a public drainage easement over any man-made drainage system which conveys stormwater run-off from public streets.
52. A private storm drain easement, conforming to the width specified in Section 914-14.004 of the County Ordinance Code, shall be dedicated over all proposed storm drain lines traversing the site that convey runoff across neighboring lots. This includes rear yard drains conveying overflow from designated self-retaining areas.

### **Drainage Area Reimbursements**

53. Certain improvements required by the Conditions of Approval for this development or the County Subdivision Ordinance Code may be eligible for credit or reimbursement against the drainage area fee. The developer should contact that Public Works Department to personally determine the extent of any credit or reimbursement for which he might be eligible. Any credit or reimbursements shall be determined prior to filing the final map or as approved by the Flood Control District.

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

54. 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:

- Offer pavers for household driveways and/or walkways as an option to buyers.
- 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.

- 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.
- Distribute public information items regarding the Clean Water Program and lot specific IMPs to buyers.
- Other alternatives comparable to the above as approved by the Public Works Department.

### **Stormwater Management and Discharge Control Ordinance**

55. 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.
56. 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).
57. 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.
58. 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.

59. 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.
60. 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**

61. The applicant shall comply with the requirements of the Contra Costa County Flood and Water Conservation District (FC District) Drainage Area 33B Fee Ordinance, as adopted by the Board of Supervisors. The fee shall be paid prior to the filling of the final map.

### **ADVISORY NOTES**

- The applicant shall comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Central County Area of Benefit as adopted by the Board of Supervisors.
- 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.
- 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.
- The applicant shall comply with the requirements of the following agencies:
  - Department of Conservation and Development, Building Inspection Division and Grading Division
  - Contra Costa County Fire Protection District
  - Contra Costa Water District
  - City of Concord

- Bay Area Air Quality Management District
  - Regional Water Quality Control Board, District III
  - Local Agency Formation Commission
  - Contra Costa Mosquito & Vector Control District
- 
- The project is subject to the development fees in effect under County Ordinance as of March 18, 2019, 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 be specified in the conditions of approval.