

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILES MS16-0014, RZ16-3234, LAUREN AND AARON LOCEY (APPLICANT), FRANCES FARR (OWNER)**

**FINDINGS**

**A. Growth Management Performance Standards**

1. Traffic: The 18320 Bollinger Canyon Road Minor Subdivision and Rezoning Project involves no construction. Thus, the project will not generate any new vehicle trips. Accordingly, the project will not have a substantial impact on traffic on any roadways in the San Ramon area. Possible future construction of an additional single-family residence and an ADU on each minor subdivision parcel will generate 4 AM and 4 PM peak period trips; however, this increase in vehicle trips would not exceed the 100 trip threshold for a traffic study. Further, compliance with the requirements of the Bridge/Thoroughfare Fee Ordinance for the South County, as adopted by the Board of Supervisors is required.
2. Water: The project site is in an agricultural area that is not served by any municipal water system, and therefore, the minor subdivision will not affect any water service provider. The project site includes on-site groundwater wells for potable water, which serve the existing single-family residences on the site. These wells, as well as any future wells, are subject to review and approval by the Health Services Department, Environmental Health Division. Future construction of an additional single-family residence could occur with a land use permit and future construction of an ADU could occur with an ADU permit on each minor subdivision parcel. At the time of application for a building permit for a future single-family residence or ADU, the applicant will be required to submit water supply plans to the Environmental Health Division.
3. Sanitary Sewer: The project site is in an agricultural area that is not served by any sanitary sewer district, and therefore, the minor subdivision will not affect any sanitary facilities. The existing single-family residences on the site use on-site septic system for wastewater disposal. The existing septic systems, as well as any future septic system, are subject to review and approval by the Health Services Department, Environmental Health Division. Future construction of an additional single-family residence could occur with a land use permit and future construction of an ADU could occur with an ADU permit on each minor subdivision parcel. At the time of application for a building permit for a future single-family residence or ADU, the applicant will be required to submit septic system plans to the

Environmental Health Division.

4. Fire Protection: The project site is in the service area of the San Ramon Valley Fire Protection District. Fire protection to the project site is provided by Station 31 at 800 Sab Ramon Valley Boulevard, located approximately 2.07 miles to the east of the site with a driving distance of 6.2 miles to the site. The minor subdivision involves no construction, and therefore, will not affect fire protection services. In addition, the construction drawings for any new structure will be reviewed and approved by the Fire Protection District.
5. Public Protection: Police protection services in the project vicinity are provided by the Contra Costa County Sheriff's Office, which provides patrol service to the unincorporated Bollinger Canyon area. . In addition to regular patrol service, the Sheriff's Office has a substation at 150C Alamo Plaza, located approximately 3.68 miles to the north of the site with a driving distance of 11.3 miles to the site. The minor subdivision involves no construction, and therefore, will not affect police services The addition of an additional single-family residence and/or a new accessory dwelling unit (ADU) in the future on a minor subdivision parcel will not significantly affect the provision of police services to the Bollinger Canyon area.
6. Parks and Recreation: The minor subdivision involves no construction, and therefore, will not affect population in the project vicinity. Future construction of an additional single-family residence and a new ADU on each minor subdivision parcel could increase population in the Bollinger Canyon area by 11 persons; however, given the number of parks in the San Ramon area, the proximity of the project site to the Las Trampas Wilderness Regional Preserve, and the project's relatively small addition to the population in the Bollinger Canyon area, the proposed project will not significantly affect parks and recreation facilities and services.
7. Flood Control and Drainage: The minor subdivision involves no construction, and therefore, will not alter the existing drainage pattern of the project site. Further, Engineering Services Division staff has noted that there are no existing drainage problems in the area, and that since there is no construction on the project site, no additional concentrated runoff would be directed to adjacent parcels, and the existing drainage pattern would be maintained. Future construction of a new accessory or agricultural structure and/or an additional single-family residence and/or an ADU would implement storm water controls as required by the Contra Costa Clean Water Program. Thus, there will not be any significant risk due to an

increase in the volume of runoff that will result in onsite or off-site flooding.

## **B. Tentative Parcel Map**

The following are required findings for the approval of a tentative parcel map.

1. *The proposed subdivision, together with the provisions for its design and improvement, is consistent with applicable general and specific plans.*

*Project Finding.* The project site is in active agricultural use, and thereby, is consistent with the AL, Agricultural Lands, General Plan Land Use designation for the area. After subdivision, the two new parcels will remain in agricultural use.

Even though the minor subdivision does not include any construction, an additional single-family residence could be constructed with a land use permit and an ADU could be constructed with an ADU Permit on each minor subdivision parcel. Accordingly, the minor subdivision is subject to Rural Residential Development policies #8-v of the General Plan Conservation Element. The minor subdivision meets the 5-acre minimum size requirement in the Rural Residential Development policies.

Rural Residential Development policies #8-v include locating wells and septic systems on each minor subdivision parcel. The intent of the policies is to maintain long term predominantly agricultural use of the land, while allowing development single-family residential development on a parcel of at least five acres in the AL designation. Condition of Approval #8 requires compliance with the Rural Residential Development policies at the time subsequent development of a minor subdivision parcel is proposed, including locating new wells and/or septic systems on the parcel. The wells and septic systems are subject to review and approval by the Environmental Health Division. Accordingly, as conditioned, the minor subdivision will be consistent with the Rural Residential Development policies.

The Transportation and Circulation Element of the General Plan shows designated arterials and expressways that are part of the County roadway network. Crow Canyon Road, which is approximately 2.5 miles southeast of the project site, is the nearest designated arterial. Given that the proposed project maintains the current agricultural use the site and does not propose any construction, there will be no effect on Crow Canyon Road.

2. *The proposed subdivision fulfills construction requirements.*

*Project Finding.* The project includes a Rezoning from the A-4 Agricultural Preserve District to the A-2 General Agricultural District. The A-2 District allows agricultural uses and requires a land use permit for other uses such as a single-family residence and an ADU permit for an accessory dwelling unit. The minor subdivision maintains ongoing agricultural use on the parcels. Accordingly, the minor subdivision is consistent with the A-2 District requirements and regulations. In addition, the minor subdivision includes Condition of Approval #15 requiring compliance with the A-2 requirements and Condition of Approval #8 requiring compliance with the Rural Residential Development policies, including the provision of a viable well and septic system on each minor subdivision parcel.

### **C. Exceptions to the Requirements of County Code Title 9**

Pursuant to County Code Section 96-14.002, the Advisory Agency (Zoning Administrator) may authorize exceptions to the requirements and regulations of County Code Title 9 (Subdivisions). Accordingly, following is the request for an exception and findings for granting the requested exception.

1. Exception to exception from County Code Section 914-2.002: The applicant requests an exception to the onsite collect and convey requirements. This exception is based on the following findings:

- A. *That there are unusual circumstances or conditions affecting the property:*

An unusual circumstance exists in that the minor subdivision application consists of the subdivision of the existing rural parcel in to two rural parcels. The new property line between proposed Parcel A and proposed Parcel B has been set to preserve the existing, occupied single-family residences. No new residential structures or improvements are proposed, and therefore, there will be no incremental impacts on existing drainage facilities.

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

The exception is necessary because no construction is proposed and all existing infrastructure improvements, both public and private, will be retained in their current locations and configurations. Thus, implementation of the collect and

covey requirements will unfairly impact the applicant and owner by forcing new infrastructure in the absence of any new construction or development.

- C. *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.*

The granting of the exceptions will not be materially detrimental to the public welfare or injurious to other property. As stated previously, no new construction is proposed with the minor subdivision, and all existing infrastructure improvements, both public and private, will be retained in their current locations and configurations. The existing uses on the project site are maintained in compliance with the regulations of the A-4 District, and as conditioned, will be compliant with the regulations of the A-2 District.

#### **D. Rezoning Findings**

Pursuant to County Code Section 26-2.1806, the following three findings must be made to approve a rezoning application.

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

*Project Finding:* The project site has a General Plan Land Use designation of AL, Agricultural Lands. The AL designation allows for agricultural production and related activities. The project site is in use for raising and keeping horses, and is consistent with the AL designation. The exception to the County Code requirements for onsite collect and convey will not alter the relationship of the proposed project to the General Plan Land Use Element, and the minor subdivision and rezoning project is consistent with the AL land use designation.

The minor subdivision does not include any construction and does not propose any future single-family residence; however, future construction of an additional single-family residence could occur with a land use permit and future construction of an ADU could occur with an ADU permit. If a land use permit for an additional single-family residence or an ADU Permit is issued for either parcel, the Environmental Health Division will review all uses on the parcel to evaluate whether the onsite water and septic systems are sufficient to serve all uses. Accordingly, as required by Condition of Approval #8, the project will be required to be consistent with Rural Residential Development policies #8-v of the General Plan

Conservation Element at the time subsequent development on a minor subdivision parcel is proposed. As conditioned, the minor subdivision and rezoning project is consistent with the Rural Residential Development policies.

Crow Canyon Road, which is approximately 2.5 miles southeast of the project site, is the nearest arterial that is designated in the General Plan Transportation and Circulation Element. Given that the proposed project maintains the current agricultural use the site and does not propose any construction, the minor subdivision and rezoning project does not affect Crow Canyon Road.

2. *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 project site is located within the A-4 District. The Rezoning to the A-2 District is required to have a minor subdivision parcel that is less than 40 acres. Upon rezoning, the minor subdivision and rezoning project will conform to the A-2 requirements for minimum lot area, lot width, and lot depth, setbacks, side yards, and rear yards. The applicant has identified two accessory structures on proposed Parcel A and a shed on proposed Parcel B that will be subject to compliance with the setback and side yard requirements of the A-2 District. Accordingly, Condition of Approval #15, addresses this compliance issue. As conditioned, the minor subdivision is be consistent with the A-2 requirements.

The project site is located within the established agricultural area along Bollinger Canyon Road. The surrounding area includes other agricultural parcels and open space properties, including an 86.76-acre parcel owned by the East Bay Regional Park District to the north, parcels ranging from 21.5 acres to over 110 acres to the east in the A-4 District and the A-20 Exclusive Agricultural District, and parcels ranging from 5.69 acres to 10.75 acres to the west in the A-2 District. Thus, the project is in harmony with the surrounding area and the uses established in the area.

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

*Project Finding:* The project site is located within an active agricultural and open space area, in proximity to the Las Trampas Wilderness Regional Preserve. The site is in use for raising and keeping horses, and for rural residential uses. Upon subdivision, the agricultural and rural residential uses will continue, and therefore,

the agricultural character of the area will be maintained, in compliance with the Agricultural Lands policies in the General Plan Land Use Element.

## **E. Environmental Review**

Following are the findings required pursuant to the California Environmental Quality Act to adopt a Mitigated Negative Declaration/Initial Study for the project, prior to the approval of a project.

1. A draft Mitigated Negative Declaration/Initial Study (MND) was prepared and published for the project. The 21-day public review period for the draft MND started on October 18, 2019 and ended on November 8, 2019. A total of six letters and two emails were received during the public review period for the draft MND.
2. A Final MND has been prepared that includes the written comments received on the draft MND, responses to the comments received, and staff-initiated text changes, including minor corrections and technical changes.
3. The comments received are related to the project description, land use and planning, and tribal cultural resources. Five commenters stated their support of the proposed project. Neither the comments received nor the staff responses to the comments result in any changes to the draft MND, and the Final MND does not affect any impacts, mitigation measures, or findings in the draft MND.
4. The text changes update the MND to reflect that: two of the existing single-family residences on Parcel A have been converted to accessory structures; an additional single-family residence could be constructed on a minor subdivision parcel with a land use permit, the project site had been in the CM Controlled Manufacturing District prior to the rezoning to the A-4 Agricultural Preserve District; and, the southerly asphalt driveway provides access to a property located northeast of Parcel B as well as to the residence on Parcel B.. The text changes are not the result of any new significant adverse environmental impact, do not result in any mitigation added to the pertinent section, and do not alter the findings in the section.
5. On the basis of the whole record before it, including the draft ND and final ND, the County Planning Commission finds that:
  - There is no substantial evidence that the project with the proposed mitigation measures will have a significant effect on the environment;

- The MND, consisting of the draft MND and Final MND, reflects the County's independent judgement and analysis;
  - The MND is adequate and complete; and
  - The MND has been prepared in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA guidelines.
6. A Mitigation Monitoring Program has been prepared, based on the identified significant environmental impacts and mitigation measures in the MND. The mitigation measures in the Mitigation Monitoring Program are included in the Conditions of Approval.



**CONDITIONS OF APPROVAL FOR COUNTY FILES MS16-0014, RZ16-3234**

**Project Approval –Minor Subdivision and Tentative Parcel Map**

1. The Tentative Parcel Map for the 18320 Bollinger Canyon Road Minor 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 November 8, 2016;
  - Tentative Parcel Map for Minor Subdivision MS16-0014, prepared by Milani & Associates, submitted on January 18, 2019;
  - Stormwater Control Plan, prepared by Milani & Associates, submitted on November 29, 2018;
2. A copy of the recorded Parcel Map shall be submitted to the CDD upon recordation.
3. Any modifications to the project approved under this permit that is not required by a Condition of Approval herein shall be subject to the review and approval of the CDD.

**Approval Contingent on Consistent Approval of Related Rezoning Application**

4. This Minor Subdivision is approved contingent upon approval of a Rezoning, County File #RZ16-3234 from the A-4 Agricultural Preserve District to the A-2 General Agricultural District for 18320 Bollinger Canyon Road. If the Rezoning is not approved, then this approval shall be null and void.

**Application Costs**

5. The Minor Subdivision application was subject to an initial deposit of \$5,400.00. The applications are subject to time and material costs if the application review expenses exceed the initial deposit. Any additional fee due must be paid prior to an application for a grading or building permit, or 60 days of the effective date of this permit, whichever occurs first. The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors

Resolution Number 2019/553, where a fee payment is over 60 days past due, the application shall be charged interest at a rate of ten percent (10%) from the date of approval. The applicant may obtain current costs by contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance in the event that additional fees are due.

### **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 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 Parcel Map, or at the time of application for a grading or building permit, 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**

7. At least 45 days prior to filing the Parcel Map or at the time of application for a grading or building permit, whichever occurs first, the applicant shall submit an application for a COA Compliance Review and provide a report on compliance with the conditions of approval for the review and approval by the CDD. The fee for this application is a deposit of \$1,000.00 that is subject to time and material costs. Should staff costs exceed the deposit, additional fees will be required.

The report shall identify all conditions of approval that are administered by the CDD. Unless otherwise indicated, the applicant will be required to demonstrate compliance with the applicable conditions of this report prior to filing the Parcel Map. A copy of the permit conditions of approval may be obtained from the CDD.

### **Rural Residential Development**

8. Prior to approval of a land use permit for an additional single-family residence, or

an ADU Permit, or at the time of application of a building permit for any minor subdivision parcel, whichever occurs first, the applicant shall comply with the Rural Residential Development policies #8-v of the General Plan Conservation Element, including but not limited to, providing an adequate well and a septic system on each minor subdivision parcel. The wells and septic systems will be subject to review and approval by the Contra Costa County Health Services Department, Environmental Health Division.

### **Landscaping and Water Efficient Landscape Ordinance**

9. Prior to approval of a land use permit for an additional single-family residence, or an ADU Permit, or at the time of application of a building permit for any minor subdivision parcel, whichever occurs first, the applicant shall submit evidence of screening of the new development on the parcel in public views of the development. As determined necessary by the CDD, the applicant shall submit a landscaping and irrigation plan, prepared by a licensed arborist or landscape architect for review and approval by the CDD. In preparing the landscaping and irrigation plan, 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 State mandated landscape/water related requirements applicable for project landscaping. To the maximum extent feasible, the project proponent shall use drought tolerant vegetation for the development. The landscaping and irrigation plan shall commence no later 90 days after the final inspection for the building permit.

### **Child Care**

10. Prior to the issuance of building permits, the applicant shall pay a fee of \$400.00 for construction of a single-family residence on a subdivision parcel for childcare facility needs in the area as established by the Board of Supervisors.

### **Park Impact**

11. Prior to the issuance of building permits, the applicant shall pay a fee of \$6,616.00 for construction of a single-family residence on a subdivision parcel for park and recreation improvements in the area as established by the Board of Supervisors; however, the actual fee amount collected shall be that which is applicable at the time of building permit issuance.

### **Park Dedication Fee**

12. Prior to the issuance of building permits, the applicant shall pay a fee of \$4,489.00 for construction of a single-family residence on a subdivision parcel as in-lieu fees for dedication of parkland in the area as established by the Board of Supervisors; however, the actual fee amount collected shall be that which is applicable at the time of building permit issuance.

The Park Dedication Fee paid may be applied as a credit towards the Park Impact Fee.

### **Police Services**

13. Prior to the issuance of building permits, the applicant shall pay a fee of \$1,000.00 for construction on a subdivision parcel for police services mitigation in the area as established by the Board of Supervisors.

### **Tribal Cultural Resources**

14. At least seven days prior to beginning grading or other soil disturbance activities, the applicant shall notify the CDD of the proposed grading/soil disturbance start date, in order to provide the CDD with time to contact the Wilton Rancheria and invite a tribal representative to inspect the project site, including any soil piles, trenches, or other disturbed areas, within the first five days of ground breaking activity.

During this inspection, a site meeting of construction personnel shall also be held in order to afford the tribal representative the opportunity to provide tribal cultural resources awareness information.

If any tribal cultural resources, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains are encountered during this initial inspection or during any subsequent construction activities, work shall be suspended within 100 feet of the find, and the project applicant shall immediately notify the CDD.

The project applicant shall coordinate any necessary investigation of the site with a Wilton Rancheria tribal representative and a certified archaeologist. The certified archaeologist shall consult with the Wilton Rancheria and provide proper

management recommendations should potential impacts to the resources be found by the CDD to be significant.

A written report detailing the site assessment, coordination activities, and management recommendations shall be provided to the CDD by the certified archaeologist. Possible management recommendations for tribal cultural resources, historical, or unique archaeological resources could include resource avoidance or, where avoidance is infeasible in light of project design or layout or is unnecessary to avoid significant effects, preservation in place or other measures.

The contractor shall implement any measures deemed by the CDD to be necessary and feasible to avoid or minimize significant effects to the cultural resources, including the use of a Native American Monitor whenever work is occurring within 100 feet of the find.

This Condition of Approval shall be applied in conjunction with Condition of Approval #17.

### **Compliance with the A-2 General Agricultural District**

15. The following shall be applied to ensure compliance with the A-2 General Agricultural District: (i) the boundary between Parcel A and Parcel B of the Tentative Parcel Map as approved hereunder shall be adjusted as necessary to comply with the minimum setback and yards of the A-2 District for existing structures that are within the setback and/or yards; and/or (ii) the structures shall be modified or relocated to comply with the minimum setback and yards of the A-2 District; and/or (iii) the structures will be partially or completely removed. If the structures are proposed to be modified, relocated, or partially or completely removed, then prior to such modification, relocation or removal, the applicant shall first obtain all permits necessary, and shall conform with all requirements under the Californian Environmental Quality Act (CEQA), including a determination whether the buildings or the site are/is a historic resource, or of historical or architectural significance, as defined and referenced under CEQA.

### **Air Quality**

16. 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.

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

This Condition of Approval implements Mitigation Measure Air Quality 1 of the Mitigation Monitoring Program.

### **Cultural Resources**

17. The following measures shall be implemented during project construction.

- A. A program of on-site education to instruct all construction personnel in the identification of prehistoric and historic deposits shall be conducted by a certified archaeologist prior to the start of any grading or construction activities.
- B. 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 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.

This Condition of Approval implements Mitigation Measure Cultural Resources 1 of the Mitigation Monitoring Program and shall be applied in conjunction with Condition of Approval #14.

- 18. 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 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.

This Condition of Approval implements Mitigation Measure Cultural Resources 2 of the Mitigation Monitoring Program.

### **Geology and Soils**

- 19. At least 30 days prior to requesting building permits for any improvements in the

upland portion of the site, the project proponent shall submit a geotechnical/engineering geologic report that evaluates potential geologic and geotechnical hazards, and which provides specific standards and criteria for site grading, drainage and foundation design. The required report shall also provide California Building Code seismic design parameters. The scope of the investigation shall include adequate subsurface exploration, laboratory testing and engineering analysis. The resulting report shall include both an original geologic map prepared by a Certified Engineering Geologist and detailed geologic cross-sections (e.g. identifying stratigraphic units, orientation of bedding, nearby landslides and/or areas of heavy erosion.) The report shall include adequate laboratory test data to evaluate the hazard posed by expansive and corrosive soils and bedrock.

This Condition of Approval implements Mitigation Measure Geology 1 of the Mitigation Monitoring Program.

20. The geotechnical/engineering geologic investigation required by Geology1 shall utilize a detailed topographic map (of appropriate scale) of the consultant's study area. The study area shall include the access road, nearby landside area(s), residential building site(s) and all accessory and utility structures.

This Condition of Approval implements Mitigation Measure Geology 2 of the Mitigation Monitoring Program.

21. The required geotechnical/engineering geologic report shall be subject to technical review by the County Peer Review Geologist, and review and approval by the CDD.

This Condition of Approval implements Mitigation Measure Geology 3 of the Mitigation Monitoring Program.

22. Prior to requesting the final building inspection, the developer/ owner shall submit a letter from the project geotechnical engineer that documents the inspections and testing performed during construction, and provide the professional opinion of the project geotechnical engineer on compliance of the as-graded/ as-built project with the recommendations in the geotechnical report.

This Condition of Approval implements Mitigation Measure Geology 4 of the Mitigation Monitoring Program.



23. For any proposed development in the upland portion of the site, minimize grading by employing hillside development techniques. With regard to the gradient of engineered slopes, use of 2:1 (horizontal to vertical) gradients shall be restricted to slopes that are 5 ft. high (max.); 2½:1 (h:v) gradients shall be required on slopes that are up to 10 ft. in vertical height; and 3:1 (h:v) gradients shall be required on engineering slopes that exceed 10 ft. in vertical height. Where these standards are inconsistent project objectives, special engineering shall be required (e.g. use of reinforced earth, retaining walls, etc.).

This Condition of Approval implements Mitigation Measure Geology 5 of the Mitigation Monitoring Program.

24. Should an application be filed for a new development area located within the upland portion of the site, the project proponent will have responsibility of identify a potential leach field site of adequate size that complies with regulations administered by the Environmental Health Division of the County Health Services Department. If a suitable site is not identified in the upland area the project proponent will need to either identify a site on the relatively level alluvial terrace deposit located in the southwestern portion of the site or request that the Environment Health Division consider a specialized design.

This Condition of Approval implements Mitigation Measure Geology 6 of the Mitigation Monitoring Program.

## **Noise**

25. The following noise reduction measures shall be implemented during project construction. The noise reduction measures shall be included on all construction drawings.
- 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.

- D. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The Department of Conservation and Development phone number shall also be visible to ensure compliance with applicable regulations.
  
- E. 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.
  
- F. All construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on state and federal holidays on the calendar dates that these holidays are observed by the state or federal government as listed below:
  - New Year's Day (State and Federal)
  - Birthday of Martin Luther King, Jr. (State and Federal)
  - Washington's Birthday (Federal)
  - Lincoln's Birthday (State)
  - President's Day (State and Federal)
  - Cesar Chavez Day (State)
  - Memorial Day (State and Federal)
  - Independence Day (State and Federal)
  - Labor Day (State and Federal)
  - Columbus Day (State and Federal)
  - Veterans Day (State and Federal)
  - Thanksgiving Day (State and Federal)
  - Day after Thanksgiving (State)
  - Christmas Day (State and Federal)

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

Federal Holidays: [www.federalreserve.gov/aboutthefed/k8.htm](http://www.federalreserve.gov/aboutthefed/k8.htm)

California Holidays: [www.sos.ca.gov/holidays.htm](http://www.sos.ca.gov/holidays.htm)

This Condition of Approval implements Mitigation Measure Noise 5 of the Mitigation Monitoring Program.

**Construction**

26. The 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 CDD. 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**

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

**PUBLIC WORKS CONDITIONS OF APPROVAL FOR COUNTY FILE MS16-0014**

The 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. The Conditions of Approval are based on the Tentative Parcel Map submitted to the Department of Conservation and Development on January 18, 2019.

The applicant shall comply with the following conditions of approval prior to filing the Parcel Map.

**General Requirements**

28. 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 Tentative Parcel Map received by the Department of Conservation and Development, Community Development Division, on January 18, 2019.

29. Improvement plans prepared by a registered civil engineer shall be submitted, if necessary, to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this subdivision. Any necessary traffic signing and striping shall be included in the improvement plans for review by the Transportation Engineering Division of the Public Works Department.

### **Access to Adjoining Property**

#### Encroachment Permit

30. The 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 Bollinger Canyon Road.

#### Site Access

31. The applicant shall only be permitted access at the locations shown on the approved tentative parcel map.
32. The applicant shall restrict access along the Bollinger Canyon Road frontage of this property, with the exception of the access points shown on the applicant's site plan, as specifically approved under these conditions of approval. This restriction does not apply to farm equipment accessing the property for agricultural purposes.
33. The applicant shall pave the first 50 feet of the driveways, measured from the existing edge of pavement of Bollinger Canyon Road into the property, to allow vehicles to pull completely off the roadway and remain on a paved surface, and to prevent dust, gravel, and debris from spilling on to Bollinger Canyon Road.

### **Sight Distance**

34. The applicant shall provide sight distance at the intersection of the private

driveways with Bollinger Canyon Road in accordance with Chapter 82-18 "Sight Obstructions at Intersections" of the County Ordinance Code. The applicant shall trim vegetation, as necessary, to provide sight distance at this intersection, and any new signage, landscaping, fencing, retaining walls, or other obstructions proposed at this intersection shall be setback to ensure that the sight line is clear of any obstructions.

### **Street Lights**

35. The 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.

### **Utilities/Undergrounding**

36. Applicant shall underground all new utility distribution facilities.

### **Drainage Improvements**

#### Collect and Convey

37. 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.

Exception (Subject to Advisory Agency findings and approval)

The applicant shall be permitted an exception from the collect and convey requirements of the County Ordinance Code due to the large size of the proposed parcels, provided that there are no known drainage problems on-site currently, the existing drainage pattern is maintained and additional concentrated stormwater runoff is not discharged onto adjacent properties.

### **Miscellaneous Drainage Requirements**

38. To reduce the impact of additional stormwater run-off from this development on San Ramon Creek, one cubic yard of channel excavation material will be removed from the inadequate portion of San Ramon Creek for each 50 square feet of new impervious surface area created by the development. All excavated material shall be disposed of off-site by the developer, at his cost. The site selection, land rights, and construction staking will be by the Flood Control and Water Conservation District.

OR

Upon written request, the applicant may make a cash payment in lieu of actual excavation and removal of material from the creek. The cash payment will be calculated at the rate of \$0.10 per square foot of new impervious surface area created by the development. The added impervious surface area created by the development will be based on the Flood Control District's standard impervious surface area ordinance. The Flood Control and Water Conservation District will use these funds to work on the creek annually.

### **Creek Structure Setbacks**

39. The applicant shall relinquish "development rights" over that portion of the site that is within the structure setback area of the tributary to Bollinger Creek. The structure setback area shall be determined by using the criteria outlined in Chapter 914-14, "Rights of Way and Setbacks," of the Subdivision Ordinance. "Development rights" shall be conveyed to the County by grant deed. The creek structure setback as shown on the tentative map is incomplete in scope and approximate and shall not be construed as the final determined creek structure setback area.

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

40. The applicant will not be subject to the requirements of Provision C.3 of the County Stormwater Management and Discharge Control Ordinance, since the proposed project will not create or replace at least 10,000 square feet of impervious surface (5,000 square feet for projects that include parking lots, restaurants, automotive service facilities and gas stations). However, this project is subject to all other provisions of the County Stormwater Management and Discharge Control Ordinance (§1014, Ordinance No. 200501) and future development applications on the subject parcel may be required to comply with Provision C.3.

**ADVISORY NOTES**

**PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL, BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.**

**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 ninety-day (90) period after the project is approved.

The 90-day period in which you may protest the amount of any fee or 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 CDD within 90-days of the approval date of this permit.

- B. The applicant shall submit building plans to the Building Inspection Division and comply with Division requirements. It is advisable to check with the Division prior to requesting a building permit or proceeding with the project.
- C. The applicant is responsible for contacting the Health Services Department Environmental Health Division regarding its requirements and permits.
- D. The applicant must submit building plans to the San Ramon Valley Fire Protection District and comply with its requirements. The applicant is advised that plans submitted for a building permit must receive prior approval and be stamped by the Fire Protection District.

- E. The applicant is responsible for contacting the Contra Costa Mosquito & Vector Control District regarding its requirements and permits.
  
- F. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the South County, SCC Regional, SCC Sub-Regional, and Tri-Valley Dev Areas of Benefit as adopted by the Board of Supervisors prior to issuance of building permit.
  
- G. The applicant shall be required to comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination Systems (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 11).